Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 4 U.K.

SAVINGS AND INVESTMENT INCOME

CHAPTER 1 U.K.

INTRODUCTION

365 Overview of Part 4 U.K.

(1) This Part imposes charges to income tax under—

(a) Chapter 2 (interest),

[F1(aa) Chapter 2A (disguised interest),]

(b) Chapter 3 (dividends etc. from UK resident companies etc.),

(c) Chapter 4 (dividends from non-UK resident companies),

(d) Chapter 5 (stock dividends from UK resident companies),

(e) Chapter 6 (release of loan to participator in close company),

(f) Chapter 7 (purchased life annuity payments),

(g) Chapter 8 (profits from deeply discounted securities),

(h) Chapter 9 (gains from contracts for life insurance etc.),

F2(i) . . . .

(j) Chapter 11 (transactions in deposits),

F3(k) . . . .

(l) Chapter 13 (sales of foreign dividend coupons).

(2) Part 6 deals with exemptions from the charges under this Part.

(3) See, in particular, any exemptions mentioned in the particular Chapters.

(4) The charges under this Part apply to non-UK residents as well as UK residents but this is subject to section 368(2) (charges on non-UK residents only on UK source income).

(5) This section needs to be read with the relevant priority rules (see sections 2 and 366).

Textual Amendments

F1 S. 365(1)(aa) inserted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 12 para. 2(a)**

F2 S. 365(1)(i) omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(2)** (with reg. 32)

F3 S. 365(1)(k) omitted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 12 para. 2(b)**

Modifications etc. (not altering text)

C1 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

366 Provisions which must be given priority over Part 4 U.K.

(1) Any income, so far as it falls within—

(a) any Chapter of this Part, and

(b) Chapter 2 of Part 2 (receipts of a trade, profession or vocation),

is dealt with under Part 2.

(2) Any income, so far as it falls within—

(a) any Chapter of this Part, and

(b) Chapter 3 of Part 3 so far as the Chapter relates to a UK property business,

is dealt with under Part 3.

(3) Any income, so far as it falls within—

(a) any Chapter of this Part other than Chapter 3 or 6, and

(b) Part 2, 9 or 10 of ITEPA 2003 (employment income, pension income or social security income),

is dealt with under the relevant Part of ITEPA 2003.

(4) Nothing in this section prevents amounts both—

(a) being counted as income for the purposes of Chapter 9 of this Part (gains from contracts for life insurance etc.), and

(b) being taken into account in calculating income, or counting as income, for the purposes of other Parts of this Act,

but see section 527 (reduction for sums taken into account otherwise than under Chapter 9).

Modifications etc. (not altering text)

C2 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

367 Priority between Chapters within Part 4 U.K.

(1) Any income, so far as it falls within Chapter 2 (interest) and Chapter 8 (profits from deeply discounted securities), is dealt with under Chapter 8.

(2) Any income, so far as it falls within Chapter 3 (dividends etc. from UK resident companies etc.) and another Chapter, is dealt with under Chapter 3 (but this is subject to subsection (3)).

(3) Any income, so far as it falls within—

(a) Chapter 2 (interest) as a result of section 372 (building society dividends) **[**[F4], 378A (offshore fund distributions)**]** or 379 (**[**[F5]payments by registered societies or certain co-operatives**]**), and

(b) Chapter 3 **[**[F6]or Chapter 4 (or both)**]**,

is dealt with under Chapter 2.

Textual Amendments

F4 Words in s. 367(3)(a) inserted (with effect in accordance with s. 39(5) of the amending Act) by Finance Act 2009 (c. 10), **s. 39(4)(a)**

F5 Words in s. 367(3) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 93** (with Sch. 5)

F6 Words in s. 367(3)(b) inserted (with effect in accordance with s. 39(5) of the amending Act) by Finance Act 2009 (c. 10), **s. 39(4)(b)**

Modifications etc. (not altering text)

C3 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

368 Territorial scope of Part 4 charges U.K.

(1) Income arising to a UK resident is chargeable to tax under this Part whether or not it is from a source in the United Kingdom.

(2) Income arising to a non-UK resident is chargeable to tax under this Part only if it is from a source in the United Kingdom.

[[F7](2A) If income arising to an individual who is UK resident arises in the overseas part of a split year, it is to be treated for the purposes of this section as arising to a non-UK resident.**]**

(3) References in this section to income which is from a source in the United Kingdom include, in the case of any income which does not have a source, references to income which has a comparable connection to the United Kingdom.

(4) This section is subject to any express or implied provision to the contrary in this Part (or elsewhere in the Income Tax Acts).

Textual Amendments

F7 S. 368(2A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 83**

Modifications etc. (not altering text)

C4 Ss. 353-368 modified (7.4.2005) by Finance Act 2005 (c. 7), **s. 51(2)**

[F8 368A Interpretation of special rules for temporary non-residents U.K.

(1) This section concerns provisions of this Part that are expressed to apply if an individual is "temporarily non-resident" ("TNR provisions").

(2) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains for the purposes of TNR provisions—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what the following terms mean—

(i) "the temporary period of non-residence",

(ii) "the year of departure", and

(iii) "the period of return".

(3) A reference in TNR provisions to "the year of return" is to the tax year consisting of or including the period of return.

(4) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being chargeable to income tax by virtue of any TNR provisions (or as preventing a charge to that tax from arising as a result).

(5) In this section and in TNR provisions, "double taxation relief arrangements" means arrangements that have effect under section 2(1) of TIOPA 2010.**]**

Textual Amendments

F8 S. 368A inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 132**

CHAPTER 2 U.K.

INTEREST

Charge to tax on interest

369 Charge to tax on interest U.K.

(1) Income tax is charged on interest.

(2) The following sections extend what is treated as interest for certain purposes—

section 372 (building society dividends),
section 373 (open-ended investment company interest distributions),
section 376 (authorised unit trust interest distributions),
[F9 section 378A (offshore fund distributions),**]**
section 379 (**[**F10 payments by registered societies or certain co-operatives**]**),
section 380 (funding bonds),
[F11 section 380A (FSCS payments representing interest),**]** and

section 381 (discounts).

(3) For exemptions, see in particular—

(a) Chapter 2 of Part 6 (national savings income),

(b) Chapter 3 of Part 6 (income from individual investment plans),

(c) Chapter 4 of Part 6 (SAYE interest),

(d) Chapter 6 of Part 6 (income from FOTRA securities),

(e) sections 749 to [F12 756A]([F13 repayment interest,] interest arising from repayment supplements, F14... damages for personal injury, employees' share schemes, repayments of student loans, [F15 unpaid relevant contributions,] the redemption of funding bonds [F16, certain foreign currency securities and interest on certain deposits of victims of National-Socialist persecution)] , and

(f) sections 757 to 767 (interest and royalty payments).

(4) Subsection (1) is also subject to [F17 Chapter 3 of Part 12 of ITA 2007 (exemption for interest on securities to which Chapter 2 of that Part applies)] .

[F18 (5) See also Chapter 3A of Part 14 of ITA 2007 (which provides for the receipts of certain types of company being wound up to be charged to income tax under that Chapter instead of under any other provision that would otherwise apply).]

Textual Amendments

F9 Words in s. 369(2) inserted (with effect in accordance with s. 39(5) of the amending Act) by Finance Act 2009 (c. 10), **s. 39(2)**

F10 Words in s. 369(2) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 93** (with Sch. 5)

F11 Words in s. 369(2) inserted (with effect in accordance with s. 33(5) of the amending Act) by Finance Act 2009 (c. 10), **s. 33(2)**

F12 Word in s. 369(3)(e) substituted (19.7.2006) by Finance Act 2006 (c. 25), **s. 64(1)(a)**

F13 Words in s. 369(3)(e) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments), Appointed Days and Consequential Provisions Order 2014 (S.I. 2014/992), arts. 1(1), **8(2)**

F14 Words in s. 369(3)(e) omitted (with effect in accordance with Sch. 39 para. 53(3) of the amending Act) by virtue of Finance Act 2012 (c. 14), **Sch. 39 para. 53(2)**

F15 Words in s. 369(3)(e) inserted (19.7.2011) by Finance Act 2011 (c. 11), **s. 69(2)**

F16 Words in s. 369(3)(e) substituted (19.7.2006) by Finance Act 2006 (c. 25), **s. 64(1)(b)**

F17 Words in s. 369(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. 513** (with transitional provisions and savings in Sch. 2)

F18 S. 369(5) inserted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 7 para. 67** (with Sch. 9 paras. 1-9, 22)

370 Income charged U.K.

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

(2) Subsection (1) is subject to Part 8 (foreign income: special rules).

[F19 370A Valuation of interest not paid in cash U.K.

(1) This section applies to the payment of an amount of interest in the form of—
  (a) goods or services, or
  (b) a voucher.

(2) Where this section applies by virtue of subsection (1)(a), the amount of the payment is to be taken to be equal to the market value, at the time the payment is made, of the goods or services.

(3) Where this section applies by virtue of subsection (1)(b), the amount of the payment is to be taken to be equal to whichever is the higher of—
  (a) the face value of the voucher,
  (b) the amount of money for which the voucher is capable of being exchanged, or
  (c) the market value, at the time the payment is made, of any goods or services for which the voucher is capable of being exchanged.

(4) In this section references to a voucher are to a voucher, stamp or similar document or token which is capable of being exchanged for money, goods or services.**]**

Textual Amendments

F19 S. 370A inserted (with effect in accordance with Sch. 11 para. 12(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 11 para. 6**

371 Person liable U.K.

The person liable for any tax charged under this Chapter is the person receiving or entitled to the interest.

Other income taxed as interest

372 Building society dividends U.K.

(1) Any dividend paid by a building society is treated as interest for the purposes of this Act.

(2) In this section “dividend”[F20 includes any distribution (whether or not described as a dividend)**]** .

Textual Amendments

F20 Words in s. 372(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. 514** (with transitional provisions and savings in Sch. 2)

Modifications etc. (not altering text)

C5 S. 372 excluded (1.3.2013) by The Building Societies (Core Capital Deferred Shares) Regulations 2013 (S.I. 2013/460), regs. 1(1), **3(1)(b)** (with reg. 1(2))

373 Open-ended investment company interest distributions U.K.

(1) This section applies if the distribution accounts of an open-ended investment company show the total amount available for distribution to owners of shares in the company as available for distribution as yearly interest.

(2) Subsection (1) is subject to [F21subsection (7)] .

(3) For income tax purposes payments of yearly interest are treated as made to the owners of the shares by the company.

(4) F22. . . . .

(5) The amount of the payment treated as made to each owner is so much of the total amount mentioned in subsection (1) as is proportionate to the owner's shares.

(6) F22. . . . .

(7) This section does not apply if the open-ended investment company is an approved personal pension scheme.

(8) See section 375 for the interpretation of this section and section 374.

Textual Amendments

F21 Words in s. 373(2) substituted (1.4.2006 with effect as mentioned in reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964), **reg. 91(2)**

F22 S. 373(4)(6) repealed (with effect as mentioned in the commencing S.I.) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(d), 19(1), 70, **Sch. 11 Pt. 2(3)**; S.I. 2006/982, **art. 2**

374 Date when interest payments under section 373 made U.K.

(1) This section applies for determining the date on which payments of interest under section 373 are treated as made.

(2) The date on which the payments are treated as made depends on whether a date is specified for any distribution for the distribution period in question by or in accordance with—

(a) the company's instrument of incorporation and its prospectus in issue for the time being (including any supplements), or

(b) in the case of an open-ended investment company which is part of an umbrella company, such parts of those documents of the umbrella company as apply to the open-ended investment company.

(3) If such a date is so specified, the payments are treated as made on that date.

(4) If no such date is so specified, the payments are treated as made on the last day of that period.

375 Interpretation of sections 373 and 374 U.K.

(1) In sections 373 and 374 and this section—

"approved personal pension scheme" has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act), "distribution" includes investment on behalf of an owner of shares in respect of the owner's accumulation shares,

"distribution accounts" means the accounts showing how the total amount available for distribution to owners of shares is calculated,

"distribution period" means the period by reference to which that amount is ascertained,

"the OEIC Regulations" means the Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154),

"open-ended investment company" has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (11) of ICTA, as inserted by regulation 10 of the OEIC Regulations),

"owner of shares" has the same meaning as in that Chapter (see section 468(10) and (15) of that Act, as so inserted), and

[[F23]"umbrella company" has the meaning given by section 615 of CTA 2010.**]**

(2) In subsection (1) "accumulation share" means a share in respect of which income is credited periodically to the capital part of the company's scheme property.

(3) In subsection (2) "scheme property" has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (13) of ICTA, as inserted by regulation 10 of the OEIC Regulations).

Textual Amendments

F23 Words in s. 375(1) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 452** (with Sch. 2)

376 Authorised unit trust interest distributions U.K.

(1) This section applies if the distribution accounts of an authorised unit trust show the total amount available for distribution to unit holders as available for distribution as yearly interest.

(2) Subsection (1) is subject to **[**[F24]subsection (7)**]** .

(3) For income tax purposes payments of yearly interest are treated as made to the unit holders.

(4) [F25]. . . . .

(5) The amount of the payment treated as made to each unit holder is so much of the total amount mentioned in subsection (1) as is proportionate to the unit holder's rights.

(6) [F25]. . . . .

(7) This section does not apply if the authorised unit trust is an approved personal pension scheme.

(8) See section 378 for the interpretation of this section and section 377.

Textual Amendments

F24 Words in s. 376(2) substituted (1.4.2006 with effect as mentioned in reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964), **reg. 91(3)**

F25 S. 376(4)(6) repealed (with effect as mentioned in the commencing S.I.) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(e), 19(1), 70, **Sch. 11 Pt. 2(3)**; S.I. 2006/982, **art. 2**

377 Date when interest payments under section 376 made U.K.

(1) This section applies for determining the date on which payments of interest under section 376 are treated as made.

(2) The date on which the payments are treated as made depends on whether a date is specified by or in accordance with the trust's terms for any distribution for the distribution period in question.

(3) If such a date is so specified, the payments are treated as made on that date.

(4) If no such date is so specified, the payments are treated as made on the last day of that period.

378 Interpretation of sections 376 and 377 U.K.

In sections 376 and 377—

"approved personal pension scheme" has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

"distribution" includes investment on behalf of a unit holder in respect of the holder's accumulation units,

"distribution accounts" means the accounts showing how the total amount available for distribution to unit holders is ascertained, and

"distribution period" means the period by reference to which that amount is ascertained.

[F26 378A Offshore fund distributions U.K.

(1) This section applies where—

(a) a dividend is paid by an offshore fund, and

(b) the offshore fund fails to meet the qualifying investments test at any time in the relevant period.

(2) The dividend is treated as interest for income tax purposes.

(3) For the purposes of this section, an offshore fund fails to meet the qualifying investments test if the market value of the fund's qualifying investments exceeds 60% of the market value of all of the assets of the fund (excluding cash awaiting investment).

(4) "The relevant period" means—

(a) the relevant period of account of the offshore fund, or

(b) if longer, the period of 12 months ending on the last day of that period.

(5) "The relevant period of account" means—

(a) the last period of account ending before the dividend is paid, in a case in which the profits available for distribution at the end of that period (and not used since then by distribution or otherwise) equal or exceed the amount of the dividend (aggregated with any other distribution made by the offshore fund at the same time), and

(b) the period of account in which the dividend is paid, in any other case.

(6) This section applies to a manufactured overseas dividend if, and only if, it is representative of a distribution to which this section would apply.

(7) In this section—

"dividend" includes any distribution that (but for this section) would be treated as a dividend for income tax purposes;

"manufactured overseas dividend" has the same meaning as in Chapter 2 of Part 11 of ITA 2007 (manufactured payments);

"offshore fund" has the same meaning as in **[**[F27]section 354 of TIOPA 2010 (see sections 355 to 363 of that Act)**]**;

"qualifying investments" has the meaning given in section 494 of CTA 2009.**]**

Textual Amendments

F26 S. 378A inserted (with effect in accordance with s. 39(5) of the amending Act) by Finance Act 2009 (c. 10), **s. 39(3)**

F27 Words in s. 378A(7) substituted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 8 para. 168** (with Sch. 9 paras. 1-9, 22)

Modifications etc. (not altering text)

C6 S. 378A applied (1.12.2009) (with effect in accordance with art. 1(2)(3) of, Sch. 1 to the amending S.I.) by The Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), regs. 1(1), **96(3)(a)**

379 [[F28]Payments by registered societies or certain co-operatives] U.K.

(1) Any dividend, bonus or other sum payable to a shareholder in—

(a) **[**[F29]registered society**]** , or

(b) a UK agricultural or fishing co-operative,

is treated as interest for income tax purposes if it is payable by reference to the amount of the shareholder's holding in its share capital.

(2) In subsection (1)—

[[F30]"registered society" means—

(a) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014,

(b) a society registered or treated as registered under the Industrial and Provident Societies Act (Northern Ireland) 1969,

(c) a society registered as a credit union under the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)), or

(d) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society, **]** and

"UK agricultural or fishing co-operative" means a co-operative association—

(a) which is established in the United Kingdom and UK resident, and

(b) whose primary object is assisting its members in—

(i) carrying on agricultural or horticultural businesses on land occupied by them in the United Kingdom, or

(ii) carrying on businesses consisting in the catching or taking of fish or shellfish.

(3) In subsection (2) "co-operative association" means a body with a written constitution from which the Secretary of State considers that it is in substance a co-operative association.

(4) For the purposes of subsection (3), the Secretary of State must have regard to the way in which the body's constitution provides for its income to be applied for its members' benefit and all other relevant provisions.

(5) In Northern Ireland subsections (3) and (4) apply with the substitution for "the Secretary of State" of " the Department of Agriculture and Rural Development" ".

Textual Amendments

F28 S. 379 heading substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 94(2)** (with Sch. 5)

F29 Words in s. 379(1)(a) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 94(3)** (with Sch. 5)

F30 Words in s. 379(2) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 94(4)** (with Sch. 5) (as amended by Finance Act 2014 (c. 26), Sch. 39 paras. 9, 15)

380 Funding bonds U.K.

(1) This section applies to the issue of funding bonds to a creditor in respect of a liability to pay interest on a debt incurred by a government, public institution, other public authority or body corporate.

(2) The issue is treated for income tax purposes as if it were the payment of so much of that interest as equals the market value of the bonds at their issue.

(3) In this section "funding bonds" includes any bonds, stocks, shares, securities or certificates of indebtedness **[**[F31] (but does not include any instrument providing for payment in the form of goods or services or a voucher)**]** .

Textual Amendments

F31 Words in s. 380(3) inserted (with effect in accordance with Sch. 11 para. 12(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 11 para. 7**

Modifications etc. (not altering text)

C7 S. 380 modified (7.4.2005) by Finance Act 2005 (c. 7), s. 55, **Sch. 2 para. 10**

C8 S. 380 modified (1.4.2010) by Income Tax Act 2007 (c. 3), s. 564M(2) (as inserted (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 2 para. 14(2)** (with Sch. 9 paras. 1-9, 22))

[F32 380A FSCS payments representing interest U.K.

(1) Any payment representing interest which is made under the FSCS is treated as interest for the purposes of this Act.

(2) "Payment representing interest" means a payment calculated in the same way as interest which would have been paid to the recipient but for the circumstances giving rise to the making of payments under the FSCS.

(3) Where a payment representing interest is made net of an amount equal to a sum representing income tax that would have been deducted on the payment of interest, the amount treated as interest by this section is the aggregate of the payment representing interest and that sum.

(4) This section applies to payments made under the FSCS whether or not they are made (in whole or in part) on behalf of the Treasury or any other person.

(5) In this section "the FSCS" means the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000).**]**

Textual Amendments

F32 S. 380A inserted (with effect in accordance with s. 33(5) of the amending Act) by Finance Act 2009 (c. 10), **s. 33(3)**

381 Discounts U.K.

(1) All discounts, other than discounts in deeply discounted securities, are treated as interest for the purposes of this Act.

(2) In this section "deeply discounted securities" means securities to which Chapter 8 of this Part applies (profits from deeply discounted securities).

Modifications etc. (not altering text)

C9 S. 381 applied (1.4.2010) by Income Tax Act 2007 (c. 3), **s. 564R(2)** (as inserted (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 2 para. 19(2)** (with Sch. 9 paras. 1-9, 22))

[F33 CHAPTER 2A U.K.

DISGUISED INTEREST

Textual Amendments

F33 Pt. 4 Ch. 2A inserted (with effect in accordance with Sch. 12 para. 18 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 12 para. 3**

381A Charge to tax on disguised interest U.K.

(1) This Chapter applies where a person is party to an arrangement which produces for the person a return in relation to any amount which is economically equivalent to interest.

(2) Income tax is charged on the return if the return is not charged to income tax under or as a result of any other provision of this Act or any other Act.

(3) Subsection (2) does not apply to a return that would be charged to income tax under or as a result of another provision but for an exemption.

(4) For the purposes of this Chapter a return produced for a person by an arrangement in relation to any amount is "economically equivalent to interest" if (and only if)—

(a) it is reasonable to assume that it is a return by reference to the time value of that amount of money,

(b) it is at a rate reasonably comparable to what is (in all the circumstances) a commercial rate of interest, and

(c) at the relevant time there is no practical likelihood that it will cease to be produced in accordance with the arrangement unless the person by whom it falls to be produced is prevented (by reason of insolvency or otherwise) from producing it.

(5) In subsection (4)(c) "the relevant time" means the time when the person becomes party to the arrangement or, if later, when the arrangement begins to produce a return for the person.

(6) In this Chapter "arrangement" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

381B Income charged U.K.

Tax is charged under this Chapter on the full amount of the return, or any part of the return, arising in the tax year.

381C Person liable U.K.

The person liable for any tax charged under this Chapter is the person receiving or entitled to the return or the part of the return.

381D Avoidance of double taxation U.K.

(1) This section applies if at any time a tax other than income tax ("the other tax") is charged in relation to a return on which income tax is charged under this Chapter.

(2) In order to avoid a double charge to tax in respect of the return, a person may make a claim for one or more consequential adjustments to be made in respect of the other tax.

(3) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(4) Consequential adjustments may be made—
  (a) in respect of any period,
  (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
  (c) despite any time limit imposed by or under any enactment.

381E Exception for returns from certain shares U.K.

(1) This Chapter does not apply in relation to an arrangement that produces a return for a person, in relation to an amount, which is economically equivalent to interest where—
  (a) the arrangement involves only excluded shares, and
  (b) no relevant arrangement has been made (by any person) in relation to those excluded shares.

(2) For the purposes of this section shares are excluded shares if they are admitted to trading on a regulated market and—
  (a) they were issued before 6 April 2013, or
  (b) if issued on or after that date, at the time of issue no arrangements involving only the shares would produce a return, in relation to an amount, which is economically equivalent to interest.

(3) In subsection (2) "regulated market" has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments (see Article 4.1(14)).

(4) For the purposes of this section an arrangement is relevant, in relation to excluded shares, where—
  (a) the arrangement is made on or after 6 April 2013, and
  (b) it is reasonable to assume that the main purpose, or one of the main purposes, of the arrangement is to secure that arrangements involving only the shares produce a return, in relation to an amount, which is economically equivalent to interest.]

CHAPTER 3 U.K.

DIVIDENDS ETC. FROM UK RESIDENT COMPANIES [F34 AND TAX CREDITS ETC. IN RESPECT OF CERTAIN DISTRIBUTIONS]

Textual Amendments

F34 Words in Pt. 4 Ch. 3 heading substituted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 2**

Introduction

382 Contents of Chapter U.K.

(1) This Chapter—

(a) imposes a charge to income tax on dividends and other distributions of UK resident companies (see section 383),

(b) treats dividends as paid in some circumstances (see sections 386 to 391), [F35]...

(c) makes special provision where the charge is in respect of shares awarded under [[F36]a Schedule 2] share incentive plan (see sections 392 to 396)[[F37], and

(d) treats distributions as made in some circumstances (see section 396A).]

(2) This Chapter also makes provision about tax credits, tax being treated as paid and reliefs available in respect of certain distributions which applies whether or not the distributions are otherwise dealt with under this Chapter (see sections 397 to 401).

(3) For exemptions from the charge under this Chapter, see in particular—

Chapter 3 of Part 6 (income from individual investment plans),

Chapter 5 of that Part (venture capital trust dividends),

section 770 (amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment), and

section 498 of ITEPA 2003 (no charge on shares ceasing to be subject to SIP in certain circumstances).

(4) In this Chapter "dividends" does not include income treated as arising under section 410 (stock dividends).

Textual Amendments

F35 Word in s. 382(1)(b) omitted (with effect in accordance with s. 19(10) of the amending Act) by virtue of Finance Act 2015 (c. 11), **s. 19(3)**

F36 Words in s. 382(1)(c) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 54**, 89 (with Sch. 8 paras. 90-96)

F37 S. 382(1)(d) and word inserted (with effect in accordance with s. 19(10) of the amending Act) by Finance Act 2015 (c. 11), **s. 19(3)**

Charge to tax on dividends and other distributions

383 Charge to tax on dividends and other distributions U.K.

(1) Income tax is charged on dividends and other distributions of a UK resident company.

(2) For income tax purposes such dividends and other distributions are to be treated as income.

(3) For the purposes of subsection (2), it does not matter that those dividends and other distributions are capital apart from that subsection.

384 Income charged U.K.

(1) Tax is charged under this Chapter on the amount or value of the dividends paid and other distributions made in the tax year.

(2) Subsection (1) is subject to—

section 393(2) and (3) (later charge where cash dividends retained in SIPs are paid over), and

section 394(3) (distribution when dividend shares cease to be subject to SIP).

(3) See also section 398 (under which the amount or value of the dividends or other distributions is treated as increased if any person is entitled to a tax credit in respect of them).

385 Person liable U.K.

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

(a) the person to whom the distribution is made or is treated as made (see Part 6 of ICTA and sections 386(3) **[**[F38], 389(3) and 396A**]**), or

(b) the person receiving or entitled to the distribution.

(2) Subsection (1) is subject to—

section 393(4) (later charge where cash dividends retained in SIPs are paid over), and

section 394(4) (distribution when dividend shares cease to be subject to SIP).

Textual Amendments

F38 Words in s. 385(1)(a) substituted (with effect in accordance with s. 19(10) of the amending Act) by Finance Act 2015 (c. 11), **s. 19(4)**

[[F39]*Purchase by company of exempt employee shareholder shares*

Textual Amendments

F39 S. 385A and cross-heading inserted (1.9.2013) by Finance Act 2013 (c. 29), **Sch. 23 paras. 16**, 38; S.I. 2013/1755, art. 2

385A No charge to tax on purchase by company of exempt employee shareholder shares U.K.

(1) No tax is charged under this Chapter on the amount or value of a payment made by a company on the purchase of shares from an individual if—

(a) the payment is made in respect of shares in the company,

(b) the shares are exempt employee shareholder shares, and

(c) at the time of the disposal, the individual is not an employee of, or an office-holder in, the employer company or an associated company of that company.

(2) In this section—

"exempt employee shareholder share", "employer company" and "associated company" have the same meaning as in sections 236B to 236D of TCGA 1992 (capital gains tax treatment of employee shareholder shares);

"in respect of shares in the company" has the same meaning as in Part 23 of CTA 2010 (company distributions) (see section 1113 of that Act).]

Amounts treated as dividends

386 Open-ended investment company dividend distributions U.K.

(1) This section applies if the distribution accounts of an open-ended investment company show the total amount available for distribution to owners of shares in the company as available for distribution as dividends.

(2) Subsection (1) is subject to subsection (5).

(3) For income tax purposes dividends are treated as paid to the owners of the shares by the company.

(4) The amount of the dividends treated as paid to each owner is so much of the total amount mentioned in subsection (1) as is proportionate to the owner's shares.

(5) This section does not apply if the open-ended investment company is an approved personal pension scheme.

(6) See section 388 for the interpretation of this section and section 387.

387 Date when dividends paid under section 386 U.K.

(1) This section applies for determining the date on which dividends are treated as paid under section 386.

(2) The date on which the dividends are treated as paid depends on whether a date is specified for the distribution period in question by or in accordance with—

(a) the company's instrument of incorporation and its prospectus in issue for the time being (including any supplements), or

(b) in the case of an open-ended investment company which is part of an umbrella company, such parts of those documents of the umbrella company as apply to the open-ended investment company.

(3) If such a date is so specified, the dividends are treated as paid on that date.

(4) If no such date is so specified, the dividends are treated as paid on the last day of that period.

388 Interpretation of sections 386 and 387 U.K.

(1) In sections 386 and 387 and this section—

"approved personal pension scheme" has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

"distribution" includes investment on behalf of an owner of shares in respect of the owner's accumulation shares, "distribution accounts" means the accounts showing how the total amount available for distribution to owners of shares is calculated,

"distribution period" means the period by reference to which that amount is ascertained,

"the OEIC Regulations" means the Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154),

"open-ended investment company" has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (11) of ICTA, as inserted by regulation 10 of the OEIC Regulations),

"owner of shares" has the same meaning as in that Chapter (see section 468(10) and (15) of that Act, as so inserted), and

[[F40]"umbrella company" has the meaning given by section 615 of CTA 2010.**]**

(2) In subsection (1) "accumulation share" means a share in respect of which income is credited periodically to the capital part of the company's scheme property.

(3) In subsection (2) "scheme property" has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (13) of ICTA, as inserted by regulation 10 of the OEIC Regulations).

Textual Amendments

F40 Words in s. 388(1) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 453** (with Sch. 2)

389 Authorised unit trust dividend distributions U.K.

(1) This section applies if the distribution accounts of an authorised unit trust show the total amount available for distribution to unit holders as available for distribution as dividends.

(2) Subsection (1) is subject to subsection (6).

(3) For income tax purposes dividends are treated as paid to the unit holders.

(4) The amount of the dividends treated as paid to each unit holder is so much of the total amount mentioned in subsection (1) as is proportionate to the unit holder's rights.

(5) The dividends are treated as paid on the shares and by the company referred to in **[**[F41]section 617(1) of CTA 2010**]** (which relates to the trustees of an authorised unit trust being treated as a UK resident company in which the unit holders' rights are shares).

(6) This section does not apply if the authorised unit trust is an approved personal pension scheme.

(7) See section 391 for the interpretation of this section and section 390.

Textual Amendments

F41 Words in s. 389(5) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 454** (with Sch. 2)

390 Date when dividends paid under section 389 U.K.

(1) This section applies for determining the date on which dividends are treated as paid under section 389.

(2) The date on which the dividends are treated as paid depends on whether a date is specified by or in accordance with the trust's terms for any distribution for the distribution period in question.

(3) If such a date is so specified, the dividends are treated as paid on that date.

(4) If no such date is so specified, the dividends are treated as paid on the last day of that period.

391 Interpretation of sections 389 and 390 U.K.

In sections 389 and 390—

"approved personal pension scheme" has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

"distribution" includes investment on behalf of a unit holder in respect of the holder's accumulation units,

"distribution accounts" means the accounts showing how the total amount available for distribution to unit holders is ascertained, and

"distribution period" means the period by reference to which that amount is ascertained.

Shares in [F42Schedule 2] share incentive plans ("SIPs")

Textual Amendments

F42 Words in s. 392 cross-heading substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 55**, 89 (with Sch. 8 paras. 90-96)

392 SIP shares: introduction U.K.

(1) Sections 393 to 395 contain special rules about the charge under this Chapter in respect of shares awarded to an individual under [F43a Schedule 2] share incentive plan.

(2) Those sections only apply if condition A or B was met at the time the shares in question were so awarded.

(3) Condition A is that—

(a) the earnings from the eligible employment were general earnings (see section 7(3) of ITEPA 2003) to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 applied, or

(b) if there had been any earnings from it, they would have been such earnings.

(4) In subsection (3)—

(a) "the eligible employment" means the employment resulting in the individual meeting the employment requirement in relation to the plan, and

(b) the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 has the same meaning as it has in the employment income Parts of that Act (see sections 14(3) and 20(3) of that Act).

(5) Condition B is that—

(a) the shares were awarded before 6th April 2003, and

(b) the individual was liable for tax under Schedule E in respect of the relevant employment.

(6) In subsection (5) "the relevant employment" means the employment by reference to which the individual met the requirements in paragraph 14 of Schedule 8 to FA 2000 (employee share ownership plans: the employment requirement) in relation to the plan.

(7) See section 396 for the general interpretation of this section and sections 393 to 395.

Textual Amendments

F43 Words in s. 392(1) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 56**, 89 (with Sch. 8 paras. 90-96)

393 Later charge where cash dividends retained in SIPs are paid over U.K.

(1) This section applies if a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested etc.).

(2) Tax charged under this Chapter is charged for the tax year in which the cash dividend is paid over instead of the tax year in which it was originally paid.

(3) Tax so charged is charged on the amount of the cash dividend paid over.

(4) The person liable for any tax so charged is the participant.

(5) For the purposes of determining—

(a) whether the participant is entitled to a tax credit under section 397 in respect of a cash dividend so charged, and

(b) the amount of that tax credit,

that section applies as it has effect for the tax year in which the cash dividend is paid over.

(6) For the purposes of this Chapter, the question whether a cash dividend paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 is a dividend paid by a company that is UK resident is determined by reference to the tax year in which the dividend was originally paid.

394 Distribution when dividend shares cease to be subject to SIP U.K.

(1) This section applies if dividend shares cease to be subject to **[**[F44]a Schedule 2**]** share incentive plan before the end of the period of 3 years beginning with the date on which the shares were acquired on the participant's behalf.

(2) For income tax purposes a distribution is treated as made to the participant in the tax year in which the shares cease to be subject to the plan.

(3) The amount of the distribution treated as made is the amount of the cash dividend applied to acquire the shares on the participant's behalf, so far as it represents a cash dividend paid in respect of plan shares in a UK resident company.

[F45(3A) But if the shares cease to be subject to the plan by virtue of a provision of the kind mentioned in paragraph 65(2) of Schedule 2 to ITEPA 2003 (provision requiring dividend shares to be offered for sale), the amount of the distribution treated as made is the amount equal to the relevant fraction of the market value of the shares at the time they are offered for sale if that amount is less than the amount given by subsection (3).

(3B) For the purposes of subsection (3A) "the relevant fraction" is—

A B

where—

A is so much of the amount of the cash dividend applied to acquire the shares on the participant's behalf as represents a cash dividend paid in respect of plan shares in a UK resident company, and

B is the amount of the cash dividend applied to acquire the shares on the participant's behalf.

(3C) Paragraph 92(2) of Schedule 2 to ITEPA 2003 (market value of shares subject to a restriction) applies for the purposes of subsection (3A).]

(4) The person liable for any tax charged on the distribution as a result of this section is the participant.

(5) For the purposes of determining—

(a) whether the participant is entitled to a tax credit under section 397 in respect of a distribution so charged, and

(b) if so, the amount of that tax credit,

that section applies as it has effect for the tax year in which the shares cease to be subject to the plan.

(6) But for the purposes of this Chapter, the question whether the distribution under subsection (2) is a distribution by a company that is UK resident is determined by reference to the year in which the company paid the dividend applied to acquire the shares on the participant's behalf.

(7) For rules identifying shares ceasing to be subject to [F46Schedule 2] share incentive plans, see section 508 of ITEPA 2003.

Textual Amendments

F44 Words in s. 394(1) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 57(2)**, 89 (with Sch. 8 paras. 90-96)

F45 S. 394(3A)-(3C) inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 57(3)**, 89 (with Sch. 8 paras. 90-96)

F46 Words in s. 394(7) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 57(4)**, 89 (with Sch. 8 paras. 90-96)

395 Reduction in tax due in cases within section 394 U.K.

(1) This section applies if—

(a) a person is liable to tax as a result of section 394, and

(b) any tax is paid on any capital receipts under section 501 of ITEPA 2003 (charge on capital receipts in respect of plan shares) in respect of the shares that cease to be subject to the **[**[F47]Schedule 2**]** share incentive plan.

(2) The tax due is to be reduced by an amount equal to the total tax so paid.

(3) In subsection (2) "the tax due" means the amount of tax due as a result of section 394 after deduction of the tax credit determined in accordance with section 394(5).

(4) For rules identifying shares ceasing to be subject to **[**[F48]Schedule 2**]** share incentive plans, see section 508 of ITEPA 2003.

Textual Amendments

F47 Words in s. 395(1)(b) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 58**, 89 (with Sch. 8 paras. 90-96)

F48 Words in s. 395(4) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 58**, 89 (with Sch. 8 paras. 90-96)

396 Interpretation of sections 392 to 395 U.K.

(1) This section and sections 392 to 395 form part of the SIP code (see section 488 of ITEPA 2003 ([F49]... share incentive plans)).

(2) Accordingly, expressions used in this section or those sections and contained in the index in paragraph 100 of Schedule 2 to that Act ([F50]... share incentive plans) have the meaning indicated by that index.

(3) In particular—

(a) for the meaning of "award of shares" see paragraph 5(1) of that Schedule,

(b) for the meaning of "ceasing to be subject to plan" see paragraph 97 of that Schedule,

(c) for the meaning of "dividend shares" see paragraph 62(3)(b) of that Schedule,

(d) for the meaning of "employment requirement" see paragraph 15(3) of that Schedule,

(e) for the meaning of "participant" see paragraph 5(4) of that Schedule,

(f) for the meaning of "plan shares" see paragraphs 86 to 88 and 99(1) of that Schedule, and

(g) for the meaning of "shares" see paragraphs 87(6) and 99(2) of that Schedule.

Textual Amendments

F49 Word in s. 396(1) omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 8 paras. 59**, 89 (with Sch. 8 paras. 90-96)

F50 Word in s. 396(2) omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 8 paras. 59**, 89 (with Sch. 8 paras. 90-96)

[F51 Other amounts treated as distributions

Textual Amendments

F51 S. 396A and cross-heading inserted (with effect in accordance with s. 19(10) of the amending Act) by Finance Act 2015 (c. 11), **s. 19(2)**

396A Arrangements offering a choice of capital or income return U.K.

(1) Subsection (2) applies if a person ("S") has a choice either—

(a) to receive what would (ignoring this section) be a distribution of a company, or

(b) to receive from that company, or from a third party, anything else ("the alternative receipt") which—

(i) is of the same or substantially the same value, and

(ii) (ignoring this section) would not be charged to income tax.

(2) If S chooses the alternative receipt—

(a) for income tax purposes it is treated as a distribution made to S by that company in the tax year in which it is received by S, and

(b) for the purposes of the following provisions it is treated as a qualifying distribution so made—

(i) section 397 (tax credits for qualifying distributions of UK resident companies: UK residents and eligible non-UK residents);

(ii) section 399 (qualifying distributions received by persons not entitled to tax credits);

(iii) section 1100 of CTA 2010 (qualifying distributions: right to request a statement).

(3) For the purposes of this section—

(a) it does not matter if the choice mentioned in subsection (1) is subject to any conditions being met or to the exercise of any power;

(b) where S is offered one thing subject to a right, however expressed, to choose another instead, S is to be regarded as making a choice if S abandons or fails to exercise such a right.

(4) If at any time a tax other than income tax ("the other tax") is charged in relation to the alternative receipt, in order to avoid a double charge to tax in respect of that receipt, a person may make a claim for one or more consequential adjustments to be made in respect of the other tax.

(5) On a claim under subsection (4) an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.

(6) Consequential adjustments may be made—

(a) in respect of any period,

(b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and

(c) despite any time limit imposed by or under an enactment.**]**

Tax credits and payment and deduction of tax

397 Tax credits for qualifying distributions [F52 of UK resident companies] : UK residents and eligible non-UK residents U.K.

(1) A UK resident or eligible non-UK resident receiving a qualifying distribution made by a UK resident company is entitled to a tax credit equal to one-ninth of the amount or value of the distribution (but see subsections (3) and (6)).

(2) Such a person may claim to deduct the tax credit from—

(a) the income tax charged on the person's total income for the tax year in which the distribution is made, F53. . .

(b) F53. . . . .

(3) Subsection (1) only applies so far as the distribution is brought into charge to tax, and accordingly if the person's total income is reduced by any deductions which fall to be made from the distribution, the tax credit for the distribution is reduced in the same proportion as the distribution.

(4) For the purposes of this section "eligible non-UK resident", in relation to a qualifying distribution, means an individual who at any time in the tax year in which it is received is a non-UK resident within section 278(2) of ICTA [F54 or section 56(3) of ITA 2007] (Commonwealth citizens, EEA nationals etc.).

(5) If a distribution is, or is treated under any provision of the Tax Acts as, the income of a person ("P") other than the recipient ("R"), P (not R) is treated as receiving it for the purposes of this section (and so P (not R) is entitled to a tax credit if P falls within subsection (1)).

[F55 (5A) This section needs to be read with section 396A(2) (which treats certain receipts as "qualifying distributions" for the purposes of this section).]

(6) This section is subject to the following provisions—

F56 ...

F57 ...

[F57 section 614ZD(6) of ITA 2007,] and

section 171(2B) of FA 1993 (no tax credit for distributions in respect of assets in Lloyd's member's premium trust fund).

Textual Amendments

F52 Words in s. 397 heading inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 3**

F53 S. 397(2)(b) and preceding word 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. 515(2), **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

F54 Words in s. 397(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. 515(3)** (with transitional provisions and savings in Sch. 2)

F55 S. 397(5A) inserted (26.3.2015) by Finance Act 2015 (c. 11), **s. 19(5)**

F56 Words in s. 397(6) omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(3)** (with reg. 32)

F57 Words in s. 397(6) substituted (1.1.2014) by Finance Act 2013 (c. 29), Sch. 1 para. 52, **Sch. 29 para. 13**

Modifications etc. (not altering text)

C10 S. 397 excluded (19.7.2006) by Finance Act 2006 (c. 25), **s. 121(5)** (with Sch. 17 para. 18(2))
S. 397(1) excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **s. 504(4)(b)** (with transitional provisions and savings in Sch. 2)

C11 S. 397 excluded by S.I. 2006/694, regs. 69Z18(5), 69Z19(2) (as inserted (6.4.2008) by The Authorised Investment Funds (Tax) (Amendment) Regulations 2008 (S.I. 2008/705), regs. 1, **5**)

C12 S. 397 excluded (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), **ss. 549(2)**, 1184(1) (with Sch. 2)

C13 S. 397(1) excluded (6.4.2014) by The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **12(3)(a)**

[F58 397A Tax credits for distributions of non-UK resident companies: UK residents and eligible non-UK residents U.K.

[F59 (1) A UK resident or eligible non-UK resident receiving a relevant distribution made by a non-UK resident company is entitled to a tax credit equal to one-ninth of the amount or value of the grossed up distribution (but see subsections (3) and (6) and section 397AA).]

(3) Subsection [F60 (1)] only applies so far as the distribution is brought into charge to tax, and accordingly if the person's total income is reduced by any deductions which fall to be made from the distribution, the tax credit for the distribution is reduced in the same proportion as the distribution.

(4) The person may claim to deduct the tax credit from the income tax charged on the person's total income for the tax year in which the distribution (or the part of the distribution to which the tax credit relates) is brought into charge to tax.

(5) If a distribution is, or is treated under any provision of the Tax Acts as, the income of a person ("P") other than the recipient ("R"), P (not R) is treated as receiving it for the purposes of this section (and so P (not R) is entitled to a tax credit if P falls within subsection (1)).

(6) This section is subject to the following provisions—

section 171(2B) of FA 1993 (no tax credit for distributions in respect of assets in Lloyd's member's premium trust fund),

F61 ...

[F62 section 614ZD(6) of ITA 2007.]

(7) In this section—

"eligible non-UK resident", in relation to a distribution, means an individual who, at any time in the tax year in which the distribution (or the part of the distribution to which the tax credit relates) is brought into charge to tax, is a non-UK resident who meets the condition in section 56(3) of ITA 2007 (residence etc of claimants),

"grossed up distribution" means the distribution increased by the amount of any tax chargeable in respect of the distribution directly or by deduction under the laws of the territory in which the company is resident, including special withholding tax,

F63 . . . .

"relevant distribution", in relation to a person, means—

(a) a qualifying distribution arising in a relevant tax year,

(b) a cash dividend paid over to the person under paragraph 68(4) of Schedule 2 of ITEPA 2003 (cash dividend paid over if not reinvested etc) in a relevant tax year, and

(c) a dividend treated under section 407 as paid to the person in a relevant tax year,

"relevant tax year" means the tax year 2008-09 or a subsequent tax year, and

"special withholding tax" has the meaning given in **[**F64section 136(6) of TIOPA 2010**]**.

F65(8) . . . .

Textual Amendments

F58 Ss. 397A-397C inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 4**

F59 S. 397A(1) substituted for s. 397A(1)(2) (with effect in accordance with Sch. 19 para. 14 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 19 para. 2(2)**

F60 Word in s. 397A(3) substituted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 19 para. 2(3)**

F61 Words in s. 397A(6) omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(4)** (with reg. 32)

F62 Words in s. 397A(6) substituted (1.1.2014) by Finance Act 2013 (c. 29), Sch. 1 para. 52, **Sch. 29 para. 14(a)**

F63 Words in s. 397A(7) omitted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 19 para. 2(4)**

F64 Words in s. 397A(7) substituted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 8 para. 66** (with Sch. 9 paras. 1-9, 22)

F65 S. 397A(8) omitted (1.1.2014) by virtue of Finance Act 2013 (c. 29), Sch. 1 para. 52, **Sch. 29 para. 14(b)**

Modifications etc. (not altering text)

C14 S. 397A applied (1.12.2009) (with effect in accordance with art. 1(2)(3) Sch. 1 of the amending S.I.) by The Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), regs. 1(1), **95(4)**

C15 S. 397A(1) excluded (6.4.2014) by The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **12(3)(a)**

[F66397AA Tax credit under section 397A: conditions U.K.

(1) Section 397A(1) only applies if condition A, B or C is met.

(2) Condition A is that—

(a) the relevant distribution is made by a company with issued share capital, and

(b) at the time the person receives the relevant distribution, the person is a minority shareholder in the company.

(3) Condition B is that the company that makes the relevant distribution is an offshore fund.

(4) Condition C is that—

(a) the company that makes the relevant distribution is a resident of (and only of) a qualifying territory at the time that the relevant distribution is received, and

(b) if the relevant distribution is one of a series of distributions made as part of a scheme—

(i) each company that makes a distribution in the series (a "scheme distribution") is a resident of (and only of) a qualifying territory at the time that the scheme distribution is received, or

(ii) the scheme is not a tax advantage scheme.

(5) In this section—

"minority shareholder", in relation to a company, has the meaning given in section 397C;

"offshore fund" has the same meaning as in Chapter 5 of Part 17 of ICTA (see sections 756A to 756C of that Act);

"qualifying territory" has the meaning given by or under section 397BA;

"relevant distribution" has the same meaning as in section 397A;

"scheme" includes any scheme, arrangements or understanding of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions;

"tax advantage scheme" means a scheme that, ignoring any incidental purposes, has as its only purpose or purposes either or both of the following—

(a) to enable a person to obtain a tax credit under section 397A, and

(b) to enable a person to obtain (in any territory) any other relief from tax on a distribution.**]**

Textual Amendments

F58 Ss. 397A-397C inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 4**

F66 S. 397AA inserted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 19 para. 3**

Modifications etc. (not altering text)

C16 S. 397AA modified (with effect in accordance with reg. 1 of the amending S.I.) by The Tax Credits (Excluded Companies) Regulations 2009 (S.I. 2009/3333), **reg. 2**

F67 397B Tax credits under section 397A: manufactured overseas dividends U.K.

. . . .

Textual Amendments

F67 S. 397B omitted (1.1.2014) by virtue of Finance Act 2013 (c. 29), Sch. 1 para. 52, **Sch. 29 para. 15**

[F68 397BA Meaning of "qualifying territory" U.K.

(1) For the purposes of section 397AA "qualifying territory" means—

(a) the United Kingdom, or
(b) a territory within subsection (2).

(2) A territory is within this subsection if—

[F69(a) arrangements made in relation to the territory have effect under section 2(1) of TIOPA 2010 (“double taxation relief arrangements”), and**]**
(b) the arrangements contain a non-discrimination provision.

(3) The Treasury may by regulations—

(a) provide that a territory specified in or of a description specified in the regulations that does not satisfy subsection (2)(a) or (b) is a qualifying territory for the purpose of section 397AA, and
(b) provide that a territory so specified or described that satisfies subsection (2)(a) or (b) is not a qualifying territory for that purpose.

(4) For the purposes of section 397AA a company is a resident of a territory if, under the laws of the territory, the company is liable to tax there—

(a) by reason of its domicile, residence or place of management, but
(b) not in respect only of income from sources in that territory or capital situated there.

(5) In subsection (2) “non-discrimination provision”, in relation to double taxation relief arrangements, means a provision to the effect that nationals of a state which is a party to those arrangements (a “contracting state”) are not to be subject in any other contracting state to—

(a) any taxation, or
(b) any requirement connected with taxation,

which is other or more burdensome than the taxation and connected requirements to which nationals of that other state in the same circumstances (in particular with respect to residence) are or may be subjected.

(6) In subsection (5) “national”, in relation to a contracting state, includes—

(a) an individual possessing the nationality or citizenship of the contracting state, and
(b) a legal person, partnership or association deriving its status as such from the laws in force in that contracting state.

(7) Regulations under this section may—

(a) describe a territory by reference to the double taxation relief arrangements for the time being in force in relation to the territory,
(b) make different provision in relation to different descriptions of company, and
(c) make provision having effect in relation to the tax year current on the day on which the regulations are made.

(8) No regulations may be made under this section unless a draft of the instrument containing them has been laid before, and approved by a resolution of, the House of Commons.**]**

Textual Amendments

F58 Ss. 397A-397C inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 4**

F68 S. 397BA inserted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 19 para. 5**

F69 S. 397BA(2)(a) substituted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 8 para. 67** (with Sch. 9 paras. 1-9, 22)

397C Meaning of "minority shareholder" U.K.

(1) In section [F70 397AA] "minority shareholder", in relation to a F71... company, means a person whose shareholding in the company is less than 10% of the company's issued share capital.

[F72 (1A) Where the company has more than one class of share, the reference in subsection (1) to the company's issued share capital is to issued share capital of the same class as the share in respect of which the distribution is made.]

(2) Subsections (3) to (6) make provision about the circumstances in which shares form part of a person's shareholding in a company for the purposes of this section.

(3) Shares form part of a person's shareholding in a company to the extent that the person is beneficially entitled to the shares or to a distribution arising in respect of the shares (or both).

(4) Shares form part of a person's shareholding in the company where—

(a) a person is a settlor in relation to a settlement, and

(b) income arising from shares comprised in the settlement is treated for income tax purposes as the income of that person and of that person alone.

(5) Shares form part of the shareholding in a company of a person ("P") if—

(a) they form part of the shareholding in the company of a person connected with P,

(b) P transferred the shares to the connected person or arranged for the connected person to acquire the shares, and

(c) the purpose of the transfer or arrangement was wholly or mainly to enable P to avoid tax.

(6) Shares form part of a person's shareholding in a company if that person has transferred the shares to another person under a repo or stock lending arrangement.

(7) In this section—

"repo" has the same meaning as in Part 11 of ITA 2007 (see section 569 of that Act),

"settlement" and "settlor" have the same meaning as in Chapter 5 of Part 5 of this Act, and

"stock lending arrangement" has the same meaning as in Part 11 of ITA 2007 (see section 568 of that Act).

[F73 (8) For the purposes of this section, shares are not of the same class if the amounts paid up on them (otherwise than by way of premium) are different.]]

Textual Amendments

F58 Ss. 397A-397C inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 4**

F70 Word in s. 397C(1) substituted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 19 para. 6(2)(a)**

F71 Words in s. 397C(1) omitted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 19 para. 6(2)(b)**

F72 S. 397C(1A) inserted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 19 para. 6(3)**

F73 S. 397C(8) inserted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 19 para. 6(4)**

398 Increase in amount or value of dividends where tax credit available U.K.

(1) If a person is entitled to a tax credit **[**F74under section 397 or 397A**]** in respect of a dividend or other distribution, the amount or value of the dividend or other distribution is treated as increased by the amount of the tax credit for all income tax purposes (except **[**F75sections 397(1) and **[**F76397A(1)**]]**).

(2) Subsection (1) does not apply if the distribution is dealt with under Chapter 2 of Part 2 unless the trade consists of the underwriting business of a member of Lloyd's.

Textual Amendments

F74 Words in s. 398(1) inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 5(a)**

F75 Words in s. 398(1) substituted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 5(b)**

F76 Word in s. 398(1) substituted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 19 para. 7**

399 Qualifying distributions received by persons not entitled to tax credits U.K.

(1) This section applies if a person is not entitled to a tax credit **[**F77under section 397 or 397A**]** for a qualifying distribution included in the person's income for a tax year.

(2) The person is treated as having paid income tax at the dividend ordinary rate on the amount or value of the distribution (but see subsection (7)).

(3) For the purposes of subsection (2), if the person is non-UK resident the amount or value of the distribution is treated as the grossed up amount, unless the person is a company which is beneficially entitled to the income.

(4) If the person is non-UK resident **[**F78, the amount or value of the distribution is treated for the purposes of Chapters 3, 4 and 6 of Part 9 of ITA 2007 (special rates for trustees' income)**]** as the grossed up amount.

(5) In this section "the grossed up amount" means the actual amount or value of the distribution, grossed up by reference to the dividend ordinary rate for the tax year.

[F79(5A) This section needs to be read with section 396A(2) (which treats certain receipts as "qualifying distributions" for the purposes of this section).]

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

(7) Subsection (2) is subject to the following provisions—

F80 ...

[F81section 592 of ITA 2007 (no tax credits for borrower under stock lending arrangement),

section 593 of ITA 2007 (no tax credits for interim holder under repo), and

section 594 of ITA 2007 (no tax credits for original owner under repo).]

Textual Amendments

F77 Words in s. 399(1) inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 6**

F78 Words in s. 399(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. 516(2)** (with transitional provisions and savings in Sch. 2)

F79 S. 399(5A) inserted (26.3.2015) by Finance Act 2015 (c. 11), **s. 19(6)**

F80 Words in s. 399(7) omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(5)** (with reg. 32)

F81 Words in s. 399(7) 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. 516(3)** (with transitional provisions and savings in Sch. 2)

Modifications etc. (not altering text)

C17 S. 399(2) excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 594(3)**, 1034 (with transitional provisions and savings in Sch. 2)

C18 S. 399(2) excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 593(3)**, 1034 (with transitional provisions and savings in Sch. 2)

C19 S. 399(2) excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 592(3)**, 1034 (with transitional provisions and savings in Sch. 2)

C20 S. 399(2)(6) excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 504(4)(c)**, 1034 (with transitional provisions and savings in Sch. 2)

C21 S. 399(2) excluded (6.4.2014) by The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **12(3)(b)**

C22 S. 399(6) excluded (6.4.2014) by The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **12(3)(b)**

400 Non-qualifying distributions U.K.

(1) This section applies if a person's income in a tax year includes a non-qualifying distribution.

(2) The person is treated as having paid income tax at the dividend ordinary rate on the amount or value of the distribution.

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

(4) If the distribution is [F82 assessed (in whole or in part) at the dividend trust rate by virtue of Chapter 3 of Part 9 of ITA 2007 (trustees' accumulated or discretionary income to be charged at special rates), the trustees' liability for income tax at that rate is reduced]

(5) The amount of the reduction is equal to income tax at the dividend ordinary rate on so much of the distribution as is assessed at the dividend trust rate.

(6) In this section and section 401 "non-qualifying distribution" means a distribution which is not a qualifying distribution.

F83(7) . . . .

Textual Amendments

F82 Words in s. 400(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. 517(2)** (with transitional provisions and savings in Sch. 2)

F83 S. 400(7) omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(6)** (with reg. 32)

Modifications etc. (not altering text)

C23 S. 400(2)(3) excluded (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **ss. 504(4)(d)**, 1034 (with transitional provisions and savings in Sch. 2)

C24 S. 400(2) excluded (6.4.2014) by The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **12(3)(c)**

C25 S. 400(3) excluded (6.4.2014) by The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **12(3)(c)**

401 Relief: qualifying distribution after linked non-qualifying distribution U.K.

(1) Where a person pays an amount in respect of extra liability for a non-qualifying distribution, the person's extra liability for a subsequent qualifying distribution is reduced by that amount if conditions A and B are met.

(2) Condition A is that the non-qualifying distribution consists of the issue of share capital or security.

(3) Condition B is that the qualifying distribution consists of a repayment of the share capital or the principal of the security.

(4) A person's extra liability for a distribution charged to tax for the tax year 1999-2000 or a later tax year is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the dividend ordinary rate.

(5) A person's extra liability for a distribution charged to tax for a tax year after the tax year 1992-93 and before the tax year 1999-2000 is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the lower rate.

(6) A person's extra liability for a distribution charged to tax for a tax year before the tax year 1993-94 is the amount by which the person's liability to income tax on the distribution exceeds the amount it would be if it were charged only at the basic rate.

[F84(6A) The reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.]

(7) In this section "security" has the meaning given in [F85section 1117(1) of CTA 2010].

Textual Amendments

F84 S. 401(6A) 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. 518** (with transitional provisions and savings in Sch. 2)

F85 Words in s. 401(7) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 455** (with Sch. 2)

[F86401A Recovery of overpaid tax credit etc U.K.

(1) If an officer of Revenue and Customs discovers that a payment or set-off of tax credit should not have been made or is excessive, the officer may act in accordance with subsection (3) or (4).

(2) For the purposes of subsection (1) it does not matter whether the payment or set-off was excessive when made or became so later.

(3) The officer may make any assessment that in the officer's judgement is needed to recover—

(a) any income tax that should have been paid, or

(b) any payment of tax credit that should not have been made.

(4) More generally, the officer may make any assessment that in the officer's judgement is needed to secure that the liabilities to income tax (and any liabilities to interest on income tax) of the persons concerned are what they would have been if only the correct set-offs and payments had been made.

(5) TMA 1970 applies to an assessment under this section for recovering a payment of tax credit, or of interest on a tax credit—

(a) as if it were an assessment to income tax for the tax year in respect of which the payment was claimed, and

(b) as if the payment represented a loss of tax to the Crown.

(6) Any sum charged by an assessment such as is mentioned in subsection (5) is due within 14 days after the notice of assessment is issued.

(7) The duty to comply with subsection (6) is subject to any appeal against the assessment.]

Textual Amendments

F86 S. 401A inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 456** (with Sch. 2)

[F87401B Power to obtain information U.K.

(1) An officer of Revenue and Customs may, for the purposes of section 397, by notice require any person in whose name any shares or loan capital are registered—

(a) to state whether or not that person is the beneficial owner of the shares or loan capital, and

(b) if that person is not the beneficial owner of the shares or loan capital, to provide the name and address of the person on whose behalf the shares or loan capital are registered in that person's name.

(2) Subsections (3) and (4) apply if a company ("the issuing company") appears to an officer of Revenue and Customs to be a close company.

(3) The officer may, for the purposes of section 397, by notice require the issuing company to provide the officer with—

(a) particulars of any bearer securities issued by the company,

(b) the names and addresses of the persons to whom the securities were issued, and

(c) details of the amounts issued to each person.

(4) The officer may, for the purposes of section 397, by notice require—

(a) any person to whom bearer securities were issued by the company, or

(b) any person to or through whom bearer securities issued by the company were subsequently sold or transferred,

to provide any further information that the officer reasonably requires with a view to enabling the officer to find out the names and addresses of the persons beneficially interested in the securities.

(5) In this section—

"loan creditor" has the meaning given by section 453 of CTA 2010, and

"securities" includes—

(a) shares, stocks, bonds, debentures and debenture stock, and

(b) any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.**]**

Textual Amendments

F87 S. 401B inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 457** (with Sch. 2)

[[F88] *Anti-avoidance*

Textual Amendments

F88 S. 401C and cross-heading inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 133**

401C Temporary non-residents U.K.

(1) This section applies if—

(a) an individual is temporarily non-resident,

(b) a relevant distribution is made or treated as made to the individual in the temporary period of non-residence,

(c) the tax year in which it is made or treated as made ("the distribution year") is a tax year for which the individual is UK resident, and

(d) the amount of income tax charged on the distribution under this Chapter is less than it would have been if the existence of double taxation relief arrangements were disregarded.

(2) Subsections (3) and (4) have effect in cases where the distribution year is not the year of return.

(3) The total income (see Step 1 of the calculation in section 23 of ITA 2007) on which the individual is charged to income tax for the year of return is to be increased by an amount equal to the amount on which tax would be charged under this Chapter in respect of the distribution disregarding any double taxation relief arrangements.

(4) But the notional UK tax on that distribution is to be allowed as a credit against the individual's liability to income tax for the year of return under Step 6 of the calculation in section 23.

(5) If the distribution year is the year of return, the tax charged under this Chapter in respect of the relevant distribution is to be charged and assessed without regard to the existence of double taxation relief arrangements.

(6) For the purposes of this section, a dividend or other distribution is a "relevant distribution" if—

(a) it is a dividend or other distribution of a close company, and

(b) it is made or treated as made to the individual because the individual was at a relevant time—

(i) a material participator in the company, or

(ii) an associate of a material participator in the company.

(7) But a dividend or other distribution within subsection (6) in the form of a cash dividend is not a "relevant distribution" to the extent that the dividend is paid in respect of post-departure trade profits.

(8) "Post-departure trade profits" are—

(a) trade profits of the close company arising in an accounting period that begins after the start of the temporary period of non-residence, and

(b) so much of any trade profits of the close company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.

(9) The extent to which a dividend is paid in respect of post-departure trade profits is to be determined on a just and reasonable basis.

(10) The "notional UK tax" on the relevant distribution is so much of the income tax paid by the individual for the distribution year as is attributable on a just and reasonable basis to the relevant distribution.

(11) If section 393 applies, references in this section to a distribution being made to the individual are to a cash dividend being paid over to the individual.

(12) In this section—

"associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454);

"material participator" means a participator who has a material interest in the company, as defined in section 457 of that Act;

"relevant time" means—

(a) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or

(b) any time in one or more of the 3 tax years preceding that year;

"trade profits of the close company" means the profits of any trade carried on by the close company, as calculated in accordance with Part 3 of CTA 2009 (trading income).**]**

CHAPTER 4 U.K.

DIVIDENDS FROM NON-UK RESIDENT COMPANIES

Charge to tax on dividends from non-UK resident companies

402 Charge to tax on dividends from non-UK resident companies U.K.

(1) Income tax is charged on dividends of a non-UK resident company.

(2) For exemptions, see in particular section 770 (amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment).

(3) Subsection (1) is also subject to section 498 of ITEPA 2003 (no charge on shares ceasing to be subject to SIP in certain circumstances).

(4) In this Chapter "dividends" does not include dividends of a capital nature.

403 Income charged U.K.

(1) Tax is charged under this Chapter on the [F89]... amount of the dividends arising in the tax year.

(2) Subsection (1) is subject to—

section 406(2) and (3) (later charge where cash dividends retained in SIPs are paid over),

section 407(3) (dividend payment when dividend shares cease to be subject to SIP), and

Part 8 (foreign income: special rules).

Textual Amendments

F89 Word in s. 403(1) omitted (with effect in accordance with s. 34(2) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 12 para. 18**

404 Person liable U.K.

(1) The person liable for any tax charged under this Chapter is the person receiving or entitled to the dividends.

(2) Subsection (1) is subject to—

section 406(4) (later charge where cash dividends retained in SIPs are paid over), and

section 407(4) (dividend payment when dividend shares cease to be subject to SIP).

Shares in [F90 Schedule 2] share incentive plans ("SIPs")

Textual Amendments

F90 Words in s. 405 cross-heading substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 61**, 89 (with Sch. 8 paras. 90-96)

405 SIP shares: introduction U.K.

(1) Sections 406 to 408 contain special rules about the charge under this Chapter in respect of shares awarded to an individual under [F91 a Schedule 2] share incentive plan.

(2) Those sections only apply if the condition in section 392(3) or (5) was met at the time the shares in question were so awarded (earnings within ITEPA 2003).

(3) This section and sections 406 to 408 form part of the SIP code (see section 488 of ITEPA 2003 (F92 ... share incentive plans)).

(4) Accordingly, expressions used in this section or those sections and contained in the index in paragraph 100 of Schedule 2 to that Act (F92 ... share incentive plans) have the meaning indicated by that index.

(5) In particular—

(a) for the meaning of "award of shares" see paragraph 5(1) of that Schedule,

(b) for the meaning of "ceasing to be subject to plan" see paragraph 97 of that Schedule,

(c) for the meaning of "dividend shares" see paragraph 62(3)(b) of that Schedule,

(d) for the meaning of "participant" see paragraph 5(4) of that Schedule,

(e) for the meaning of "plan shares" see paragraphs 86 to 88 and 99(1) of that Schedule, and

(f) for the meaning of "shares" see paragraphs 87(6) and 99(2) of that Schedule.

Textual Amendments

F91 Words in s. 405(1) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 62(2)**, 89 (with Sch. 8 paras. 90-96)

F92 Word in s. 405(3)(4) omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 8 paras. 62(3)**, 89 (with Sch. 8 paras. 90-96)

406 Later charge where cash dividends retained in SIPs are paid over U.K.

(1) This section applies if a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested etc.).

(2) Tax charged under this Chapter is charged for the tax year in which the cash dividend is paid over instead of the tax year in which in which it was originally paid.

(3) Tax so charged is charged on the amount of the cash dividend paid over.

(4) The person liable for any tax so charged is the participant.

[F93(4A) For the purposes of determining—

(a) whether the participant is entitled to a tax credit under section 397A in respect of a cash dividend so charged, and

(b) the amount of that tax credit,

that section applies as it has effect for the tax year in which the cash dividend is paid over.**]**

(5) For the purposes of this Chapter, the question whether a cash dividend so paid over is a dividend paid by a company that is non-UK resident is determined by reference to the tax year in which the dividend was originally paid.

Textual Amendments

F93 S. 406(4A) inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 19**

407 Dividend payment when dividend shares cease to be subject to SIP U.K.

(1) This section applies if dividend shares cease to be subject to **[**F94a Schedule 2**]** incentive plan before the end of the period of 3 years beginning with the date on which the shares were acquired on the participant's behalf.

(2) For income tax purposes a dividend is treated as paid to the participant in the tax year in which the shares cease to be subject to the plan.

(3) The amount of the dividend treated as paid is the amount of the cash dividend applied to acquire the shares on the participant's behalf, so far as it represents a cash dividend paid in respect of plan shares in a non-UK resident company.

[F95(3A) But if the shares cease to be subject to the plan by virtue of a provision of the kind mentioned in paragraph 65(2) of Schedule 2 to ITEPA 2003 (provision requiring dividend shares to be offered for sale), the amount of the dividend treated as paid is the amount equal to the relevant fraction of the market value of the shares at the time they are offered for sale if that amount is less than the amount given by subsection (3).

(3B) For the purposes of subsection (3A) "the relevant fraction" is—

A B

where—

A is so much of the amount of the cash dividend applied to acquire the shares on the participant's behalf as represents a cash dividend paid in respect of plan shares in a non-UK resident company, and

B is the amount of the cash dividend applied to acquire the shares on the participant's behalf.

(3C) Paragraph 92(2) of Schedule 2 to ITEPA 2003 (market value of shares subject to a restriction) applies for the purposes of subsection (3A).**]**

(4) The person liable for any tax charged as a result of this section is the participant.

[[F96](4A) For the purposes of determining—

(a) whether the participant is entitled to a tax credit under section 397A in respect of a dividend so charged, and

(b) the amount of that tax credit,

that section applies as it has effect for the tax year in which the shares cease to be subject to the plan.**]**

(5) For rules identifying shares ceasing to be subject to **[**[F97]Schedule 2**]** share incentive plans, see section 508 of ITEPA 2003.

Textual Amendments

F94 Words in s. 407(1) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 63(2)**, 89 (with Sch. 8 paras. 90-96)

F95 S. 407(3A)-(3C) inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 63(3)**, 89 (with Sch. 8 paras. 90-96)

F96 S. 407(4A) inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 20**

F97 Words in s. 407(5) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 63(4)**, 89 (with Sch. 8 paras. 90-96)

408 Reduction in tax due in cases within section 407 U.K.

(1) This section applies if—

(a) a person is liable for tax as a result of section 407, and

(b) any tax is paid on any capital receipts under section 501 of ITEPA 2003 (charge on capital receipts in respect of plan shares) in respect of the shares that cease to be subject to the **[**[F98]Schedule 2**]** share incentive plan.

(2) The tax due as a result of section 407 is to be reduced by an amount equal to the total tax so paid.

[[F99](2A) In subsection (2) "the tax due" means the amount of tax due as a result of section 407 after deduction of the tax credit determined in accordance with section 407(4A).**]**

(3) For rules identifying shares ceasing to be subject to **[**[F100]Schedule 2**]** share incentive plans, see section 508 of ITEPA 2003.

Textual Amendments

F98 Words in s. 408(1)(b) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 64**, 89 (with Sch. 8 paras. 90-96)

F99 S. 408(2A) inserted (with effect in accordance with s. 34(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 12 para. 21**

F100 Words in s. 408(3) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 64**, 89 (with Sch. 8 paras. 90-96)

[F101 Anti-avoidance

Textual Amendments

F101 S. 408A and cross-heading inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 134**

408A Temporary non-residents U.K.

(1) This section applies if an individual is temporarily non-resident.

(2) Dividends within subsection (3) are to be treated for the purposes of this Chapter as if they were received by the individual, or as if the individual became entitled to them, in the period of return.

(3) A dividend is within this subsection if—

(a) the individual receives or becomes entitled to it in the temporary period of non-residence,

(b) it is a dividend of a company that would be a close company if the company were UK resident,

(c) the individual receives or becomes entitled to it by virtue of being at a relevant time—

(i) a material participator in the company, or

(ii) an associate of a material participator in the company, and

(d) ignoring this section, the individual—

(i) is not liable for tax under this Chapter in respect of the dividend, but

(ii) would have been so liable if the individual had received the dividend, or become entitled to it, in the period of return.

(4) For the purposes of subsection (3)—

(a) "associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454),

(b) a "material participator" is a participator who has a material interest in the company, as defined in section 457 of that Act,

(c) "relevant time" means—

(i) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or

(ii) any time in one or more of the 3 tax years preceding that year, and

(d) paragraph (d)(i) includes a case where the individual could be relieved of liability on the making of a claim under section 6 of TIOPA 2010 (double taxation relief), even if no claim is in fact made.

(5) If section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the individual for the year of return, any dividend within subsection (3) that was remitted to the United Kingdom in the temporary period of non-residence is to be treated as remitted to the United Kingdom in the period of return.

(6) This section does not apply to a dividend within subsection (3) to the extent that it is paid in respect of post-departure trade profits.

(7) "Post-departure trade profits" are—

(a) trade profits of the company arising in an accounting period that begins after the start of the temporary period of non-residence, and
(b) so much of any trade profits of the company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.

(8) The extent to which a dividend is paid in respect of post-departure trade profits is to be determined on a just and reasonable basis.

(9) If section 406 or 407 applies, references in this section to a dividend being received by the individual are to a cash dividend being paid over to the individual or (as the case may be) a dividend being treated as paid to the individual.

(10) In this section—

"remitted to the United Kingdom" has the meaning given in Chapter A1 of Part 14 of ITA 2007;

"trade profits of the company" means the profits of any trade carried on by the company, as they would be calculated in accordance with Part 3 of CTA 2009 (trading income) if the company were UK resident.**]**

CHAPTER 5 U.K.

STOCK DIVIDENDS FROM UK RESIDENT COMPANIES

409 Charge to tax on stock dividend income U.K.

(1) Income tax is charged on stock dividend income.

(2) In this Chapter "stock dividend income" means the income that is treated as arising under section 410.

410 When stock dividend income arises U.K.

[F102(1) This section applies to—
(a) share capital issued by a UK resident company in lieu of a cash dividend, and
(b) bonus share capital issued by a UK resident company in respect of shares in the company of a qualifying class.

(1A) For the purposes of subsection (1)(b), shares are of a qualifying class if—
(a) shares of that class carry the right to receive bonus share capital in the company (of the same or a different class), and
(b) that right is conferred by the terms on which shares of that class were originally issued or by those terms as subsequently extended or otherwise varied.**]**

(2) If an individual is beneficially entitled to that share capital, income is treated as arising to the individual.

(3) If—
(a) the share capital is issued to trustees in respect of shares they hold in the company (alone or with others), and

(b) a cash dividend paid to them in respect of the shares would have been to any extent [F103accumulated or discretionary income (as defined in section 480 of ITA 2007 but excluding income arising under a [F104 charitable trust] or an unauthorised unit trust in relation to which [F105regulation 12 of the Unauthorised Unit Trusts (Tax) Regulations 2013] applies)] ,

income is treated as arising to the trustees.

(4) If the share capital is issued to personal representatives during the administration period, income is treated as arising (but see section 413(4)).

(5) In subsection (4) "administration period" has the meaning given by section 653.

(6) Income within this section is treated as arising on the earliest date on which the company is required to issue the share capital in question.

(7) See section 413(5) (apportionment) if two or more persons are entitled to the share capital.

[F106(8) There are special rules in paragraph 78A of Schedule 2 for share capital issued in respect of shares issued before 6 April 1975.]

Textual Amendments

F102 S. 410(1)(1A) substituted (1.4.2010) for s. 410(1) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 458(2)** (with Sch. 2)

F103 Words in s. 410(3)(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. 519** (with transitional provisions and savings in Sch. 2)

F104 Words in s. 410(3)(b) substituted (with effect in accordance with art. 15 of the commencing S.I.) by Finance Act 2010 (c. 13), **Sch. 6 paras. 21(2)**, 34(2); S.I. 2012/736, art. 15

F105 Words in s. 410(3) substituted (6.4.2014) by The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(7)** (with reg. 32)

F106 S. 410(8) inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 458(3)** (with Sch. 2)

[F107410A Conversion etc of bonus share capital U.K.

(1) This section applies if bonus share capital falling within section 410(1)(b) is converted into, or exchanged for, shares in the company of a different class.

(2) Section 410 does not apply to any shares in the company issued—

(a) in connection with the conversion or exchange, and

(b) in consideration of the cancellation, extinguishment or acquisition by the company of the bonus share capital.]

Textual Amendments

F107 S. 410A inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 459** (with Sch. 2)

411 Income charged U.K.

(1) Tax is charged under this Chapter on the amount of stock dividend income treated for income tax purposes as arising in the tax year.

(2) That amount is the cash equivalent of the share capital on the issue of which the stock dividend income arises (see section 412), grossed up by reference to the dividend ordinary rate for the tax year.

412 Cash equivalent of share capital U.K.

(1) The cash equivalent of share capital **[**F108issued as mentioned in section 410(1)(a) is the amount of the cash dividend alternative (see section 414A(2))**]**.

(2) But if the difference between the cash dividend alternative and the share capital's market value equals or exceeds 15% of that market value—
- (a) subsection (1) does not apply, and
- (b) the cash equivalent of the share capital is its market value.

(3) The cash equivalent of share capital **[**F109issued as mentioned in section 410(1)(b)**]** is its market value.

(4) For the purposes of this section, market value is determined—
- (a) in the case of listed share capital, on the date of first dealing, and
- (b) in the case of other share capital, on the earliest date on which the company is required to issue it.

(5) In this section—

"listed" means listed in the Stock Exchange Daily Official List, and

"market value" has the same meaning as in sections 272(1) and (3) and 273(3) of TCGA 1992.

Textual Amendments

F108 Words in s. 412(1) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 460(2)** (with Sch. 2)

F109 Words in s. 412(3) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 460(3)** (with Sch. 2)

Modifications etc. (not altering text)

C26 S. 412(1)(2)(4)(5) applied (16.12.2010) by Taxation of Chargeable Gains Act 1992 (c. 12), s. 142A(5) (as inserted (with effect in accordance with Sch. 4 para. 12 to the amending Act) by Finance (No. 3) Act 2010 (c. 33), **Sch. 4 para. 1**)

C27 S. 412(1)(2)(4)(5) applied (16.12.2010) by Corporation Tax Act 2010 (c. 4), s. 599A(2) (as inserted (with effect in accordance with Sch. 4 para. 12 to the amending Act) by Finance (No. 3) Act 2010 (c. 33), **Sch. 4 para. 10**)

413 Person liable U.K.

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

(2) If section 410(2) applies, the individual is liable for the tax.

(3) If section 410(3) applies, the trustees are liable for the tax.

(4) If section 410(4) applies, tax is not charged under this Chapter, but see—

(a) section 664 (under which the income treated as arising to the personal representatives under section 410 is treated as part of the aggregate income of the estate for the purposes of Chapter 6 of Part 5), and

[F110(b) section 947 of CTA 2009 (under which similar provision is made for the purposes of Chapter 3 of Part 10 of that Act)**]**.

(5) If two or more persons are entitled to the share capital on the issue of which the stock dividend income arises, this Chapter applies as if the company issuing it had issued to each of those persons a proportionate part of the share capital.

(6) In subsection (5) "proportionate part" means a part proportionate to the person's interest on the earliest date on which the company is required to issue the share capital.

Textual Amendments

F110 S. 413(4)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 630** (with Sch. 2 Pts. 1, 2)

[F111 413A Temporary non-residents U.K.

(1) This section applies if—

(a) an individual is temporarily non-resident,

(b) relevant stock dividend income is treated under this Chapter as arising to the individual in the temporary period of non-residence,

(c) the tax year in which it is treated as arising ("the arising year") is a tax year for which the individual is UK resident, and

(d) the amount of income tax charged on the relevant stock dividend income under this Chapter is less than it would have been if the existence of double taxation relief arrangements were disregarded.

(2) Subsections (3) and (4) have effect in cases where the arising year is not the year of return.

(3) The total income (see Step 1 of the calculation in section 23 of ITA 2007) on which the individual is charged to income tax for the year of return is to be increased by an amount equal to the amount on which tax would be charged under this Chapter in respect of the relevant stock dividend income disregarding any double taxation relief arrangements.

(4) But the notional UK tax on that relevant stock dividend income is to be allowed as a credit against the individual's liability to income tax for the year of return under Step 6 of the calculation in section 23.

(5) If the arising year is the year of return, the tax charged under this Chapter in respect of the relevant stock dividend income is to be charged and assessed without regard to the existence of double taxation relief arrangements.

(6) Stock dividend income is "relevant stock dividend income" if—

(a) the UK resident company that issues the share capital or bonus share capital is a close company, and

(b) the individual is beneficially entitled to that share capital or bonus share capital by virtue of being at a relevant time—
  (i) a material participator in the company, or
  (ii) an associate of a material participator in the company.

(7) But stock dividend income within subsection (6) is not "relevant stock dividend income" to the extent that the share capital or bonus share capital is issued in respect of post-departure trade profits.

(8) "Post-departure trade profits" are—
(a) trade profits of the close company arising in an accounting period that begins after the start of the temporary period of non-residence, and
(b) so much of any trade profits of the close company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.

(9) The extent to which share capital or bonus share capital is issued in respect of post-departure trade profits is to be determined on a just and reasonable basis.

(10) The "notional UK tax" on the relevant stock dividend income is so much of the income tax paid by the individual for the arising year as is attributable on a just and reasonable basis to that income.

(11) In this section—

"associate" and "participator" have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454);

"material participator" means a participator who has a material interest in the company, as defined in section 457 of that Act;

"relevant time" means—
(a) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or
(b) any time in one or more of the 3 tax years preceding that year;

"trade profits of the close company" means the profits of any trade carried on by the close company, as calculated in accordance with Part 3 of CTA 2009 (trading income).**]**

Textual Amendments

F111 S. 413A inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 135**

414 Income tax treated as paid U.K.

(1) A person liable to tax under this Chapter is treated as having paid income tax at the dividend ordinary rate on the income charged, and where trustees are so liable (because a cash dividend paid to them in respect of the shares would have been to any extent **[**F112accumulated or discretionary income (as defined in section 480 of ITA 2007)**]**) the income is treated as if it had been chargeable to tax at that rate.

(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 **[**F113at 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.

Textual Amendments

F112 Words in s. 414(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, 1034, **Sch. 1 para. 520(2)** (with transitional provisions and savings in Sch. 2)

F113 Words in s. 414(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. 520(3)** (with transitional provisions and savings in Sch. 2)

[F114 414A Interpretation of Chapter U.K.

(1) In this Chapter "bonus share capital" means—

(a) share capital issued otherwise than wholly for new consideration, or

(b) the part (if there is such a part) of any share capital so issued that is not properly referable to new consideration.

(2) For the purposes of this Chapter share capital is issued by a company in lieu of a cash dividend if—

(a) it is issued in consequence of the exercise by any person of an option conferred on the person, and

(b) that option is an option to receive, in respect of shares in the company, either a dividend in cash or additional share capital.

(3) For the purposes of subsection (2), an option to receive either a dividend in cash or additional share capital is conferred on a person not only—

(a) if the person is required to choose one or the other, but also

(b) if the person is offered the one subject to a right, however expressed, to choose the other instead.

(4) The reference in subsection (2) to a person's exercise of an option includes a person's abandonment of, or failure to exercise, a right such as is mentioned in subsection (3)(b).

(5) In this Chapter "share" includes stock, and any other interest of a member in a company.

(6) If two or more companies enter into arrangements to make distributions to each other's members, all parties concerned (however many) may, for the purposes of this Chapter, be treated as if anything done by any one of those companies had been done by any one of the others.

(7) The following apply in relation to this Chapter as they apply in relation to Part 23 of CTA 2010—

(a) section 1113 ("in respect of shares") of CTA 2010,
(b) section 1115 ("new consideration") of CTA 2010.**]**

Textual Amendments

F114 S. 414A inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 461** (with Sch. 2)

Modifications etc. (not altering text)

C28 Ss. 414A(2)-(4) applied (16.12.2010) by Taxation of Chargeable Gains Act 1992 (c. 12), **s. 142A(4)** (as inserted (with effect in accordance with Sch. 4 para. 12 to the amending Act) by Finance (No. 3) Act 2010 (c. 33), **Sch. 4 para. 1**)

CHAPTER 6 U.K.

RELEASE OF LOAN TO PARTICIPATOR IN CLOSE COMPANY

415 Charge to tax under Chapter 6 U.K.

(1) Income tax is charged if—
(a) a company **[**[F115]is or was chargeable to tax under section 455 of CTA 2010**]** (loans to participators in close companies etc.) in respect of a loan or advance, and
(b) the company releases or writes off the whole or part of the debt in respect of the loan or advance.

(2) Subsection (1) is subject to section 418 (relief where borrowers liable as settlors).

(3) Subsection (4) applies if**[**[F116], as a result of section 460 of CTA 2010, sections 455 to 459 of that Act have effect**]** as if a loan or advance had been made by a company ("A"), rather than the company ("B") which—
(a) actually made it,
(b) is regarded as having made it under **[**[F117]section 455(4) of that Act**]** (deemed loans where debt incurred or assigned to close company), or
(c) would be so regarded if it were a close company.

(4) If the whole or part of the debt is released or written off by B, for the purposes of subsection (1), A rather than B is treated as releasing it or writing it off.

(5) Expressions used in this Chapter have the same meanings **[**[F118]as they have for the purposes of section 455 of CTA 2010**]** .

Textual Amendments

F115 Words in s. 415(1)(a) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 462(2)** (with Sch. 2)
F116 Words in s. 415(3) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 462(3)(a)** (with Sch. 2)
F117 Words in s. 415(3) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 462(3)(b)** (with Sch. 2)

F118 Words in s. 415(5) substituted (with effect in accordance with art. 1(3) of the amending S.I.) by The Tax Law Rewrite Acts (Amendment) Order 2013 (S.I. 2013/463), arts. 1(2), **8**

416 Income charged U.K.

(1) Tax is charged under this Chapter on the gross amount of the debt released or written off in the tax year.

(2) The "gross amount" is the amount released or written off, grossed up by reference to the dividend ordinary rate for that year.

(3) For the purposes of calculating the total income of the person liable for the tax, the amount charged is treated as income.

(4) This section is subject to section 418 (relief where borrowers liable as settlors).

417 Person liable U.K.

[F119(1) The person liable for any tax charged under this Chapter is—

(a) in the case of a loan or advance made to a partnership, any partner who is an individual, and

(b) in any other case, the person to whom the loan or advance was made.

(1A) If more than one person is liable in a case within subsection (1)(a), the liability is to be apportioned between them in a just and reasonable manner.**]**

(2) This is subject to—

section 419 (loans and advances to persons who die), and

section 420 (loans and advances to trustees of trusts that have ended).

Textual Amendments

F119 S. 417(1)(1A) substituted for s. 417(1) (with effect in accordance with Sch. 30 para. 14(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 30 para. 14(1)**

418 Relief where borrowers liable as settlors U.K.

(1) Relief is given under this section if the person to whom the loan or advance was made—

(a) is liable for the tax year for income tax on a sum in respect of it under Chapter 5 of Part 5 as a result of section 633 (capital sums paid to settlor by trustees of settlement), or

(b) has been so liable for any previous tax year.

(2) If the total amount previously charged (see subsection (4)) equals or exceeds the total amount released (see subsection (6)), tax is not charged under this Chapter.

(3) If the total amount released exceeds the total amount previously charged, tax is charged under this Chapter on the excess, grossed up by reference to the dividend ordinary rate.

(4) In this section "the total amount previously charged" means the total of—

(a) the sums included in the person's income under section 633 in respect of the loan or advance for the tax year or for previous tax years, and

(b) the amounts charged under this Chapter in respect of the loan or advance for previous tax years.

(5) For the purposes of subsection (4)(a), section 640(1) (which requires the grossing up of the sums treated as paid to the settlor by reference to the [F120trust rate]) is ignored.

(6) In this section "the total amount released" means the total amount released or written off in respect of the loan or advance in the tax year and previous tax years.

Textual Amendments

F120 Words in s. 418(5) 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. 521** (with transitional provisions and savings in Sch. 2)

419 Loans and advances to persons who die U.K.

(1) This section applies if—

(a) a loan or advance is made to a person who dies,

(b) a company [F121is or was chargeable to tax under section 455 of CTA 2010 (charge to tax in case of loan to participator)] in respect of the loan or advance, and

(c) after the death the company releases or writes off the whole or part of the debt in respect of the loan or advance.

(2) Tax is not charged under this Chapter if at the time of the release or writing off the debt is due from the person's personal representatives in that capacity, but see—

(a) section 664 (under which the amount that would be so charged is treated as part of the aggregate income of the estate for the purposes of Chapter 6 of Part 5), and

[F122(b) section 947 of CTA 2009 (under which similar provision is made for the purposes of Chapter 3 of Part 10 of that Act)].

(3) If subsection (2) does not apply, tax is charged under this Chapter on the person from whom the debt is due at the time of release or writing off.

Textual Amendments

F121 Words in s. 419(1)(b) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 463** (with Sch. 2)

F122 S. 419(2)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 631** (with Sch. 2 Pts. 1, 2)

420 Loans and advances to trustees of trusts that have ended U.K.

(1) This section applies if—

(a) a loan or advance is made to trustees of a trust,

(b) a company **[**[F123]is or was chargeable to tax under section 455 of CTA 2010 (charge to tax in case of loan to participator)**]** in respect of the loan or advance, and

(c) after the trust has ended the company releases or writes off the whole or part of the debt in respect of the loan or advance.

(2) Tax is charged under this Chapter on the person from whom the debt is due at the time of release or writing off.

Textual Amendments

F123 Words in s. 420(1)(b) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 464** (with Sch. 2)

[[F124]420A Temporary non-residents U.K.

(1) This section applies if an individual is temporarily non-resident.

(2) Debts within subsection (3) are to be treated for the purposes of this Chapter as if they had been released or written off in the period of return.

(3) A debt is within this subsection if—

(a) it is the debt, or a part of the debt, in respect of a loan or advance made by a company to the individual,

(b) it is released or written off in the temporary period of non-residence, and

(c) ignoring this section, the individual—

(i) is not liable for tax under this Chapter in respect of the release or write-off, but

(ii) would have been so liable, had the release or write-off taken place in the period of return.

(4) Subsection (3)(c)(i) includes a case where the individual could be relieved of liability on the making of a claim under section 6 of TIOPA 2010 (double taxation relief), even if no claim is in fact made.**]**

Textual Amendments

F124 S. 420A inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 136**

421 Income tax treated as paid U.K.

(1) A person liable to income tax under this Chapter is treated as having paid income tax at the dividend ordinary rate on the amount charged under this Chapter.

(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 **[**[F125]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 under this Chapter.

(5) The reduction is equal to the total amount of those deductions.

Textual Amendments

F125 Words in s. 421(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. 522** (with transitional provisions and savings in Sch. 2)

[F126 421A Power to obtain information U.K.

(1) An officer of Revenue and Customs may, for the purposes of this Chapter, by notice require any person in whose name any shares or loan capital are registered—

(a) to state whether or not that person is the beneficial owner of the shares or loan capital, and

(b) if that person is not the beneficial owner of the shares or loan capital, to provide the name and address of the person on whose behalf the shares or loan capital are registered in that person's name.

(2) Subsections (3) and (4) apply if a company ("the issuing company") appears to an officer of Revenue and Customs to be a close company.

(3) The officer may, for the purposes of this Chapter, by notice require the issuing company to provide the officer with—

(a) particulars of any bearer securities issued by the company,

(b) the names and addresses of the persons to whom the securities were issued, and

(c) details of the amounts issued to each person.

(4) The officer may, for the purposes of this Chapter, by notice require—

(a) any person to whom bearer securities were issued by the company, or

(b) any person to or through whom bearer securities issued by the company were subsequently sold or transferred,

to provide any further information that the officer reasonably requires with a view to enabling the officer to find out the names and addresses of the persons beneficially interested in the securities.

(5) In this section—

"loan creditor" has the meaning given by section 453 of CTA 2010, and

"securities" includes—

(a) shares, stocks, bonds, debentures and debenture stock, and

(b) any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.**]**

Textual Amendments

F126 S. 421A inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 465** (with Sch. 2)

CHAPTER 7 U.K.

PURCHASED LIFE ANNUITY PAYMENTS

422 Charge to tax on purchased life annuity payments U.K.

(1) Income tax is charged on annuity payments made under a purchased life annuity.

(2) For exemptions, see in particular—
- (a) section 717 (exemption for part of purchased life annuity payments),
- (b) section 725 (annual payments under immediate needs annuities),
- (c) section 731 (periodical payments of personal injury damages), and
- (d) section 732 (compensation awards).

423 Meaning of "purchased life annuity" U.K.

(1) In this Chapter "purchased life annuity" means an annuity—
- (a) granted for consideration in money or money's worth in the ordinary course of a business of granting annuities on human life, and
- (b) payable for a term ending at a time ascertainable only by reference to the end of a human life.

(2) For this purpose it does not matter that the annuity may in some circumstances end before or after the life.

424 Income charged U.K.

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

(2) Subsection (1) is subject to Part 8 (foreign income: special rules).

425 Person liable U.K.

The person liable for any tax charged under this Chapter is the person receiving or entitled to the annuity payments.

426 Annuity payments received after deduction of tax U.K.

[[F127]In accordance with section 848 of ITA 2007 a sum representing income tax deducted under section 901 of that Act**]** from an annuity payment within this Chapter is treated as income tax paid by the recipient [F128]. . . .

Textual Amendments

F127 Words in s. 426 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. 523(2)** (with transitional provisions and savings in Sch. 2)

F128 Words in s. 426 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. 523(3), **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

CHAPTER 8 U.K.

PROFITS FROM DEEPLY DISCOUNTED SECURITIES

Modifications etc. (not altering text)

C29 Pt. 4 Ch. 8 applied (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **ss. 406(4)**, 1329(1) (with Sch. 2 Pts. 1, 2)

Charge to tax under Chapter 8

427 Charge to tax on profits from deeply discounted securities U.K.

(1) Income tax is charged on profits on the disposal of deeply discounted securities.

(2) The profits are treated as income for income tax purposes if they would not otherwise be income.

428 Income charged U.K.

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

(2) The profits on a disposal are to be taken to arise when the disposal occurs.

(3) If the profits arise on a disposal of securities that are outside the United Kingdom—

(a) they are treated for the purposes of section 830 (meaning of "relevant foreign income") as arising from a source outside the United Kingdom, and

(b) subsection (1) is subject to Part 8 (foreign income: special rules).

(4) Subsection (2) needs to be read with section 438 (timing of transfers and acquisitions).

429 Person liable U.K.

(1) The person liable for any tax charged under this Chapter is the person making the disposal.

(2) See section 437 for who that person is.

Deeply discounted securities

430 Meaning of "deeply discounted security" U.K.

(1) The general rule is that a security is a "deeply discounted security" for the purposes of this Chapter if, as at the time it is issued, the amount payable on maturity or any other possible occasion of redemption ("A") exceeds or may exceed the issue price by more than—

$$A \times 0.5\,\% \times Y.$$

where Y is the number of years in the redemption period or 30, whichever is the lower.

(2) If the redemption period is not a number of complete years, for the purposes of subsection (1) the incomplete year is expressed as twelfths, treating each complete month and any remaining part of a month as one-twelfth.

(3) In this section "redemption period" means the period between the date of issue and the date of the occasion of redemption in question.

(4) Interest payable on an occasion of redemption is ignored in determining for the purposes of this section the amount payable on that occasion.

(5) For the purposes of this section, in the case of an issue to which section 442 applies (securities issued in accordance with qualifying earn-out right), the issue price of the security is to be taken as the amount paid to acquire it (see section 442(2)).

(6) The general rule in subsection (1) is subject to—

section 431 (excluded occasions of redemption),
section 432 (securities which are not deeply discounted securities),
sections 434 to 436 (securities issued in separate tranches),[F129]. . .
section 443(1) (strips of government securities) **[**[F130], and
section 452A(1) (corporate strips).**]**

Textual Amendments

F129 Word in s. 430(6) repealed (retrospectively) by Finance (No. 2) Act 2005 (c. 22), ss. 39, 70, Sch. 7 para. 25(2)(10), **Sch. 11 Pt. 2(8)**

F130 Words in s. 430(6) added (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(2)(10)**

431 Excluded occasions of redemption U.K.

(1) An occasion of redemption of a security other than maturity is ignored for the purposes of section 430(1) if the third-party option conditions or the commercial protection conditions are met.

(2) The third-party option conditions are that—

(a) the security may be redeemed on the occasion at the option of a person other than its holder,

(b) the security is issued to a person who is not connected with the issuer, and

(c) the obtaining of a tax advantage by any person is not the main benefit, or one of the main benefits, that might have been expected to accrue from the provision in accordance with which the security may be redeemed on the occasion.

(3) The commercial protection conditions are that—

(a) the security may be redeemed on the occasion as the result of an exercise of an option that is exercisable only on the occurrence of—

(i) an event adversely affecting the holder (see subsection (8)), or

(ii) a default by any person, and

(b) as at the time of the security's issue it appears unlikely that the option will be exercisable on the occasion.

(4) Subsection (1) does not apply to an occasion just because the occasion coincides or may coincide with an occasion meeting the third-party option conditions or the commercial protection conditions.

(5) If—

(a) the only reason that a security is not a deeply discounted security is that an occasion on which it may be redeemed is ignored because the third-party option conditions are met, and

(b) at some time after its issue the security is acquired by, or its holder becomes, a person connected with the issuer,

in relation to that time and later this Chapter applies as if the security were a deeply discounted security.

(6) If a person ("P") who is not connected with the issuer acquires—

(a) a security which is only a deeply discounted security because it was issued to a person connected with the issuer and so fails to meet the condition specified in subsection (2)(b), or

(b) a security within subsection (5),

this Chapter applies in relation to P as if the security ceased to be a deeply discounted security on the acquisition.

(7) For the purposes of the application of this section to a security, the question whether persons are connected is determined without regard to the security or any other security issued under the same prospectus.

(8) In this section "event adversely affecting the holder", in relation to a security, means an event the occurrence of which appears, as at the time of the security's issue, likely to have an adverse effect on the interests of its holder at the time of the event if there were no provision for redemption on its occurrence.

432 Securities which are not deeply discounted securities U.K.

(1) The following are not deeply discounted securities—

(a) shares in a company,

(b) gilt-edged securities that are not strips,

(c) life assurance policies, and

(d) capital redemption policies.

(2) An excluded indexed security (see section 433) is only a deeply discounted security if treated as such under section 431(5) (acquisition by a person connected with the issuer or holder becoming such a person).

(3) In this section "capital redemption policies" has the same meaning as in Chapter 9 of this Part (see section 473(2)).

(4) See also sections 434 to 436 (rules under which securities issued under the same prospectus on separate occasions may be treated as being, or as not being, deeply discounted securities).

433 Meaning of "excluded indexed security" U.K.

(1) In this Chapter "excluded indexed security" means a security under the terms of which the amount payable on redemption is determined by applying to the amount for which the security was issued the percentage change (if any) over the security's redemption period in—

- (a) the value of chargeable assets of a particular description, or
- (b) an index of the value of such assets.

(2) The fact that the terms under which the security is issued include a provision to the effect that the amount payable on its redemption must be at least a specified percentage of the amount for which it was issued only prevents it from falling within the definition in subsection (1) if that percentage exceeds 10%.

(3) Interest payable on redemption is ignored in determining for the purposes of this section the amount payable on redemption.

(4) In subsection (1) "redemption period" means—

- (a) the period beginning with the date of issue and ending with the date of redemption, or
- (b) a period which is or includes almost all that period and only differs from it for purposes connected with giving effect to a valuation in relation to rights or liabilities under the security.

(5) An asset is a chargeable asset for the purposes of subsection (1) if a gain accruing to a person on its disposal would be a chargeable gain for the purposes of TCGA 1992 on the assumptions specified in subsection (6).

(6) The assumptions are that—

- (a) the asset is an asset of the person,
- (b) the person is not entitled to the exemption conferred by section 100 of TCGA 1992 (exemption for authorised unit trusts etc.),
- (c) disposal of the asset by the person would not be treated for income tax purposes as a disposal in the course of a trade, profession or vocation, and
- (d) section 116(10) of TCGA 1992 is ignored (chargeable gains on subsequent disposals of qualifying corporate bonds acquired in reorganisations, conversions and reconstructions).

(7) For the purposes of this section—

- (a) neither the retail prices index nor any similar general index of prices published by the government of a territory or by an agent of such a government is an index of the value of chargeable assets, and
- (b) "redemption", in relation to a security, does not include its redemption on an occasion which is to be ignored under section 431(1) (excluded occasions of redemption).

434 Securities issued in separate tranches: preliminary U.K.

(1) Sections 435 and 436 set out rules under which securities issued under the same prospectus on separate occasions may be treated as being, or as not being, deeply discounted securities.

(2) If any of the securities in the original issue under the prospectus is a deeply discounted security—

(a) the rule in section 435 applies to securities in later issues under it, and
(b) the rule in section 436 does not apply to any securities issued under it.

(3) If none of the securities in the original issue under the prospectus is a deeply discounted security, the rule in section 435 applies to securities in a later issue except where the rule in section 436 applies.

435 Securities issued in separate tranches: basic rule U.K.

(1) The rule in this section is that if securities in any of the issues made on separate occasions under the same prospectus are not deeply discounted securities, securities in any later issue under it are not deeply discounted securities, unless they are treated as such for one of the reasons specified in subsection (2).

(2) The reasons are—
(a) that the securities were issued to a person connected with the issuer and so fail to meet the condition specified in section 431(2)(b), and
(b) that such a person has acquired or become the holder of the securities and so section 431(5) applies to them.

436 Deeply discounted securities issued in separate tranches: nominal value rule U.K.

(1) This section only applies if some of the securities in one or more later issues under the same prospectus are deeply discounted securities (or are such securities if the rule in section 435 is ignored).

(2) The rule in this section applies for any disposal or acquisition after the time when the condition specified in subsection (3) is first met.

(3) The condition is that the aggregate nominal value as at a particular time of the securities within subsection (1) exceeds the aggregate nominal value as at that time of all the other securities issued under the prospectus at any time.

(4) The rule is that all securities issued under the prospectus (including those issued after the time when the condition specified in subsection (3) is first met) are to be treated as deeply discounted securities and as having been acquired as such (whenever actually issued or acquired).

(5) Subsection (6) applies where the question is whether a security held by a person who is not connected with the issuer is a deeply discounted security as a result of the rule in this section.

(6) For the purpose of determining whether the rule in this section applies, securities that are only within subsection (1) for one of the reasons specified in section 435(2) are treated as not being within it.

Disposals

437 Transactions which are disposals U.K.

(1) References in this Chapter to the disposal of a deeply discounted security are—
(a) to its redemption,

(b) to its transfer by sale, exchange, gift or otherwise, including a transfer treated as made by subsection (3), and

(c) so far as not covered by paragraph (a) or (b), to its conversion under its terms into shares in a company or other securities (including other deeply discounted securities).

(2) The person treated as making a disposal is—

(a) in the case of a disposal within subsection (1)(a), the person entitled as the security's holder to any payment on the disposal,

(b) in the case of a disposal within subsection (1)(b), the transferor, and

(c) in the case of a disposal within subsection (1)(c), the person who would be entitled as the security's holder to any payment on the disposal, if such a payment were made.

(3) A person who dies while entitled to a deeply discounted security is treated as transferring it immediately before death to the personal representatives.

(4) In the case of strips, further provision about occasions counting as disposals is made by section 445(2) and (6)(a).

[F131(5) In the case of interest-bearing corporate securities, further provision about occasions counting as disposals is made by section 452F(2)(a).

(6) In the case of corporate strips, further provision about occasions counting as disposals is made by section 452F(2)(a) and (3)(a).**]**

Textual Amendments

F131 S. 437(5)(6) inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(3)(10)**

438 Timing of transfers and acquisitions U.K.

(1) This section applies if—

(a) a transfer or acquisition of a deeply discounted security is made under an agreement, and

(b) the transferee or the person making the acquisition becomes entitled to the security at the time the agreement is made.

(2) The transfer or acquisition is treated as occurring at that time.

(3) For this purpose a conditional agreement is taken to be made when the condition is met.

[F132(4) This section is subject to—

section 445(7) (exchanges for and consolidations of strips);

section 452F(4) (conversion into and consolidations of corporate strips).**]**

Textual Amendments

F132 S. 438(4) substituted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(4)(10)**

Calculating profits

439 Calculating the profit from disposals U.K.

(1) A person's profit on a disposal is the amount by which the amount payable on the disposal exceeds the amount paid by the person to acquire the security.

(2) No account is to be taken of any incidental expenses incurred in connection with the disposal or acquisition.

(3) Subsection (2) is subject to subsection (4) and section 455 (listed securities held since 26th March 2003: calculating the profit or loss on disposals).

(4) Incidental expenses incurred before 27th March 2003 by the person making the disposal in connection with the acquisition or disposal of the security are deducted from the person's profit.

(5) Where a person re-acquires a security, any previous acquisition of it is ignored in determining on a subsequent disposal—
- (a) the amount the person paid to acquire the security, and
- (b) incidental expenses within subsection (4).

440 Market value disposals U.K.

(1) On the disposal of a deeply discounted security by a transfer of a kind specified in subsection (2), for the purposes of this Chapter an amount equal to the market value at the time of the disposal is treated as payable.

(2) The transfers are—
- (a) a transfer made otherwise than by a bargain at arm's length,
- (b) a transfer between connected persons,
- (c) a transfer for a consideration which is not wholly in money or money's worth,
- (d) a transfer treated as made by section 437(3) (death), and
- (e) a transfer by personal representatives to a legatee.

(3) Subsection (1) is subject to subsection (4).

(4) On a conversion of a deeply discounted security into shares or other securities which counts as its disposal under section 437(1), an amount equal to the market value of the shares or other securities at the time of the conversion is treated as the amount payable.

[F133(5) Subsection (4) is subject to—

section 445(8) (exchanges for and consolidations of strips);

section 452F(5) (conversion into and consolidations of corporate strips).]

(6) In this section "legatee" includes any person taking (whether beneficially or as trustee) —
- (a) on a testamentary disposition, or
- (b) on an intestacy or partial intestacy.

(7) Such a person includes a person taking as a result of an appropriation by personal representatives in or towards the satisfaction of a legacy or other interest or share in the deceased's property.

Textual Amendments

F133 S. 440(5) substituted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(5)(10)**

441 Market value acquisitions U.K.

(1) A person who acquires a deeply discounted security on a disposal of a kind specified in subsection (2) is treated for the purposes of this Chapter as acquiring it by the payment of an amount equal to its market value at the time of the disposal.

(2) The disposals are—

(a) a transfer within section 440(2), and

(b) a conversion of a deeply discounted security into other deeply discounted securities which counts as its disposal under section 437(1).

[F134(3) Subsection (2) is subject to—

section 445(8) (exchanges for and consolidations of strips);

section 452F(5) (conversion into and consolidations of corporate strips).]

Textual Amendments

F134 S. 441(3) substituted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(6)(10)**

442 Securities issued in accordance with qualifying earn-out right U.K.

(1) This section applies if a security is issued to a person in accordance with the terms of a qualifying earn-out right.

(2) The amount paid by the person to acquire the security is to be taken for the purposes of this Chapter to be the total of—

(a) the market value, immediately before the issue, of the right to be issued with the security in accordance with the terms of the qualifying earn-out right, and

(b) any amount payable for the issue in accordance with those terms.

(3) In this section "qualifying earn-out right" means a right that meets conditions A to C, or so much of a right as does so.

(4) Condition A is that the right constitutes the whole or part of the consideration for—

(a) the transfer by the person on whom the right is conferred of shares in or debentures of a company, or

(b) the transfer of the whole or part of—

(i) a business carried on by that person, or by that person and others in partnership, or

(ii) an interest in such a business.

(5) Condition B is that the right is either—

(a) a right to be issued with securities of another company, or

(b) a right which is capable of being discharged in accordance with its terms by the issue of such securities.

(6) Condition C is that the right is such that the value of the consideration mentioned in condition A is unascertainable at the time when the right is conferred.

Special rules for strips of government securities

443 Application of this Chapter to strips of government securities U.K.

(1) All strips are treated as deeply discounted securities for the purposes of this Chapter, whether or not they would otherwise be so.

(2) This Chapter applies to strips subject to the rules in—

(a) section 445 (strips of government securities: acquisitions and disposals),

(b) section 446 (strips of government securities: relief for losses),

(c) section 447 (restriction of profits on strips by reference to original acquisition cost),

(d) section 448 (restriction of losses on strips by reference to original acquisition cost),

(e) section 449 (strips of government securities: manipulation of acquisition, transfer or redemption payments), **[**[F135]and**]**

(f) section 450 (market value of strips etc.), and

(g) [F136] . . . .

Textual Amendments

F135 Word in s. 443(2)(e) inserted (19.7.2007) by Finance Act 2007 (c. 11), s. 109, **Sch. 26 para. 11(2)(a)**

F136 S. 443(2)(g) repealed (19.7.2007) by Finance Act 2007 (c. 11), ss. 109, 114, Sch. 26 para. 11(2)(b), **Sch. 27 Pt. 6(5)**

444 Meaning of "strip" in Chapter 8 U.K.

(1) In this Chapter "strip", in relation to any stock or bond ("the underlying security"), means a security which—

(a) meets conditions A to C,

(b) if it was acquired after 26th March 2003, was issued by or on behalf of the government of any territory, and

(c) if it was acquired on or before that date, was issued under the National Loans Act 1968 (c. 13) in a case where the underlying security was itself a gilt-edged security.

(2) Condition A is that the security is issued for the purpose of representing the right to or of securing—

(a) a payment corresponding to a payment of interest or principal remaining to be made under the underlying security, or

(b) two or more payments each corresponding to a payment to be so made.

(3) Condition B is that the security is issued in conjunction with the issue of one or more other securities which, together with that security—

(a) represent the right to, or
(b) secure,

payments corresponding to every payment remaining to be made under the underlying security.

(4) Condition C is that the security is not itself a security which—
(a) represents the right to, or
(b) secures,

payments corresponding to a part of every payment remaining to be made under the underlying security.

(5) After the balance has been struck for a dividend on any underlying security, a payment to be made in respect of that dividend is treated for the purposes of conditions A to C as not being a payment remaining to be made under the underlying security.

[F137(6) Nothing in this section affects the meaning of the expression "corporate strip" in this Chapter (see section 452E).]

Textual Amendments
F137 S. 444(6) inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(7)(10)**

445 Strips of government securities: acquisitions and disposals U.K.

(1) A person who receives strips of a security ("the underlying security") in exchange for the underlying security is treated as having acquired each strip by the payment of an amount equal to—

$$A \times \frac{B}{C}$$

where—

A is the market value of the underlying security at the time of the exchange,

B is the market value of the strip at that time, and

C is the total of the market values at that time of all the strips received in the exchange.

(2) For the purposes of this Chapter—
(a) a person who holds a strip of a security on 5th April in any tax year is treated as having transferred the strip on that day, and
(b) an amount equal to its market value on that day is treated as payable on the transfer.

(3) For the purposes of this Chapter that person is also treated as having immediately re-acquired the strip for the same amount.

(4) Subsections (2) and (3) do not apply if there is any other disposal of the strip on that day.

(5) Section 439(4) (deduction of incidental expenses incurred before 27th March 2003) does not apply to transfers and reacquisitions within subsections (2) and (3).

(6) For the purposes of this Chapter—
(a) the consolidation of a strip of a security with other such strips into a single security is a disposal of the strip by the person consolidating it (whether or not it would be apart from this subsection), and
(b) an amount equal to the market value of the strip at the consolidation is treated as payable on the disposal.

(7) Section 438 (timing of transfers and acquisitions) does not apply to an exchange within subsection (1) or a consolidation within subsection (6).

(8) Subsections (1) and (6) apply instead of sections 440(4) (market value on general conversions of deeply discounted securities) and 441 (market value acquisitions).

446 Strips of government securities: relief for losses U.K.

(1) Relief from income tax may be claimed under this section for any loss made on the disposal of a strip of a security.

[F138(2) If a person makes a claim under this section, the relief is given by deducting the loss in calculating the person's net income for the tax year in which the disposal occurs (see Step 2 of the calculation in section 23 of ITA 2007).]

(3) For this purpose a person makes a loss on the disposal of a strip if—
(a) the person disposes of the strip, and
(b) the amount the person paid for the strip, ignoring any incidental expenses incurred in connection with the acquisition, exceeds the amount payable on the disposal, ignoring any incidental expenses incurred in connection with the disposal.

(4) The loss is an amount equal to the excess.

(5) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the disposal occurs.

(6) The relief may be claimed by the person making the disposal.

(7) Relief for a loss on a disposal may not be claimed under this section if section 454 (listed securities held since 26th March 2003: relief for losses) applies in respect of the disposal.

(8) This section is subject to—
(a) section 448 (restriction of losses on strips by reference to original acquisition cost),
(b) section 449 (strips of government securities: manipulation of acquisition, sale or redemption payments), and
(c) section 458(2) (strips held by non-UK resident trustees).

Textual Amendments

F138 S. 446(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. 524** (with transitional provisions and savings in Sch. 2)

447 Restriction of profits on strips by reference to original acquisition cost U.K.

(1) This section applies if—

(a) a person makes a profit on the disposal of a strip (apart from this section), and

(b) the person's original acquisition cost for the strip (see subsection (4)) exceeds the amount that falls to be brought into account as the amount paid by the person to acquire the strip in determining the amount of the profit.

(2) If the amount that falls to be brought into account as the amount payable on the disposal in determining the amount of the profit exceeds the person's original acquisition cost for the strip, the amount of the profit is restricted to that excess.

(3) Otherwise the person is treated as not making a profit on the disposal.

(4) For the purposes of this section and section 448, a person's original acquisition cost for a strip is the amount that falls to be taken into account as the amount paid by the person to acquire the strip in determining whether the person makes a profit or loss on its disposal if 5th April disposals and acquisitions are ignored.

(5) In subsection (4) “5th April disposals and acquisitions” means—

(a) disposals under section 445(2) (other than the disposal in question), and

(b) acquisitions under section 445(3).

448 Restriction of losses on strips by reference to original acquisition cost U.K.

(1) This section applies if—

(a) a person makes a loss on the disposal of a strip (apart from this section), and

(b) the person's original acquisition cost for the strip exceeds the amount that falls to be brought into account as the amount payable on the disposal of the strip in determining the amount of the loss.

(2) If the amount that falls to be brought into account as the amount paid by the person to acquire the strip in determining the amount of the loss exceeds the person's original acquisition cost for the strip, the amount of the loss is reduced.

(3) The amount of the reduction is A – B where—

A is the person's original acquisition cost for the strip, and

B is the amount that falls to be brought into account as the amount payable on the disposal of the strip in determining the amount of the loss.

(4) If subsection (2) does not apply, the person is treated as not making a loss on the disposal.

(5) In this section any reference to making a loss on the disposal of a strip has the meaning given in section 446(3) and (4).

449 Strips of government securities: manipulation of acquisition, transfer or redemption payments U.K.

(1) This section applies if—

(a) as a result of a scheme or arrangement an amount referred to in subsection (2)(a), (b) or (c) differs from the market value of a strip in a way specified in that subsection, and

(b) the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from, or from any provision of, the scheme or arrangement.

(2) The ways are that—

(a) the amount paid by a person in respect of the acquisition of the strip is or was more than the market value at the time of the acquisition,

(b) the amount payable to a person on transferring the strip is less than the market value at the time of the transfer, or

(c) on redemption of the strip the amount payable to a person, as the person holding the strip, is less than the market value on the day before redemption.

(3) In a case within subsection (2)(a), for the purposes of sections 439(1) and 446(3) on transferring the strip the person is treated as if the person had paid to acquire the strip an amount equal to the market value of the strip at the time of the acquisition.

(4) In a case within subsection (2)(b), for those purposes the person is treated as if the amount payable to the person on the transfer were an amount equal to the market value of the strip at the time of the transfer.

(5) In a case within subsection (2)(c), for those purposes the person is treated as if the amount payable to the person on redemption were an amount equal to the market value of the strip on the day before redemption.

(6) For the purposes of this section, no account is to be taken of any incidental expenses incurred in connection with any disposal or acquisition of a strip.

[F139 450 Market value of strips etc. U.K.

(1) The Treasury may make regulations as to the manner for determining—

(a) the market value at any time of a strip for the purposes of this Chapter, and

(b) the market value at any time of a security exchanged for strips of that security for the purposes of section 445(1).

(2) The regulations may—

(a) make different provision for different cases, and

(b) contain incidental, supplemental, consequential and transitional provision and savings.]

Textual Amendments

F139 S. 450 substituted for ss. 450, 451 (19.7.2007 with effect as stated in Sch. 26 para. 5(2) of the amending Act) by Finance Act 2007 (c. 11), s. 109, **Sch. 26 para. 5(1)**; S.I. 2015/635, art. 2

452 Power to modify this Chapter for strips U.K.

(1) The Treasury may by regulations provide that this Chapter is to apply to a strip with such modifications as they consider appropriate.

(2) This section is without prejudice to the general power to make regulations under section 202 of FA 1996 (gilt stripping).

[F141 Special rules for corporate strips

Textual Amendments

F141 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F142 452A Application of this Chapter to corporate strips U.K.

(1) All corporate strips are treated as deeply discounted securities for the purposes of this Chapter, whether or not they would otherwise be so.

(2) This Chapter applies to corporate strips subject to the rules in—

(a) section 452F (corporate strips: acquisitions and disposals), and

(b) section 452G (corporate strips: manipulation of acquisition, transfer or redemption payments).**]**

Textual Amendments

F142 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F143 452B Meaning of "interest-bearing corporate security" in Chapter 8 U.K.

(1) In this Chapter "interest-bearing corporate security" means any interest-bearing security other than—

(a) a security issued by the government of a territory, or

(b) a share in a company.

(2) In this section "interest-bearing security" includes any loan stock or similar security.

(3) Section 452D(4)(a) gives an extended meaning to references to converting an interest-bearing corporate security into corporate strips (and related expressions).**]**

Textual Amendments

F143 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F144 452C Conversion of interest-bearing corporate securities into corporate strips U.K.

(1) For the purposes of this Chapter a person converts an interest-bearing corporate security into corporate strips of the security if he has an interest-bearing corporate security ("the converted corporate security") but—

(a) as a result of any scheme or arrangements, he acquires two or more separate assets in place of the converted corporate security,

(b) each of those separate assets satisfies condition A,

(c) those separate assets, taken together, satisfy condition B, and

(d) at least one of those separate assets is not prevented from being a corporate strip by section 452E(2) or (3),

and related expressions shall be construed accordingly.

(2) Condition A is that the asset—

(a) represents the right to, or

(b) secures,

one or more stripped payments.

(3) For the purposes of this section, a "stripped payment" is—

(a) the payment of, or

(b) a payment corresponding to,

the whole or a part of one or more payments (whether of interest or principal) remaining to be made under the converted corporate security.

(4) Condition B is that the assets, taken together,—

(a) represent the right to, or

(b) secure,

every payment (whether of interest or principal) remaining to be made under the converted corporate security (or payments corresponding to every such payment).

(5) Where a person—

(a) has an interest-bearing corporate security, but

(b) sells or transfers the right to one or more payments remaining to be made under it (so that, as a result, there are two or more separate assets which, taken together, satisfy condition B),

this Chapter has effect as if, as a result of a scheme or arrangements, the person had acquired the separate assets in place of the security immediately before the sale or transfer.

(6) After a balance has been struck for a dividend on an interest-bearing corporate security, any payment to be made in respect of that dividend shall, at times falling after that balance has been struck, be treated for the purposes of this paragraph as not being a payment remaining to be made under the security.]

Textual Amendments

F144 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F145 452D Conversion into corporate strips: lower level conversions U.K.

(1) For the purposes of this Chapter, section 452C also has effect in relation to each of the separate assets mentioned in subsection (1) of that section as if that separate asset were itself an interest-bearing corporate security (if that is not in fact the case).

(2) In subsection (1), the reference to section 452C includes a reference to that section as it has effect by virtue of this section.

(3) In the application of section 452C by virtue of this section, references to payments the right to which a separate asset represents or secures shall be construed in accordance with subsection (6) of that section.

(4) Where section 452C has effect by virtue of subsection (1)—

(a) any reference in this Chapter to converting an interest-bearing corporate security into corporate strips of the security shall be construed accordingly, and

(b) section 452E (meaning of "corporate strip") has effect accordingly.**]**

Textual Amendments

F145 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F146 452E Meaning of "corporate strip" in Chapter 8 U.K.

(1) In this Chapter "corporate strip" means any asset—

(a) which is, or has at any time been, one of the separate assets mentioned in section 452C(1), and

(b) which is not prevented from being a corporate strip by subsection (2) or (3).

(2) An asset is not a corporate strip if it—

(a) represents the right to, or

(b) secures,

payments of, or corresponding to, a part of every payment remaining to be made under an interest-bearing corporate security or a corporate strip.

(3) An asset is a corporate strip in the case of any person only if he acquired it—

(a) on or after 2nd December 2004, and

(b) otherwise than in pursuance of an agreement entered into before that date.**]**

Textual Amendments

F146 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F147 452F Corporate strips: acquisitions and disposals U.K.

(1) A person who converts an interest-bearing corporate security into corporate strips of the security is treated as having acquired each corporate strip by the payment of an amount equal to—

$$A \times BC$$

where—

A is the acquisition cost of the converted corporate security;

B is the market value of the corporate strip;

C is the total of the market values of all the separate assets resulting from the conversion.

(2) If the converted corporate security is a deeply discounted security—
- (a) its conversion into corporate strips is to be treated for the purposes of this Chapter as a transfer of the security, but
- (b) the amount payable on the transfer is taken to be an amount equal to the acquisition cost of the converted corporate security.

(3) For the purposes of this Chapter—
- (a) the consolidation of a corporate strip with other corporate strips into a single security is a disposal of the corporate strip by the person consolidating it (whether or not it would be apart from this subsection), and
- (b) an amount equal to the market value of the corporate strip at the consolidation is treated as payable on the disposal.

(4) Section 438 (timing of transfers and acquisitions) does not apply to a conversion within subsection (1) or a consolidation within subsection (3).

(5) Subsections (1) to (3) apply instead of sections 440(4) (market value on general conversions of deeply discounted securities) and 441 (market value acquisitions).

(6) For the purposes of this section, the acquisition cost of the converted corporate security is the amount paid in respect of his acquisition of the security by the person who has it immediately before the conversion (no account being taken of any costs incurred in connection with that acquisition).

(7) References in this section to the market value of a security given or received in exchange for, or otherwise converted into, another are references to its market value at the time of the exchange or conversion.**]**

Textual Amendments

F147 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

[F148 452G Corporate strips: manipulation of acquisition, transfer or redemption payments U.K.

(1) This section applies if—
- (a) as a result of any scheme or arrangement, an amount referred to in subsection (2)(a), (b) or (c) differs from the market value of the corporate strip in a way specified in that subsection, and
- (b) the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from, or from any provision of, the scheme or arrangement.

(2) The ways are that—

(a) the amount paid by a person in respect of the acquisition of the corporate strip is or was more than the market value of the corporate strip at the time of that acquisition,

(b) the amount payable to a person on transferring the corporate strip is less than the market value at the time of the transfer, or

(c) on redemption of the corporate strip the amount payable to a person, as the person holding the corporate strip, is less than the market value on the day before redemption.

(3) In a case within subsection (2)(a), for the purposes of section 439(1) on transferring the corporate strip the person is treated as if the person had paid to acquire the corporate strip an amount equal to the market value of the corporate strip at the time of the acquisition.

(4) In a case falling within subsection (2)(b), for those purposes the person is treated as if the amount payable to the person on the transfer were an amount equal to the market value of the corporate strip at the time of the transfer.

(5) In a case falling within subsection (2)(c), for those purposes the person is treated as if the amount payable to the person on redemption were an amount equal to the market value of the corporate strip on the day before redemption.

(6) The market value of a corporate strip at any time is to be determined for the purposes of this section without regard to any increase or diminution in the value of the corporate strip as a result of the scheme or arrangement mentioned in subsection (1).

(7) For the purposes of this section, no account is to be taken of any incidental expenses incurred in connection with any disposal or acquisition of a corporate strip.**]]**

Textual Amendments

F148 Ss. 452A-452G and preceding cross-heading inserted (retrospectively) by Finance (No. 2) Act 2005 (c. 22), s. 39, **Sch. 7 para. 25(8)(10)**

Special rules for listed securities held since 26th March 2003

453 Application of sections 454 to 456 U.K.

(1) In the case of a disposal of a deeply discounted security that meets conditions A and B, the rules in sections 454 to 456 apply for—

(a) providing for relief for losses on the disposal, and

(b) calculating the amount of profits chargeable under this Chapter on the disposal or the losses for which such relief may be given.

(2) Condition A is that the person making the disposal has held the security continuously since a time before 27th March 2003.

(3) Condition B is that the security was listed on a recognised stock exchange at any time before 27th March 2003.

454 Listed securities held since 26th March 2003: relief for losses U.K.

(1) A person may claim relief from income tax under this section for a loss the person has made on disposing of deeply discounted securities.

(2) For this purpose a person makes such a loss only if A exceeds B, where—

A is the amount the person paid for the securities, excluding any incidental expenses incurred in connection with the acquisition, and

B is the amount payable on the disposal, excluding any incidental expenses incurred in connection with the disposal.

(3) For the calculation of the amount of the loss, see section 455(2) to (4) (under which those expenses are taken into account).

[F149(4) If a claim under this section is made by a person other than a trustee, the relief is given by deducting the loss in calculating the person's net income for the tax year in which the disposal occurs (see Step 2 of the calculation in section 23 of ITA 2007).]

(5) If such a claim is made by a trustee, the amount of profits arising in the tax year in which the disposal occurs that is charged under this Chapter is reduced by the amount of the loss.

(6) A claim under this section must be made on or before the first anniversary of the normal self-assessment filing date for the tax year in which the disposal occurs.

(7) This section is subject to section 458(2) (securities held by non-UK resident trustees).

Textual Amendments

F149 S. 454(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. 525** (with transitional provisions and savings in Sch. 2)

455 Listed securities held since 26th March 2003: calculating the profit or loss on disposals U.K.

(1) A person's profit on a disposal, as calculated under section 439, is reduced by any incidental expenses incurred [F150 before 6 April 2015] by that person in connection with the disposal or the acquisition of the security that have not been deducted under section 439(4).

(2) A person's loss on a disposal for the purposes of section 454 (relief for losses) is the amount by which the deductible costs exceed the amount payable on the disposal.

(3) In this section the “deductible costs” means—

(a) the amount paid by the person to acquire the security, and

(b) the incidental expenses incurred [F151 before 6 April 2015] by that person in connection with the disposal or the acquisition.

(4) Where a person re-acquires a security, any previous acquisition of it is ignored in determining the person's incidental expenses within subsection (1) or deductible costs on a subsequent disposal.

(5) For the purposes of this section, no incidental expenses are treated as incurred in connection with transfers and reacquisitions within section 445(2) and (3) (transfer and immediate reacquisition of strips on 5th April).

Textual Amendments

F150 Words in s. 455(1) inserted (with effect in accordance with Sch. 39 para. 48(2) of the amending Act) by Finance Act 2012 (c. 14), **Sch. 39 para. 48(1)(a)**

F151 Words in s. 455(3)(b) inserted (with effect in accordance with Sch. 39 para. 48(2) of the amending Act) by Finance Act 2012 (c. 14), **Sch. 39 para. 48(1)(b)**

456 Securities issued to connected persons etc. at excessive price: subsequent transfers to connected persons U.K.

(1) No loss is taken to occur for the purposes of section 454 on a transfer of a deeply discounted security to a person connected with the transferor if conditions A and B and either condition C or conditions D and E are met.

(2) Condition A is that the transferor acquired the security on its issue.

(3) Condition B is that the amount paid by the transferor to acquire the security exceeded the market value of the security at the time of its issue.

(4) Condition C is that at that time the transferor was connected with the issuer.

(5) Condition D is that at that time the issuer was a close company.

(6) Condition E is that at that time the transferor controlled that company with other persons to whom securities of the same kind were also issued.

[F152(7) Chapter 2 of Part 10 of CTA 2010 (meaning of "close company") applies for the purposes of this section but with the omission of section 442(a) (exclusion of non-UK resident companies).]

(8) In this section "control" has the meaning given by [F153sections 450 and 451 of CTA 2010].

Textual Amendments

F152 S. 456(7) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 466(2)** (with Sch. 2)

F153 Words in s. 456(8) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 466(3)** (with Sch. 2)

Trustees

457 Trustees U.K.

(1) This section applies if profits are taken to arise on a disposal of a deeply discounted security by trustees.

(2) For the purposes of Chapter 5 of Part 5 (settlements: amounts treated as income of settlor), the profits are to be taken to be income arising under the settlement from the security.

F154(3) . . . .

F155(4) . . . .

[F156(5) If the trustees are trustees of a scheme in relation to which section 504 of ITA 2007 applies, subsection (2) does not apply to profits which are shown in the scheme's accounts as income available for payment to unit holders or for investment.**]**

Textual Amendments

F154 S. 457(3) 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. 526(2), **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

F155 S. 457(4) repealed (with effect in accordance with Sch. 13 para. 32(4) of the amending Act) by Finance Act 2006 (c. 25), Sch. 13 para. 32(1)(a), **Sch. 26 Pt. 3(15)**

F156 S. 457(5) 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. 526(3)** (with transitional provisions and savings in Sch. 2)

458 Non-UK resident trustees U.K.

(1) Tax is not charged under this Chapter if the disposal is made by the trustees of a settlement and they are non-UK resident.

(2) The following provisions do not apply if the disposal falls within subsection (1)—

section 446 (strips of government securities: relief for losses), and

section 454 (listed securities held since 26th March 2003: relief for losses).

(3) In this section "settlement" has the same meaning as in Chapter 5 of Part 5 (see section 620).

Miscellaneous and supplementary

459 Transfer of assets abroad U.K.

(1) This section applies if profits are taken to arise on the disposal of a deeply discounted security by a person resident or domiciled outside the United Kingdom ("A").

(2) For the purpose of determining whether **[**F157a UK resident individual**]** is liable for income tax in respect of the profits, **[**F158Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) has**]** effect as if the profits, when arising, constituted income becoming payable to A.

(3) For this purpose it does not matter if A is not liable to income tax under this Chapter because of section 458 (non-UK resident trustees).

Textual Amendments

F157 Words in s. 459(2) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 46 para. 45**

F158 Words in s. 459(2) 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. 527** (with transitional provisions and savings in Sch. 2)

460 Minor definitions U.K.

(1) In this Chapter "share", in the case of a share in a company, means any share under which an entitlement to receive distributions may arise, but does not include a share in a building society.

(2) In this Chapter "tax advantage" has the meaning given by **[**[F159]section 1139 of CTA 2010**]**.

(3) In this Chapter "market value" has the same meaning as in TCGA 1992 (see sections 272 to 274 of that Act), except as provided in section 450 [F160]. . . (market value of strips etc.).

Textual Amendments

F159 Words in s. 460(2) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 467** (with Sch. 2)

F160 Words in s. 460(3) repealed (19.7.2007) by Finance Act 2007 (c. 11), ss. 109, 114, Sch. 26 para. 11(3), **Sch. 27 Pt. 6(5)**

CHAPTER 9 U.K.

GAINS FROM CONTRACTS FOR LIFE INSURANCE ETC.

Modifications etc. (not altering text)

C30 Pt. 4 Ch. 9 applied (with modifications) by The Individual Savings Account Regulations 1998 (S.I. 1998/1870), reg. 36 (as added by S.I. 1998/3174, reg. 12 and as amended (6.4.2008) by S.I. 2008/704, regs. 1, **17(4)**)

C31 Pt. 4 Ch. 9 applied (with modifications) by The Child Trust Funds Regulations 2004 (S.I. 2004/1450), reg. 38 (as amended (6.4.2010) by S.I. 2010/582, regs. 1, **18**)

C32 Pt. 4 Ch. 9: power to exclude conferred (with effect in accordance with s. 148 of the amending Act) by Finance Act 2012 (c. 14), **s. 61(4)** (with s. 147, Sch. 17)

Charge to tax under Chapter 9

461 Charge to tax under Chapter 9 U.K.

(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 U.K.

(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 U.K.

(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.

[[F161] 463A Restricted relief qualifying policies: disapplication of section 485 etc U.K.

(1) This section applies for the purpose of determining if an individual is liable for tax charged under this Chapter.

(2) In relation to an event occurring on or after 6 April 2013, section 485 (disregard of certain events in relation to qualifying policies) does not apply in relation to a policy ("policy X") which is a restricted relief qualifying policy (see paragraph A2 of Schedule 15 to ICTA).

(3) If an individual is liable for tax charged under this Chapter as a result of subsection (2), the gain on which the tax is charged in the case of the individual is reduced by the following amount—

$$G \times TAP\ TP$$

where—

G is the amount of the gain (apart from this subsection),

TAP is the total amount of premiums payable under policy X during the policy X period so far as they are allowable premiums as determined in accordance with section 463B, and

TP is the total amount of premiums payable under policy X during the policy X period.

(4) If section 528 also applies in the case of the individual in relation to the gain, subsection (3) is to be applied to the gain before section 528 and, accordingly, the

reduction to be made under section 528 is to be determined by reference to the gain as reduced by subsection (3).

(5) The following subsections apply for the purposes of this section (except subsection (2)) and section 463B.

(6) "The policy X period" means the period for which policy X has run before the chargeable event occurs.

(7) Subsections (8) and (9) apply if policy X is a new policy in relation to another policy.

(8) For the purposes of subsection (6) policy X is to be taken to have run—

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

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

and so on.

(9) References to premiums payable under policy X are to be read as including references to premiums payable under any earlier policy taken into account under subsection (8).

(10) The following are to be left out of account in determining the premiums payable under a policy—

(a) so much of a premium as is charged on the grounds that an exceptional risk of death or disability is involved;

(b) subject to subsection (11), so much of the first premium payable the liability for the payment of which—

(i) is discharged in accordance with paragraph 15(2) of Schedule 15 to ICTA, or

(ii) in the case of a policy in relation to which paragraph 3 of that Schedule applies, is discharged under a provision of the policy falling within paragraph 3(4)(c) of that Schedule.

(11) The maximum amount that may be left out of account under subsection (10)(b) in the case of a policy is—

$$£\,3{,}600 \times N$$

where N is the number of complete years for which ran—

a the other policy involved, or

b if there is more than one other policy involved, the policy which ran for the most number of complete years.

(12) In determining the premiums payable under a policy any provision for the waiver of premiums by reason of a person's disability is to be ignored.

(13) "New policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.

Textual Amendments

F161 Ss. 463A-463E inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 8**

463B Restricted relief qualifying policies: allowable premiums U.K.

(1) This section sets out how to determine the extent to which premiums payable under policy X during the policy X period are allowable premiums for the purposes of section 463A(3).

(2) A premium payable under policy X is allowable if it is payable before the restricted relief date.

(3) In this section "the restricted relief date" means—

(a) 6 April 2013, or

(b) if later, the date on which policy X became a restricted relief qualifying policy.

(4) Premiums payable under policy X in a relevant premium period are allowable so far as they do not exceed in total the premium limit for the period.

(5) In subsection (4) "relevant premium period" means—

(a) any period of one year which—

(i) begins with a relevant date, and

(ii) ends in the policy X period, and

(b) if it is not covered by paragraph (a), the period which—

(i) begins with the last relevant date to fall within the policy X period, and

(ii) ends at the end of the policy X period.

(6) In subsection (5) "relevant date" means—

(a) the restricted relief date, or

(b) any anniversary of the restricted relief date.

(7) For the purposes of subsection (4) "the premium limit" for a relevant premium period is determined in accordance with subsections (8) to (10).

(8) Determine the premiums payable in the relevant premium period under policies related to policy X.

(9) If the total of those premiums is £3,600 or more, the premium limit is nil (and, accordingly, no premiums payable under policy X in the relevant premium period are allowable).

(10) If the total of those premiums is less than £3,600, the premium limit is the difference between that total and £3,600.

(11) Subsection (4) does not apply if, at the time policy X became a restricted relief qualifying policy, any policy related to policy X was itself a restricted relief qualifying policy.

(12) For the purposes of this section a policy is "related" to policy X if it met the following requirements at the time policy X became a restricted relief qualifying policy—

(a) the policy is a qualifying policy under which the individual is a beneficiary (as determined in accordance with paragraph A5 of Schedule 15 to ICTA);

(b) the policy is neither a protected policy nor a pure protection policy.

(13) In subsection (12)(b)—

"protected policy" is to be read in accordance with paragraph A4 of Schedule 15 to ICTA, and "pure protection policy" has the meaning given by paragraph A6(1)(c) of that Schedule.

(14) A policy which is a new policy in relation to a policy "related" to policy X (whether by virtue of subsection (12) or this subsection) is also "related" to policy X if it meets the requirements of subsection (12)(a) and (b) when issued.

(15) A policy ceases to be "related" to policy X if it ceases to meet those requirements.

(16) If policy X is a restricted relief qualifying policy as provided for by paragraph A2(14) of Schedule 15 to ICTA, references in this section to policy X becoming a restricted relief qualifying policy are to be read as references to the policy determined under subsection (17) becoming a restricted relief qualifying policy.

(17) The policy is—

(a) the policy ("policy Y") in relation to which policy X was the new policy, or

(b) if policy Y was also a restricted relief qualifying policy as provided for by paragraph A2(14) of Schedule 15 to ICTA, the policy in relation to which policy Y was the new policy,

and so on.

(18) The following subsections apply for the purposes of this section if—

(a) a premium ("premium A") is payable under policy X on a day ("day A") which is on or after 21 March 2012 but before 6 April 2013, and

(b) the next premium payable under policy X is payable on a day ("day B") which is—

(i) on or after 6 April 2013, and

(ii) more than one month after day A.

(19) Premium A is to be treated as if, instead of being one premium payable on day A, it were a series of premiums payable at monthly intervals with the first premium in the series payable on day A.

(20) The number of premiums in the series is equal to the number of complete months falling within the period beginning with day A and ending with day B.

(21) The amount of each premium in the series is the amount of premium A divided by the number of premiums in the series.

Textual Amendments

F161 Ss. 463A-463E inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 8**

463C Restricted relief qualifying policies: personal representatives and trustees with deceased settlors U.K.

(1) This section applies for the purpose of determining if personal representatives are liable for tax charged under this Chapter as provided for by section 466.

(2) This section also applies for the purpose of determining if trustees are liable for tax charged under this Chapter as provided for by section 467 where—

(a) condition B in that section is met, and

(b) the person who created the trusts has died.

(3) In relation to an event occurring on or after 6 April 2013, section 485 (disregard of certain events in relation to qualifying policies) does not apply in relation to a policy if the policy is a restricted relief qualifying policy (see paragraph A2 of Schedule 15 to ICTA).

(4) If any personal representatives or trustees are liable for tax charged under this Chapter as a result of subsection (3), section 463A(3) is to apply in the case of the personal representatives or the trustees—

(a) as if the reference to the individual were to the personal representatives or to the trustees, and

(b) as if the restricted relief qualifying policy were policy X.

(5) For this purpose—

(a) in section 463B(12)(a) the reference to the individual is to be read as a reference to the deceased, and

(b) a policy—

(i) which would otherwise have ceased to be "related" to policy X for the purposes of section 463B on the deceased's death, but

(ii) which continues to run after the deceased's death,

is to be treated as "related" to policy X after the deceased's death.

(6) A policy which is a new policy (as defined in paragraph 17 of Schedule 15 to ICTA) in relation to a policy treated as "related" to policy X under subsection (5)(b) or this subsection is also to be treated as "related" to policy X if, apart from the deceased's death, it would meet the requirements of section 463B(12)(a) and (b) on its issue.

(7) A policy treated as "related" to policy X under subsection (5)(b) or (6) ceases to be so treated if, apart from the deceased's death, it would cease to meet the requirements of section 463B(12)(a) and (b).

(8) If section 528A also applies in the case of the personal representatives or the trustees in relation to the gain, section 463A(3) is to be applied to the gain before section 528A and, accordingly, the reduction to be made under section 528A is to be determined by reference to the gain as reduced by section 463A(3).

Textual Amendments

F161 Ss. 463A-463E inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 8**

463D Restricted relief qualifying policies: assignments and events following assignments etc U.K.

(1) This section applies if—

(a) paragraph A1 of Schedule 15 to ICTA applies in relation to a policy by virtue of paragraph A1(8) in consequence of an event relating to the policy ("the relevant event"),

(b) after the relevant event, the policy is not a qualifying policy by virtue of paragraph A1(2), and

(c) in relation to an event occurring after the relevant event—

(i) an individual is liable for tax charged under this Chapter on a gain from the policy, and

(ii) but for the application of paragraph A1 in relation to the policy, section 463A(3) would have applied in the case of the individual so as to reduce the gain.

(2) Section 463A(3) is to apply in the case of the individual in relation to the gain as if the policy were policy X.

(3) But, for this purpose, section 463B(5) has effect as if the references to the policy X period were to the part of that period falling before the relevant event.

(4) If section 528 also applies in the case of the individual in relation to the gain, section 463A(3) is to be applied to the gain before section 528 and, accordingly, the reduction to be made under section 528 is to be determined by reference to the gain as reduced by section 463A(3).

Textual Amendments

F161 Ss. 463A-463E inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 8**

463E Transitional protection for policies issued in respect of insurances made on or after 21 March 2012 but before 6 April 2013 U.K.

(1) This section applies if—

(a) a policy ("policy Z") is issued,

(b) the issue of policy Z is an event falling within paragraph A2(3) of Schedule 15 to ICTA by virtue of paragraph (e),

(c) after its issue, policy Z is a qualifying policy but not a restricted relief qualifying policy,

(d) policy Z is varied on or after 6 April 2013 and the variation is an event falling within paragraph A1(3) of Schedule 15,

(e) after the variation, policy Z is not a qualifying policy by virtue of paragraph A1(2) of that Schedule,

(f) in relation to an event occurring after the variation, an individual is liable for tax charged under this Chapter on a gain from policy Z, and

(g) but for the application of paragraph A1 of Schedule 15 in relation to policy Z, the individual would not have been liable because of section 485.

(2) The gain on which the tax is charged in the case of the individual is reduced by the following amount—

$$G \times TPV\ TP$$

where—

G is the amount of the gain (apart from this subsection),

TPV is the total amount of premiums payable under policy Z before the variation, and

TP is the total amount of premiums payable under policy Z before the chargeable event.

(3) If section 528 also applies in the case of the individual in relation to the gain, subsection (2) is to be applied to the gain before section 528 and, accordingly, the

reduction to be made under section 528 is to be determined by reference to the gain as reduced by subsection (2).

(4) Section 463A(10) to (12) applies for the purposes of subsection (2).**]**

Textual Amendments

F161 Ss. 463A-463E inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 8**

Person liable etc.

464 Person liable for tax: introduction U.K.

(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 U.K.

(1) An individual is liable for tax under this Chapter if the individual is UK resident **[**[F162]for the tax year**]** in which the gain arises and condition A, B or C is met.

[[F163](1A) But if the tax year is a split year as respects the individual, the individual is not liable for tax under this Chapter in respect of gains arising in the overseas part of that year (subject to section 465B).**]**

(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).

Textual Amendments

F162 Words in s. 465(1) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 45 para. 150**

F163 S. 465(1A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 84**

Modifications etc. (not altering text)

C33 S. 465(6) applied by 1988 c. 1, Sch. 15 Pt. A1 para. A5(4)(a) (as inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 2**)

C34 S. 465(6) applied by 1988 c. 1, Sch. 15 Pt. 1 para. B2(4) (as inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 3**)

[F164 465A Amounts for which individuals liable to be treated as highest part of total income U.K.

(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 [F165 basic 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

F164 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)

F165 Words in s. 465A(1)(b) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 51**

[F166 465B Temporary non-residents U.K.

(1) This section applies if an individual is temporarily non-resident.

(2) The individual is liable for tax under this Chapter for the year of return in respect of any gain that meets the conditions in subsection (3).

(3) The conditions are—

(a) the gain arose in the temporary period of non-residence,

(b) it arose from a policy issued in respect of an insurance made, or from a contract made, before the start of that period,

(c) the chargeable event giving rise to it was neither a death nor a chargeable event treated as occurring under section 525(2),

(d) no-one is liable under section 466 or 467 in respect of the gain,

(e) no-one is liable by virtue of section 468 for either the year of return or an earlier tax year as a result of the gain, and

(f) the individual would have been liable under section 465 in respect of the gain, applying the assumptions in subsection (4).

(4) The assumptions are—

(a) the individual was UK resident for the tax year in which the gain arose, and

(b) that tax year was not a split year as respects the individual.

(5) If the individual is liable by virtue of subsection (2) in respect of a gain—

(a) the amount of the gain in respect of which he or she is liable is the amount on which tax would have been charged under this Chapter applying the assumptions in subsection (4), but

(b) in determining that amount, section 528 must be applied ignoring those assumptions.

(6) That amount is treated as income of the individual for the year of return.

(7) If the gain arises from a policy or contract treated under section 473A as a single policy or contract, the date, for the purposes of subsection (3)(b), on which the insurance or contract is made is the date on which the first insurance is made in respect of which the connected policies were issued or, as the case may be, the date on which the first of the connected contracts is made.

(8) This section does not apply to a gain if—

(a) in relation to the policy or contract from which the gain arises, a terminal event occurs in the temporary period of non-residence or in the period of return,

(b) the chargeable event giving rise to the gain occurred before that terminal event,

(c) the chargeable event giving rise to the gain is one that is treated as occurring under section 509(1) as a result of the application of section 498(1)(a),

(d) section 498(1)(a) applies other than by virtue of section 500, and

(e) a person (whether or not the individual) is liable for tax under this Chapter (including by virtue of this section) in respect of any gain resulting from the terminal event.

(9) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being liable for tax under this Chapter in respect of any gain in respect of which the individual is liable for tax by virtue of subsection (2) (or as preventing a charge to tax on that gain from arising under this Chapter).

(10) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—

(a) when an individual is to be regarded as "temporarily non-resident", and

(b) what "the temporary period of non-residence" and "the period of return" mean.

(11) In this section—

"terminal event" means an event mentioned in section 499(3);

"year of return" means the tax year that consists of or includes the period of return."**]**

Textual Amendments

F166 S. 465B inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 140**

466 Person liable: personal representatives U.K.

(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 **[**[F167]basic 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 **[**[F168]section 947 of CTA 2009**]** (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 **[**[F168]Chapter 3 of Part 10 of CTA 2009**]** respectively).

Textual Amendments

F167 Words in s. 466(2) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 52**

F168 Words in s. 466(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 632** (with Sch. 2 Pts. 1, 2)

467 Person liable: UK resident trustees U.K.

(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.

[F169(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,

[F170(aa) is UK resident but the gain arises in the overseas part of a tax year that is, as respects the person who created the trusts, a split year,]

(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

[F171(c) neither section 465 nor section 466 applies.]

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

[F172(7) If trustees are liable for tax under this Chapter, it is charged at the [F173basic rate] if—

(a) condition A is met, or

(b) condition D is met and the trustees are trustees of a charitable trust.]

Textual Amendments

F169 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)

F170 S. 467(4)(aa) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 85**

F171 S. 467(5)(c) substituted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 14 para. 11**

F172 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)

F173 Words in s. 467(7) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 53**

468 Non-UK resident trustees and foreign institutions U.K.

(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.

[F174(2) Chapter 2 of Part 13 of ITA 2007 (which prevents avoidance of tax where a UK resident individual benefits from a transfer of assets) applies with the modifications specified in subsection (3) or (4).]

(3) In a case within subsection (1)(a), [F175Chapter 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), [F175Chapter 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.

[F176(7) This section does not apply if someone is liable under section 465B in respect of the gain.]

Textual Amendments

F174 S. 468(2) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 46 para. 46**

F175 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)

F176 S. 468(7) inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 141**

469 Two or more persons interested in policy or contract U.K.

(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 F177...).

(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.

Textual Amendments

F177 Words in s. 469(2) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 12**

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

(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. U.K.

(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 U.K.

(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 U.K.

(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, **[**[F178] within the meaning given by section 56(3) of FA 2012 **]** , 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) [F179]...

(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

F178 Words in s. 473(2) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 127**

F179 S. 473(2)(b) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(n)**

[F180 473A Connected policies or contracts treated as single policy or contract U.K.

(1) Policies or contracts which are connected with each other are treated as a single policy or contract for the purposes of this Chapter.

(2) A policy or contract is "connected" with another policy or contract if—

(a) they meet the condition in subsection (3) in relation to each other, and

(b) the terms on which either of them is issued are significantly more or less favourable than would reasonably be expected if the other were ignored or any policy or contract meeting the condition in that subsection in relation to either of them were ignored.

(3) A policy or contract meets the condition in this subsection in relation to another policy or contract if—

(a) they are at any time simultaneously in force, and

(b) either of them is issued with reference to the other or with a view to enabling the other to be issued on particular terms or facilitating its being issued on those terms.

(4) If—

(a) there is a policy or contract ("A") with which two or more other policies or contracts are connected as a result of subsection (2), but

(b) the other policies or contracts are not connected with each other as a result of that subsection,

A and the other policies or contracts are (as a result of this subsection) to be regarded as "connected" with each other.**]**

Textual Amendments

F180 S. 473A inserted (with effect in accordance with s. 11(4)-(6) of the amending Act) by Finance Act 2012 (c. 14), **s. 11(1)**

474 Special rules: qualifying policies U.K.

(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 U.K.

(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 U.K.

(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), **[**[F181] and**]**

[F182]...

sections 531 to 534 (under which foreign policies are excepted from section 530 (income tax treated as paid etc.) subject to certain reliefs), [F183]...

[F184]...

(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 [F185]...,

"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 [F186]..., and "overseas life assurance business" has the **[**F187 meaning given by section 61 of FA 2012**]**.

Textual Amendments

F181 Word in s. 476(2) inserted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 8 para. 2(a)**

F182 Words in s. 476(2) omitted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 8 para. 2(b)**

F183 Word in s. 476(2) omitted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 8 para. 2(c)**

F184 Words in s. 476(2) omitted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 8 para. 2(d)**

F185 Words in s. 476(3) omitted (with effect in accordance with Sch. 17 para. 27(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 27(1)(a)**

F186 Words in s. 476(3) omitted (with effect in accordance with Sch. 17 para. 27(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 27(1)(b)**

F187 Words in s. 476(3) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 128**

477 Special rules: certain older policies and contracts U.K.

(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 U.K.

(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 U.K.

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 U.K.

(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 U.K.

(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 U.K.

(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)—

F188 . . . .

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

[F189(7) In this section "tax advantage" has the meaning given by [F190section 1139 of CTA 2010].]

Textual Amendments

F188 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)

F189 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)

F190 Words in s. 482(7) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 468** (with Sch. 2)

483 Exclusion of credit union group life policies U.K.

(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) [F191the Co-operative and Community Benefit Societies Act 2014,]or

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

Textual Amendments

F191 S. 483(3)(a) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 95** (with Sch. 5)

When chargeable events occur: general

484 When chargeable events occur U.K.

(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 U.K.

(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.

[F192(8) This section is subject to sections 463A and 463C.]

Textual Amendments

F192 S. 485(8) inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 9**

[F193]486 Exclusion of maturity of capital redemption policies in certain circumstances U.K.

. . . .

Textual Amendments

F193 S. 486 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 13**

487 Disregard of certain assignments U.K.

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 [F194or civil partners] living together.

Textual Amendments

F194 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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 [F195 but only in so far as those gains have been, or fall to be, taken into account in calculating the total income of a person as a result of this Chapter or Chapter 2 of Part 13 of ITA 2007] .

(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).

Textual Amendments

F195 Words in s. 491(2) inserted (with effect in accordance with s. 11(4)-(6) of the amending Act) by Finance Act 2012 (c. 14), **s. 11(2)**

492 The total benefit value of a policy or contract U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 **[**[F196]Chapter 2 of Part 2 of CTA 2009**]**,

"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.

Textual Amendments

F196 Words in s. 496(7) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 633** (with Sch. 2 Pts. 1, 2)

497 Disregard of trivial inducement benefits U.K.

(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 U.K.

(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" U.K.

(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 U.K.

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 U.K.

(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), [F197 or]

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

F198(c) . . . .

(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).

F199(4) . . . .

(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).

Textual Amendments

F197 Word in s. 501(1)(a) inserted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 14 para. 14(a)**

F198 S. 501(1)(c) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 14(a)**

F199 S. 501(4) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 14(b)**

502 Exception from section 501 for loans to buy life annuities U.K.

(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 U.K.

(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. U.K.

(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 **[**[F200] section 58 of FA 2012 **]** (or the corresponding enactment in force when the contract was effected).

Textual Amendments

F200 Words in s. 504(7) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 129**

505 Assignments etc. involving co-ownership U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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.

[F201(4A) Subsection (3)(b) includes a case where a person would be liable to tax on the gain under section 465B for the tax year in which the transaction occurs (because the transaction occurs in the year of return, as defined in that section).]

(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.

Textual Amendments

F201 S. 514(4A) inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 142**

Personal portfolio bonds

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

(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" U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 [F202Prudential Regulation Authority] under FISMA 2000, or
(b) rules made by the [F203"Prudential Regulation Authority] under FISMA 2000 and having effect for the time being in place of the Sourcebook,
[F204"investment trust" has the meaning given by [F205section 1158 of CTA 2010],]
"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
F202 Words in s. 520(4) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 8(a)**
F203 Words in s. 520(4) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 8(b)**

F204 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)

F205 Words in s. 520(4) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 469** (with Sch. 2)

521 The property selection conditions U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(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.

[F206 528 Reduction in amount charged on basis of non-UK residence where individual liable for tax U.K.

(1) Subsection (2) applies if—

(a) an individual is liable for tax charged on a gain from a policy of life insurance or a capital redemption policy, and

(b) there are one or more days in the material interest period **[**F207that are foreign days**]**.

[F208(1A) Foreign days" are—

(a) days falling within any tax year for which the individual is not UK resident, and

(b) days falling within the overseas part of any tax year that is a split year as respects the individual.**]**

(2) In determining the individual's liability for tax, the gain on which the tax is charged in the case of the individual is to be reduced by the appropriate fraction.

(3) The appropriate fraction is—

A B

where—

A is the number of days in the material interest period which are **[**F209foreign days**]**, and

B is the number of days in the material interest period.

(4) In subsection (2) the reference to the gain is to be read in accordance with section 463A(4), 463D(4) or 463E(3) (which relates to restricted relief qualifying policies etc) if applicable.

(5) In this section "the material interest period" means so much of the policy period as during which the individual meets condition A, B or C in section 465 in relation to the policy (subject to subsection (7)).

(6) Subsections (7) and (8) apply if, before the chargeable event, there is an assignment falling within section 487(c) in relation to the policy where the individual is the assignee.

(7) There is to be added to the material interest period any part of the policy period falling before the assignment—

(a) during which the assignor meets condition A, B or C in section 465 in relation to the policy, and

(b) which is not included in the material interest period under subsection (5).

(8) In relation to any period added to the material interest period under subsection (7), in **[**F210subsection (1A)(a) and (b)**]** the reference to the individual is to be read as a reference to the assignor.

(9) For the purposes of subsections (5) and (7), in section 465(2) to (4) references to the rights under the policy are to be read as including references to a share of those rights.

(10) In this section "the policy period" means the period for which the policy has run before the chargeable event occurs.

(11) If the policy is a policy of life insurance which is a new policy in relation to another policy, for the purposes of subsection (10) the new policy is to be 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; and in subsections (5) to (9) references to the policy are to be read accordingly as including any relevant earlier policy.

(12) In subsection (11) "new policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.

Textual Amendments

F206 Ss. 528, 528A substituted for s. 528 (with effect in accordance with Sch. 8 para. 7 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 8 para. 3**

F207 Words in s. 528(1)(b) substituted (with effect in accordance with Sch. 45 paras. 86(2), 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 86(3)**

F208 S. 528(1A) inserted (with effect in accordance with Sch. 45 paras. 86(2), 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 86(4)**

F209 Words in s. 528(3) substituted (with effect in accordance with Sch. 45 paras. 86(2), 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 86(5)**

F210 Words in s. 528(8) substituted (with effect in accordance with Sch. 45 paras. 86(2), 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 86(6)**

Modifications etc. (not altering text)

C35 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)**

C36 Ss. 528, 528A excluded by 1988 c. 1, s. 552(14) (as inserted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 8 para. 6**)

528A Reduction in amount charged on basis of non-UK residence of deceased person U.K.

(1) Subsection (3) applies if—

(a) personal representatives are liable for tax charged on a gain from a policy of life insurance or a capital redemption policy under section 466, and

(b) there were one or more days in the material interest period [F211that were foreign days].

(2) Subsection (3) also applies if—

(a) trustees are liable for tax charged on a gain from a policy of life insurance or a capital redemption policy under section 467 where—

(i) of conditions A to D in that section, only condition B is met, and

(ii) the absent settlor condition which is met is the one in subsection (4)(b) of that section (deceased settlor),

(b) there were one or more days in the material interest period [F212that were foreign days, and]

[F213(c) the deceased died—

(i) in a tax year for which the deceased was UK resident but not one that was a split year as respects the deceased, or

(ii) in the UK part of a tax year that was a split year as respects the deceased.]

[F214(2A) Foreign days" are—

(a) days falling within any tax year for which the deceased was not UK resident, and
(b) days falling within the overseas part of any tax year that was a split year as respects the deceased.]

(3) In determining the liability for tax of the personal representatives or trustees, the gain on which the tax is charged in the case of the personal representatives or trustees is to be reduced by the appropriate fraction.

(4) The appropriate fraction is—

A B

where—

A is the number of days in the material interest period which [F215were foreign days, and]

B is the number of days in the material interest period.

(5) In subsection (3) the reference to the gain is to be read in accordance with section 463C(8) (which relates to restricted relief qualifying policies) if applicable.

(6) In this section "the material interest period" means so much of the policy period falling before the deceased's death as during which the deceased met condition A, B or C in section 465 in relation to the policy (subject to subsection (8)).

(7) Subsections (8) and (9) apply if, before the deceased's death, there was an assignment falling within section 487(c) in relation to the policy where the deceased was the assignee.

(8) There is to be added to the material interest period any part of the policy period falling before the assignment—
(a) during which the assignor met condition A, B or C in section 465 in relation to the policy, and
(b) which is not included in the material interest period under subsection (6).

(9) In relation to any period added to the material interest period under subsection (8), in [F216subsection (2A)(a) and (b)] the reference to the deceased is to be read as a reference to the assignor.

(10) For the purposes of subsections (6) and (8), in section 465(2) to (4) references to the rights under the policy are to be read as including references to a share of those rights.

(11) In this section "the policy period" means the period for which the policy has run before the chargeable event occurs.

(12) If the policy is a policy of life insurance which is a new policy in relation to another policy, for the purposes of subsection (11) the new policy is to be 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; and in subsections (6) to (10) references to the policy are to be read accordingly as including any relevant earlier policy.

(13) In subsection (12) "new policy" has the meaning given in paragraph 17 of Schedule 15 to ICTA.]

Textual Amendments

F206 Ss. 528, 528A substituted for s. 528 (with effect in accordance with Sch. 8 para. 7 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 8 para. 3**

F211 Words in s. 528A(1)(b) substituted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 87(1)(2)**

F212 Words in s. 528A(2)(b) substituted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 87(1)(3)(a)**

F213 S. 528A(2)(c) substituted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 87(1)(3)(b)**

F214 S. 528A(2A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 87(1)(4)**

F215 Words in s. 528A(4) substituted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 87(1)(5)**

F216 Words in s. 528A(8) substituted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 87(1)(6)**

Modifications etc. (not altering text)

C36 Ss. 528, 528A excluded by 1988 c. 1, s. 552(14) (as inserted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 8 para. 6**)

[F217]529 Exceptions to section 528 U.K.

. . . .

Textual Amendments

F217 S. 529 omitted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 8 para. 4**

Income tax treated as paid and reliefs

530 Income tax treated as paid etc. U.K.

(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 **[**[F218]basic 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 **[**[F219]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.

[F220](6) . . . .

(7) This section is subject to section 531.

Textual Amendments

F218 Words in s. 530(1) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 54(2)**

F219 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)

F220 S. 530(6) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 1 para. 54(3)**

531 Exceptions to section 530 U.K.

(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 **[**F221 exempt BLAGAB or eligible PHI 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 **[**F222 Part 2 of FA 2012 (see sections 57 and 67(5)) **]** , and

[F223"exempt BLAGAB or eligible PHI business" has the same meaning as in Part 3 of FA 2012 (see sections 154 and 155).**]**

(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.

Textual Amendments

F221 Words in s. 531(3)(a) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 18 para. 18(2)**
F222 Words in s. 531(4) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 130(3)**
F223 Words in s. 531(4) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 18 para. 18(3)**

532 Relief for policies and contracts with European Economic Area insurers U.K.

(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" U.K.

(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 U.K.

(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 U.K.

(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.

[F224(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 — **[**F225BRL**]** , 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

[F225BRL**]** is the amount of income tax at the **[**F226basic 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.

[F227(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

F224 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)

F225 Words in s. 535(3) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 55(a)**

F226 Words in s. 535(3) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 55(b)**

F227 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 U.K.

(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 **[**[F228]basic 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 **[**[F229]reduced under section 528 in the case of the individual.**]**

[[F230](7) If in the case of the individual the gain is reduced under section 528—

(a) divide the number of foreign days in the material interest period (as determined in accordance with that section, including subsections (7) and (8)) by 365,

(b) if the result is not a whole number, round it down to the nearest whole number, and

(c) reduce N, for steps 1 and 3 in subsection (1), by the number found by applying paragraphs (a) and (b).]

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

Textual Amendments

F228 Words in s. 536(1) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 56**

F229 Words in s. 536(6) substituted (with effect in accordance with Sch. 8 para. 7 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 8 para. 5(2)**

F230 S. 536(7) substituted (with effect in accordance with Sch. 45 paras. 88(2), 153(2) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 88(3)**

Modifications etc. (not altering text)

C37 S. 536 (as in force immediately before its amendment by Finance Act 2013 (c. 29), **Sch. 8 para. 5**, so far as that section as so in force continues to have effect after the amendment) amended (with effect in accordance with Sch. 45 paras. 88(4), 153(2)) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 88(5)**

537 Top slicing relieved liability: two or more chargeable events U.K.

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 [F231 basic 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

F231 Words in s. 537 substituted (with effect in accordance with Sch. 1 para. 65) by Finance Act 2008 (c. 9), **Sch. 1 para. 57**

538 Recovery of tax from trustees U.K.

(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

[F232 539 Relief for deficiencies U.K.

(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.

F233 ...

Step 3

If there is an amount of the deficiency remaining after Step **[**F234 1 **]** , attribute to the remaining amount of the deficiency an amount of the individual's F235... 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.

F236 ...

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

F232 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)

F233 Words in s. 539(5) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 1 para. 58(a)**

F234 Word in s. 539(5) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 58(b)**

F235 Word in s. 539(5) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 1 para. 58(b)**

F236 Words in s. 539(5) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 1 para. 58(c)**

540 When deficiencies arise: events following calculation events U.K.

(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 U.K.

(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 **[**[F237] or formed part of the total income of that individual by virtue of section 465B for the tax year mentioned in section 539(1)**]**.

Textual Amendments

F237 Words in s. 541(4)(b) inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 45 para. 143**

[F238 Rebated or reinvested commission

Textual Amendments

F238 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 U.K.

(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 U.K.

(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

F239(b) . . . .

(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).**]**

Textual Amendments

F239 S. 541B(7)(b) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 15**

Supplementary

542 Replacement of qualifying policies U.K.

(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 U.K.

(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 U.K.

(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 U.K.

(1) In this Chapter—

F240 ...

"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.

Textual Amendments

F240 Words in s. 545(1) omitted (with effect in accordance with art. 15 of the commencing S.I.) by virtue of Finance Act 2010 (c. 13), **Sch. 6 paras. 21(3)**, 34(2); S.I. 2012/736, art. 15

Modifications etc. (not altering text)

C38 S. 545(1) applied by 1988 c. 1, Sch. 15 Pt. A1 para. A5(4)(b) (as inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 9 para. 2**)

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

(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)
[F241 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

F241 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)

CHAPTER 10 U.K.

DISTRIBUTIONS FROM UNAUTHORISED UNIT TRUSTS

F242 F242... U.K.

. . . .

Textual Amendments

F242 Pt. 4 Ch. 10 omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(8)** (with reg. 32)

F242 U.K.

. . . .

Textual Amendments

F242 Pt. 4 Ch. 10 omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(8)** (with reg. 32)

F242 U.K.

. . . .

Textual Amendments

F242 Pt. 4 Ch. 10 omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(8)** (with reg. 32)

F242 U.K.

. . . .

Textual Amendments

F242 Pt. 4 Ch. 10 omitted (6.4.2014) by virtue of The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819), regs. 1(3), **36(8)** (with reg. 32)

CHAPTER 11 U.K.

TRANSACTIONS IN DEPOSITS

551 Charge to tax on profits from disposal of deposit rights U.K.

(1) Income tax is charged on profits and gains from the disposal of deposit rights.

(2) For the purposes of this section, the exercise of a deposit right is a disposal of it[F243]....

Textual Amendments

F243 Words in s. 551(2) omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 25 para. 9(2)(a)(i)**

552 Meaning of "deposit rights" U.K.

(1) In this Chapter "deposit rights" means—

(a) a right to receive, with or without interest, a principal amount stated in, or determined in accordance with, the current terms of issue of an eligible debt security, where in accordance with those terms the issue of uncertificated units of the eligible debt security corresponds to the issue of a certificate of deposit,

(b) a right to receive the principal amount stated in a certificate of deposit, with or without interest,

(c) an uncertificated right to receive a principal amount, with or without interest, as a result of a deposit of money,

(d) a right which—

(i) is not within paragraph (c),

(ii) is acquired in a transaction in which no certificate of deposit or security or uncertificated eligible debt security units are issued, and

(iii) is a right to receive a principal amount payable with interest by a bank or similar institution or a person regularly engaging in similar transactions, [F244]...

[F244](e) . . . .

(2) In this section—

"certificate of deposit" means a document—

(a) relating to the deposit of money in any currency,

(b) recognising an obligation to pay a stated principal amount to bearer or to order, with or without interest, and

(c) by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable, "eligible debt security" has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001 (S.I. 2001/3755),

"security" (except in relation to an eligible debt security) includes any loan stock or similar security, whether secured or unsecured and whether issued by—

(a) the Government of the United Kingdom or another government,
(b) any local or other public authority in the United Kingdom or elsewhere, or
(c) any company,

"uncertificated", in relation to a unit, has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001,

"uncertificated eligible debt security units" means uncertificated units of an eligible debt security where the issue of the units corresponds, in accordance with the current terms of issue of the eligible debt security, to the issue of a certificate of deposit,

"uncertificated right" means a right in respect of which no certificate of deposit has been issued, although the person for the time being entitled to it is entitled to call for the issue of such a certificate, and

"unit" has the meaning given in regulation 3(1) of the Uncertificated Securities Regulations 2001.

Textual Amendments

F244 S. 552(1)(e) and word omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 25 para. 9(2)(a)(ii)**

553 Income charged U.K.

Tax is charged under this Chapter on the full amount of profits or gains arising in the tax year.

554 Person liable U.K.

The person liable for any tax charged under this Chapter is the person receiving or entitled to the profits or gains.

F245 CHAPTER 12 U.K.

DISPOSALS OF FUTURES AND OPTIONS INVOLVING GUARANTEED RETURNS

Textual Amendments

F245 Pt. 4 Ch. 12 omitted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by virtue of Finance Act 2013 (c. 29), **Sch. 12 para. 13(2)**

Charge to tax under Chapter 12

555 Charge to tax under Chapter 12 U.K.

. . . .

556 Income charged U.K.

. . . .

557 Person liable U.K.

. . . .

558 Meaning of "future", "option" etc. U.K.

. . . .

When disposals involve guaranteed returns

559 When disposals involve guaranteed returns U.K.

. . . .

560 Production of guaranteed returns U.K.

. . . .

561 The return from one or more disposals U.K.

. . . .

When disposals of futures and options occur

562 When disposals of futures and options occur: general U.K.

. . . .

563 Timing of certain grants of options where related disposals occur later U.K.

. . . .

564 Deemed disposal where futures run to delivery or options are exercised U.K.

. . . .

565 Interpretation of section 564 U.K.

. . . .

566 When transactions are related U.K.

. . . .

Losses

567 Losses U.K.

. . . .

Trustees

568 Special rule for certain income of trustees U.K.

. . . .

Transfer of assets abroad

569 Anti-avoidance: transfer of assets abroad U.K.

. . . .

CHAPTER 13 U.K.

SALES OF FOREIGN DIVIDEND COUPONS

F246 570 Charge to tax under Chapter 13 U.K.

. . . .

Textual Amendments

F246 Pt. 4 Ch. 13 omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 25 para. 9(2)(b)**

F246 571 Meaning of "foreign holdings" etc. U.K.

. . . .

Textual Amendments

F246 Pt. 4 Ch. 13 omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 25 para. 9(2)(b)**

F246 572 Income charged U.K.

. . . .

Textual Amendments

F246 Pt. 4 Ch. 13 omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 25 para. 9(2)(b)**

[F246]573 Person liable U.K.

. . . .

Textual Amendments

F246 Pt. 4 Ch. 13 omitted (with effect in accordance with Sch. 25 para. 10 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 25 para. 9(2)(b)**