



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 4

SAVINGS AND INVESTMENT INCOME

CHAPTER 9

GAINS FROM CONTRACTS FOR LIFE INSURANCE ETC.

Income tax treated as paid and reliefs

530 Income tax treated as paid etc.

- (1) An individual or trustees who are liable for tax on an amount under this Chapter are treated as having paid income tax at the [^{F1}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 [^{F2}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.
- ^{F3}(6)
- (7) This section is subject to section 531.

Status: Point in time view as at 16/11/2017.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Income tax treated as paid and reliefs. (See end of Document for details)

Textual Amendments

- F1** 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\(2\)](#)
- F2** 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)
- F3** 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

- (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 [^{F4} 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 [^{F5} Part 2 of FA 2012 (see sections 57 and 67(5))], and
 - [^{F6}“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.

Status: Point in time view as at 16/11/2017.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Income tax treated as paid and reliefs. (See end of Document for details)

Textual Amendments

- F4** Words in s. 531(3)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 18 para. 18\(2\)](#)
F5 Words in s. 531(4) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 130\(3\)](#)
F6 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

- (1) Section 530 applies to a gain from a foreign policy of life insurance or a foreign capital redemption policy or to a gain from a contract for a life annuity (and accordingly section 531 and paragraph 109(2) of Schedule 2 do not apply) if a claim is made that conditions A to C have been met throughout the policy period.
- (2) Condition A is that the company liable to make payments under the policy or contract (“the insurer”) has not been UK resident.
- (3) Condition B is that a comparable EEA tax charge has applied to the insurer (see section 533).
- (4) Condition C is that no excluded reinsurance contract has been made in relation to the policy or contract.
- (5) In this section—
 - “excluded reinsurance contract”, in relation to a policy or contract, means any reinsurance contract—
 - (a) wholly or partly covering any of the insurer's obligations to pay any sum or to meet any other liability arising under the policy or contract, and
 - (b) relating to risk other than that the individual whose life is insured by the policy or the annuitant will die or suffer any sickness or accident,“policy period”—
 - (a) in relation to a policy, means the period between—
 - (i) the making of the insurance or contract, and
 - (ii) the date on which the gain arises,but excluding any period when the conditions in paragraph 24(3) of Schedule 15 to ICTA are met (conditions that are required to be met for certain policies issued by non-UK resident companies to be qualifying policies), and
 - (b) in relation to a contract for a life annuity, means the period between—
 - (i) the date the insurer entered into the contract, and
 - (ii) the date on which the gain arises,but excluding any period when the contract fell to be regarded as forming part of a basic life assurance and general annuity business the income and gains of which were subject to corporation tax.

533 Meaning of “comparable EEA tax charge”

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

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- (2) Condition A is that the charge is imposed on the insurer under the laws of a territory outside the United Kingdom that is within the European Economic Area when the gain arises.
- (3) Condition B is that the charge has applied to the insurer—
 - (a) as a body deriving its status as a company from those laws,
 - (b) as a company with its place of management there, or
 - (c) as a company falling under those laws to be regarded for any other reason as resident or domiciled there.
- (4) Condition C is that the charge applies at a rate of at least 20% in relation to the amounts subject to tax in the insurer's hands, other than amounts arising or accruing in respect of investments of a description for which a special relief or exemption is generally available.
- (5) Condition D is that the charge is made otherwise than by reference to the insurer's profits.
- (6) Condition E is that the charge requires sums payable and other liabilities arising under policies or contracts of the same class as the policy or contract in question to be treated as falling to be met out of amounts subject to tax in the insurer's hands.
- (7) Condition F is that the charge so requires them by disallowing their deduction in calculating the amount chargeable.

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

- (1) This section applies if—
 - (a) apart from this section, as a result of section 531 or paragraph 109(2) of Schedule 2, section 530 would not apply to gains from a policy or contract (except for the purposes of section 535 (top slicing relief)), and
 - (b) the Board of Inland Revenue consider it appropriate to disapply section 531 and paragraph 109(2) of Schedule 2 in relation to such gains by reference to tax chargeable under the laws of a territory outside the United Kingdom in cases other than those where they are disapplied as a result of section 532.
- (2) The Board of Inland Revenue may by regulations provide for section 530 to apply to those gains (and accordingly section 531 and paragraph 109(2) of Schedule 2 not to apply to them) if a claim is made that the conditions specified in the regulations are met in relation to any time.
- (3) That time may be a time before the regulations are made or a later time.

535 Top slicing relief

- (1) An individual is entitled to relief under this section for a tax year if—
 - (a) the individual's liability for the tax year, as calculated under subsection (3), exceeds
 - (b) the individual's relieved liability for the tax year, as calculated under—
 - section 536 (top slicing relieved liability: one chargeable event), or
 - section 537 (top slicing relieved liability: two or more chargeable events).

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- (2) The relief is given by a reduction in or repayment of income tax equal to the excess.
- [^{F7}(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 — [^{F8}BRL], 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 [^{F8}BRL] is the amount of income tax at the [^{F9}basic 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—
- the amount is the highest part of the individual's total income for the tax year, and
 - 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—
- 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
 - 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—
- any chargeable event under section 525(2) (chargeable events where annual personal portfolio bond calculations show gains),
 - any gain treated as arising on the occurrence of such an event, and
 - the amount of any liability to income tax arising on such a gain,
- are ignored.
- [^{F10}(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

- F7** 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](#))
- F8** 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\(a\)](#)
- F9** 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\(b\)](#)
- F10** 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](#))

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536 Top slicing relieved liability: one chargeable event

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

Step 1

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

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

Step 2

Find the relieved liability on the annual equivalent by—

- (a) calculating the individual's liability (if any) to income tax on the annual equivalent, on the basis that—
 - (i) the gain from the chargeable event is limited to the amount of the annual equivalent, and
 - (ii) the highest part assumptions apply, and
- (b) subtracting the amount of income tax at the [^{F11}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 [^{F12}reduced under section 528 in the case of the individual.]
- [^{F13}(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

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- (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

- F11** 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](#)
- F12** 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\(2\)](#)
- F13** 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)

- C1** 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

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 [^{F14}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.

Status: Point in time view as at 16/11/2017.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Income tax treated as paid and reliefs. (See end of Document for details)

Textual Amendments

F14 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

- (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.
- [^{F15}(7) Subsection (8) applies where—
 - (a) an individual has recovered an amount from trustees under this section, and
 - (b) subsequently the individual's liability to tax under this Chapter has been reduced (or removed) as a result of a recalculation under section 507A or 512A.
- (8) The individual must repay to the trustees the amount (if any) by which the recovered amount exceeds the individual's revised entitlement.
- (9) In subsection (8) the individual's revised entitlement is the amount to which the individual is entitled under this section calculated by reference to the individual's liability to tax under this Chapter as reduced (or removed) as a result of the recalculation under section 507A or 512A.]

Textual Amendments

F15 [S. 538\(7\)-\(9\)](#) inserted (16.11.2017) (with effect in accordance with s. 9(5) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [s. 9\(4\)](#)

Status:

Point in time view as at 16/11/2017.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Income tax treated as paid and reliefs.