



# 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.

##### *Policies and contracts to which Chapter 9 applies*

#### **473 Policies and contracts to which Chapter 9 applies: general**

(1) This Chapter applies to—

- (a) policies of life insurance,
- (b) contracts for life annuities, and
- (c) capital redemption policies.

(2) In this Chapter—

“capital redemption policy” means a contract made in the course of a capital redemption business, [<sup>F1</sup>within the meaning of Chapter 1 of Part 12] of ICTA, and

“life annuity” means—

(a) an annuity that—

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

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

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(b) <sup>F2</sup> ...

- (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

- F1** Words in s. 473(2) substituted (19.7.2007 with effect as stated in s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 38, [Sch. 7 para. 77](#) (subject to transitional provisions in [Sch. 7 Pt. 2](#))
- F2** 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\(n\)](#)

#### 474 Special rules: qualifying policies

- (1) In the application of this Chapter to policies of insurance that are qualifying policies for the purposes of Chapter 1 of Part 7 of ICTA (policies within the conditions in Schedule 15 to that Act that qualify for special tax treatment) special rules apply.
- (2) See, in particular—  
 section 485 (disregard of certain events in relation to qualifying policies),  
 section 503 (exception from section 501 for certain loans under qualifying policies),  
 section 542 (replacement of qualifying policies), and  
 section 543 (issue time of qualifying policy replacing foreign policy).
- (3) Policies within the definition of “foreign policy of life insurance” in section 476(3) that would otherwise be qualifying policies are treated for the purposes of this Chapter as not being qualifying policies in the cases specified in subsections (4) and (5).
- (4) Policies within paragraph (a) of that definition are so treated once the conditions in paragraph 24(3) of Schedule 15 to ICTA have ceased to be met with respect to them (conditions that are required to be met for certain policies issued by non-UK resident companies to be qualifying policies).
- (5) Policies within paragraph (b) of that definition immediately before an event do not count as qualifying policies in relation to that event.

#### 475 Special rules: personal portfolio bonds

- (1) In the application of this Chapter to personal portfolio bonds, certain special rules apply.
- (2) See, in particular—  
 section 515 (requirement for annual calculations in relation to personal portfolio bonds), and  
 sections 522 to 525 (method for making calculations and chargeable events where calculations show gains).
- (3) For the meaning of “personal portfolio bond” see section 516.

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#### **476 Special rules: foreign policies**

- (1) In the application of this Chapter to foreign policies of life insurance and foreign capital redemption policies, certain special rules apply.
- (2) See, in particular—
  - section 474(3) to (5) (certain foreign policies treated as not being qualifying policies),
  - section 528 (reduction in amount charged: non-UK resident policy holders),
  - sections 531 to 534 (under which foreign policies are excepted from section 530 (income tax treated as paid etc.) subject to certain reliefs), and
  - section 536(6) (method of calculating top slicing relief).
- (3) In this Chapter—
  - “foreign policy of life insurance” means—
    - (a) a policy of life insurance issued by a non-UK resident company, and
    - (b) a policy of life insurance which forms part of the overseas life assurance business of an insurance company or friendly society <sup>F3</sup> ...,
  - “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 <sup>F4</sup> ..., and
  - “overseas life assurance business” has the same meaning as in Part 12 of ICTA (see section 431D of that Act).

#### **Textual Amendments**

- F3** 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\(1\)\(a\)](#)
- F4** 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\(1\)\(b\)](#)

#### **477 Special rules: certain older policies and contracts**

- (1) In the case of—
  - (a) certain contracts made before particular dates, and
  - (b) certain policies issued, or issued in respect of insurances made, before particular dates,this Chapter applies subject to Parts 6 and 7 of Schedule 2 (special provisions for older policies and contracts).
- (2) See the table in section 546 for the provisions affected.

#### **478 Exclusion of mortgage repayment policies**

- (1) This Chapter does not apply to a mortgage repayment policy.
- (2) In this section “mortgage repayment policy” means a policy of life insurance with the sole object of providing, on an individual's death or disability, a sum substantially the same as any amount then outstanding under a repayment mortgage—
  - (a) of the individual's residence, or

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

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

#### **479 Exclusion of pension policies**

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

- (a) constitutes a registered pension scheme, or
- (b) is issued or held in connection with such a scheme.

#### **480 Exclusion of excepted group life policies**

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

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

- (a) for the payment of benefits on the death of more than one individual, and
- (b) for those benefits to be paid on the death of each of those individuals.

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

- (a) section 481 (conditions about benefits), and
- (b) section 482 (conditions about persons intended to benefit).

#### **481 Excepted group life policies: conditions about benefits**

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

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

- (a) on the death in any circumstances of each of the individuals insured under the policy who dies under an age specified in the policy that does not exceed 75, or
- (b) on the death, except in the same specified circumstances, of each of those individuals who dies under such an age.

(3) Condition B is that under the terms of the policy—

- (a) the same method is to be used for calculating the sums or other benefits of a capital nature payable or arising on each death, and
- (b) any limitation on those sums or other benefits is the same in the case of any death.

(4) Condition C is that the policy does not have, and is not capable of having, on any day—

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

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

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

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

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

- (2) Condition A is that any sums payable or other benefits arising under the policy must (whether directly or indirectly) be paid to or for, or conferred on, or applied at the direction of—

- (a) an individual or charity beneficially entitled to them, or
- (b) a trustee or other person acting in a fiduciary capacity who will secure that the sums or other benefits are paid to or for, or conferred on, or applied in favour of, an individual or charity beneficially.

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

- (4) In subsection (3)—

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

“group membership right”, in relation to an individual insured by a group life policy, means any right (including the right of any person to be considered by trustees in their exercise of a discretion) that is referable to that individual being one of the individuals whose lives are insured by the policy.

- (5) Condition C is that a tax avoidance purpose is not the main purpose, or one of the main purposes, for which a person is at any time—

- (a) the holder, or one of the holders, of the policy, or
- (b) the person, or one of the persons, beneficially entitled under the policy.

- (6) In subsection (5)—

<sup>F5</sup>

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

- [<sup>F6</sup>(7) In this section “tax advantage” has the meaning given by [<sup>F7</sup>section 1139 of CTA 2010].]

#### **Textual Amendments**

**F5** 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](#))

**F6** 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](#))

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**F7** 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**

- (1) This Chapter does not apply to a credit union group life policy.
- (2) In this section “credit union group life policy” means a group life policy with the sole object of providing, on the death or disability of any of the individuals insured under it, a sum substantially the same as any amount then outstanding under a loan made to that individual by a credit union.
- (3) In this section “credit union” means a society registered as a credit union under—
  - (a) the Industrial and Provident Societies Act 1965 (c. 12), or
  - (b) the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)).

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