



# 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.

#### *Reductions from gains*

#### **527 Reduction for sums taken into account otherwise than under Chapter 9**

- (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.

#### **[<sup>F1</sup>528 Reduction in amount charged on basis of non-UK residence where individual liable for tax**

- (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

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- (b) there are one or more days in the material interest period [<sup>F2</sup>that are foreign days].
- [<sup>F3</sup>(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 [<sup>F4</sup>foreign 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 [<sup>F5</sup>subsection (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.

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(12) In subsection (11) “new policy” has the meaning given in paragraph 17 of Schedule 15 to ICTA.

#### Textual Amendments

- F1** 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](#)
- F2** 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\(3\)](#)
- F3** 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\(4\)](#)
- F4** 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\(5\)](#)
- F5** 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)

- C4** 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\(7\)-\(10\)](#)
- C5** 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

(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 [<sup>F6</sup>that 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 [<sup>F7</sup>that were foreign days, and]

[<sup>F8</sup>(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.]

[<sup>F9</sup>(2A) Foreign days” are—

- (a) days falling within any tax year for which the deceased was not UK resident, and

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- (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 [<sup>F10</sup>were 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 [<sup>F11</sup>subsection (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.]

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#### Textual Amendments

- F1** 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**
- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** 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)**
- F10** 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)**
- F11** 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)

- C5** 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**)

### <sup>F12</sup> 529 Exceptions to section 528

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#### Textual Amendments

- F12** 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**

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