



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.

Supplementary

542 Replacement of qualifying policies

- (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

Status: Point in time view as at 06/04/2005.

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

- (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

- (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

- (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).

Status: Point in time view as at 06/04/2005.

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

545 Minor definitions

(1) In this Chapter—

“charitable trust” means a trust established for charitable purposes only,

“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.

546 Table of provisions subject to special rules for older policies and contracts

(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

Section 467

Section 473

Provisions of Schedule 2

paragraph 112 (pre-17th March 1998 policies and contracts) and paragraph 114 (pre-9th April 2003 policies and contracts)

paragraph 96 (exclusion of pre-20th March 1968 policies and contracts) and paragraph 102 (exclusion of certain pre-26th June 1982 policies and contracts)

Status: Point in time view as at 06/04/2005.

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

| | |
|------------------------|--|
| 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) |

Status: Point in time view as at 06/04/2005.

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

| | |
|----------------|---|
| 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) |
| Section 539(3) | 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) |

Status:

Point in time view as at 06/04/2005.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Supplementary.