
Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)

SCHEDULES

SCHEDULE 2

TRANSITIONALS AND SAVINGS ETC.

PART 6

SAVINGS AND INVESTMENT INCOME: INSURANCE CONTRACTS AND POLICIES MADE BEFORE CERTAIN DATES

Pre-20th March 1968 policies and contracts excluded from Chapter 9 of Part 4

- 96 (1) Chapter 9 of Part 4 does not apply to—
- (a) a policy of life insurance issued in respect of an insurance made before 20th March 1968,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date.
- (2) For this purpose a policy of life insurance is treated as issued in respect of an insurance made on or after 20th March 1968 if it is varied on or after that date so as to extend its term or increase the benefits secured.
- (3) A variation is ignored for the purposes of sub-paragraph (2) if—
- (a) before the variation the policy complied with paragraph 2 of Schedule 9 to FA 1968 (general requirements for qualifying endowment policies) except for the amount guaranteed on death,
 - (b) the variation's only effect was to make the policy comply with that paragraph,
 - (c) the variation was effected before 1st January 1969, and
 - (d) the variation did not increase the premiums payable under the policy.

Pre-27th March 1974 policies and contracts: disapplication of section 500(c)

- 97 Section 500(c) (events treated as part surrenders: loan by insurer) does not apply to a policy issued in respect of an insurance made before 27th March 1974 or a contract made before that date.

Pre-27th March 1974 contracts: disapplication of section 531(3)(c)

- 98 Section 531(3)(c) (certain contracts for life annuities excluded from section 530) does not apply to a contract made before 27th March 1974.

Status: Point in time view as at 29/04/2009.

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Pre-10th December 1974 contracts for a life annuity: disapplication of section 484(1)(d)

- 99 Section 484(1)(d) (chargeable events: death in case of contract for a life annuity which provides for payment of a capital sum on death) does not apply if the contract was made before 10th December 1974.

Pre-14th March 1975 policies and contracts: calculation of gains under section 507

- 100 (1) This paragraph applies to—
- (a) a policy in respect of an insurance made before 14th March 1975, and
 - (b) a contract made before that date.
- (2) Section 507 (method for making periodic calculations under section 498) applies to a policy or contract to which this paragraph applies with the following modifications.
- (3) In subsection (4) (calculation of net total value of rights assigned and surrendered)—
- (a) in paragraph (a) of step 1 after “at any time”, in both places where it occurs, and
 - (b) in paragraph (b) of step 1 after “assigned”, insert “ during the reference period ”.

- (4) In subsection (5) (calculation of net total allowable payments), for step 1 substitute—

“Step 1 Find the allowable element in each allowable payment made during the reference period 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 reference period or, if it is less, 20.”

- (5) After that step insert—

“Step 1A Find any allowable element in any allowable payment made before the reference period by multiplying the amount of the payment by—

$$\frac{20 - Y}{20}$$

where Y is the number of insurance years in the period beginning with the year in which the payment is made and ending with the last insurance year before the reference period or, if it is less, 20.”

- (6) In subsection (6) insert the following definition in the appropriate place—

““the reference period” means the period beginning with the first insurance year which falls wholly after 13th March 1975 and ending with the insurance year as at the end of which the calculation under this section is required to be made.”.

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Pre-25th March 1982 replacement policies: disapplication of section 542

- 101 Section 542 (replacement of qualifying policies) does not apply if the replacement policy comes into existence before 25th March 1982.

Certain pre-26th June 1982 policies and contracts excluded from Chapter 9 of Part 4

- 102 (1) Chapter 9 of Part 4 does not apply to a pre-1982 assigned policy or contract unless on a date after 23rd August 1982 it has met condition A, B or C.
- (2) In sub-paragraph (1) “pre-1982 assigned policy or contract” means—
- (a) a policy of life insurance issued in respect of an insurance made before 26th June 1982, or
 - (b) a contract for a life annuity made before that date, the rights under which were assigned for money or money's worth before that date and are not held by the original beneficial owner.
- (3) Condition A is that the rights under the policy or contract are again assigned for money or money's worth.
- (4) Condition B is that a payment is made under the policy or contract by way of premium.
- (5) Condition C is that a sum is lent—
- (a) by, or by arrangement with, the body issuing the policy or the body with which the contract was made, and
 - (b) to or at the direction of an individual falling within sub-paragraph (6).
- (6) An individual falls within this sub-paragraph at any time if—
- (a) were a gain to arise in respect of the policy or contract at that time the individual—
 - (i) would be liable for tax in respect of it as a result of section 465 (person liable: individuals), or
 - (ii) would be 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, or
 - (b) at that time the rights under the policy or contract are held on charitable trusts created by the individual.
- (7) In the case of a qualifying policy, condition C is not met if—
- (a) interest is payable on the loan at a commercial rate, or
 - (b) the loan is to a full-time employee of the body to assist the employee in purchasing or improving a dwelling to be used as the employee's only or main residence.
- (8) In the case of a policy issued in respect of an insurance made before 27th March 1974 or a contract made before that date, this paragraph applies as if sub-paragraph (1) did not refer to condition C.
- (9) A loan which causes condition C to be met is treated for the purposes of sections 500(c) and 501 (loans treated as part surrenders) as having been made at a time when Chapter 9 of Part 4 does apply to gains on the policy or contract.

Status: Point in time view as at 29/04/2009.

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Certain pre-18th November 1983 policies not foreign policies of life insurance

- 103 (1) A policy of life insurance is not a “foreign policy of life insurance” for the purposes of Chapter 9 of Part 4 (see the definition in section 476(3)) if it is issued in respect of an insurance made before 18th November 1983.
- (2) For the purposes of sub-paragraph (1), a policy issued in respect of an insurance made before 18th November 1983 is treated as issued in respect of one made on or after that date if it is varied on or after that date so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance.
- (3) A change in the terms of a policy counts as its variation for the purposes of sub-paragraph (2) if it results from the exercise of an option conferred by the policy to have another policy substituted for it or to have any of its terms changed.

Certain pre-23rd February 1984 policies not foreign capital redemption policies

- 104 A capital redemption policy is not a “foreign capital redemption policy” for the purposes of Chapter 9 of Part 4 (see the definition in section 476(3)) if it is issued in respect of a contract made before 23rd February 1984.

Pre-14th March 1984 policies: disregard of amounts deducted and repaid after tax relief by deduction from premiums abolished

- 105 In the case of a policy issued in respect of an insurance made before 14th March 1984, any amount treated under section 72(9) of FA 1984 as an additional premium is to be ignored for the purposes of—
- (a) calculating the total allowable deductions for the policy under section 494(1), and
 - (b) the definition of “allowable payment” in section 507(6).

Certain pre-20th March 1985 policies: application of section 529(1)

- 106 (1) This paragraph makes provision for the application of section 529(1) (exceptions to section 528) in relation to—
- (a) a foreign policy of life insurance issued in respect of an insurance made on or before 19th March 1985, and
 - (b) a foreign capital redemption policy issued in respect of a contract made on or before that date.
- (2) Section 529(1)(a) (which disapplies section 528 if when the chargeable event occurs or at any time during the policy period the policy is or was held by a non-UK resident trustee) does not apply if the policy was held by a non-UK resident trustee on 19th March 1985.
- (3) Section 529(1)(b) (which disapplies section 528 if when the chargeable event occurs or at any time during the policy period the policy is or was held by non-UK resident trustees) does not apply if on 19th March 1985 the policy was held by a non-UK resident trustee or by two or more trustees any of whom was non-UK resident.

Status: Point in time view as at 29/04/2009.

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Pre-14th March 1989 qualifying policies: application of section 485(2)(b) and (3)(b)

- 107 (1) In the case of a policy issued in respect of an insurance made before 14th March 1989, section 485(2) and (3) (by virtue of which certain events are only chargeable events if the condition in paragraph (a) or (b) is met) have effect with the omission of paragraph (b) (company interest in the rights under the policy) and the word “or” preceding that paragraph.
- (2) For this purpose a policy is treated as issued in respect of an insurance made on or after 14th March 1989 if it is varied on or after that date so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance.
- (3) Any exercise of rights conferred by a policy counts as its variation for the purposes of sub-paragraph (2).

Pre-14th March 1989 policies and contracts: application of section 501

- 108 (1) In the case of a policy issued in respect of an insurance made before 14th March 1989 or a contract made before that date, section 501 (part surrenders: loans) does not apply if—
- (a) a company beneficially owns the rights under the policy,
 - (b) they are held on trusts which a company created, or
 - (c) they are held as security for a company's debt.
- (2) For the purposes of this paragraph, a policy is treated as issued in respect of an insurance made on or after 14th March 1989 if it is varied on or after that date so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance.
- (3) Any exercise of rights conferred by a policy counts as its variation for the purposes of sub-paragraph (2).

Contracts in accounting periods beginning before 1st January 1992: disapplication of sections 530 and 539(3)

- 109 (1) This paragraph applies to a contract for a life annuity made—
- (a) after 26th March 1974, but
 - (b) in an accounting period of the insurance company or friendly society beginning before 1st January 1992.
- (2) Section 530 (income tax treated as paid etc.) does not apply to gains from such a contract, except for the purposes of calculating relief under section 535 (top slicing relief).
- (3) Sub-paragraph (2) is subject to—
- (a) section 532 (relief for policies and contracts with European Economic Area insurers), and
 - (b) section 534 (regulations providing for relief in other cases where foreign tax chargeable).
- [^{F1}(4) Section 539 (relief for deficiencies) has effect as if for subsections (1) to (6) there were substituted—

Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)

- “(1) A deficiency from a policy or contract arising on a chargeable event is allowable as a deduction in calculating an individual's net income for a tax year if, had a gain arisen instead on the chargeable event—
- (a) the individual would have been liable to income tax on the gain for that 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.
- (2) 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) In sub-paragraph (1) “accounting period” is to be read in accordance with [F2Chapter 2 of Part 2 of CTA 2009].

Textual Amendments

- F1** Words in Sch. 2 para. 109(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. 590](#), (with transitional provisions and savings in Sch. 2)
- F2** Words in Sch. 2 para. 109(5) 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. 646\(4\)](#) (with Sch. 2 Pts. 1, 2)

Certain pre-17th March 1998 policies: application of section 529(1)

- 110 (1) This paragraph makes provision for the application of section 529(1) (exceptions to section 528) in relation to—
- (a) a foreign policy of life insurance issued in respect of an insurance made before 17th March 1998, and
 - (b) a foreign capital redemption policy issued in respect of a contract made before that date.
- (2) Section 529(1)(c) (which disapplies section 528 if when the chargeable event occurs or at any time during the policy period the policy is or was held by a foreign institution) does not apply if the policy was held by a foreign institution on 16th March 1998.

Certain pre-17th March 1998 policies not foreign policies of life insurance

- 111 (1) A policy of life insurance issued in respect of an insurance made before 17th March 1998 is only a “foreign policy of life insurance” for the purposes of Chapter 9 of Part 4 if—
- (a) it falls within paragraph (a) of the definition of that expression in section 476(3), and
 - (b) it is not excluded by paragraph 103 (certain pre-18th November 1983 policies not foreign policies of life insurance).

Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)

- (2) For the purposes of sub-paragraph (1), a policy issued in respect of an insurance made before 17th March 1998 is treated as issued in respect of one made on or after that date if it is varied on or after that date so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance.
- (3) Any exercise of rights conferred by a policy counts as its variation for the purposes of sub-paragraph (2).

Pre-17th March 1998 policy or contract: UK resident trustees

- 112 (1) In the case of a 1998 Act excluded policy or contract, section 467 (person liable: UK resident trustees) does not apply if—
- (a) the trusts were created before 17th March 1998, and
 - (b) the person or at least one of the persons who created them was an individual who died before that date.
- (2) For the purposes of sub-paragraph (1)(b), section 472(1) is ignored.
- (3) In this paragraph “a 1998 Act excluded policy or contract” means—
- (a) a policy of life insurance issued in respect of an insurance made before 17th March 1998,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date, but excluding a policy or contract within sub-paragraph (4).
- (4) A policy or contract is within this sub-paragraph if it has been varied on or after 17th March 1998 so as—
- (a) to increase the benefits secured, or
 - (b) to extend the term of the insurance, annuity or capital redemption policy.
- (5) Any exercise of rights conferred by a policy or contract counts as its variation for the purposes of sub-paragraph (4).

Certain pre-23rd March 1999 policies not foreign capital redemption policies

- 113 A capital redemption policy where the contract was made before 23rd March 1999 is only a “foreign capital redemption policy” for the purposes of Chapter 9 of Part 4 if—
- (a) it falls within paragraph (a) of the definition of that expression in section 476(3), and
 - (b) it is not excluded by paragraph 104 (certain pre-23rd February 1984 policies not foreign capital redemption policies).

Pre-9th April 2003 policy or contract: UK resident trustees

- 114 (1) In the case of a 2003 Act excluded policy or contract, section 467(1) (person liable: UK resident trustees) has effect with the omission of the reference to condition C (the effect of which is to extend the circumstances in which trustees holding rights under a policy or contract on non-charitable trusts may be liable for tax).
- (2) In this paragraph “a 2003 Act excluded policy or contract” means—

Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)

- (a) a policy of life insurance issued in respect of an insurance made before 9th April 2003,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date, but excluding a policy or contract within sub-paragraph (3).
- (3) A policy or contract is within this sub-paragraph if—
- (a) it has been varied on or after that date (but before the chargeable event on which the gain arises) so as to increase the benefits secured or extend the term of the insurance, annuity or capital redemption policy, or
 - (b) there has been an assignment of the rights, or a share in the rights, conferred by the policy or contract to trustees of a non-charitable trust.
- (4) Any exercise of rights conferred by a policy or contract counts as its variation for the purposes of sub-paragraph (3)(a).

Pre-9th April 2003 policy or contract: loans to trustees

- 115 (1) This paragraph makes provision for the application of section 501 (part surrenders: loans) in relation to—
- (a) a policy of life insurance issued in respect of an insurance made before 9th April 2003,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date.
- (2) In the case of a loan made before that date that section applies with the omission—
- (a) of subsections (1)(b) and (3) (by virtue of which the section applies to loans to trustees), and
 - (b) in subsection (5)(b) of the words “, trustees” and “, trustees”.

Pre-9th April 2003 policy: excepted group life policies

- 116 (1) Sub-paragraph (2) applies to a policy if—
- (a) it was issued in respect of an insurance made before 9th April 2003, and
 - (b) immediately before 6th April 2005, paragraph 4(1) (excepted group life policies: time for compliance with conditions in section 539A of ICTA) of Schedule 34 to FA 2003 applied to it.
- (2) The policy is to be taken to have met the conditions referred to in section 480(3) (conditions to be met by an excepted group life policy) throughout the period mentioned in that paragraph.
- (3) Sub-paragraphs (3) and (4) apply where immediately before 6th April 2005 paragraph 4(3) of Schedule 34 to FA 2003 applied to treat two policies as a single policy issued in respect of an insurance made at the time of the making of the insurance in respect of which the earlier of those policies was issued.
- (4) Those policies are to be treated as a single policy so issued for the purposes of—
- (a) Chapter 9 of Part 4,
 - (b) paragraph 90 of this Schedule, and
 - (c) this Part of this Schedule (and, in particular, sub-paragraph (2)).

Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Part 6. (See end of Document for details)

- (5) Sub-paragraph (2) applies to that single policy taking the reference to the period mentioned in paragraph 4(1) of Schedule 34 to FA 2003 as a reference to the period so mentioned as a result of the application of paragraph 4(3)(b) of that Schedule.

Pre-3rd March 2004 policy or contract: calculation of deficiencies

- 117 (1) In the case of a 2004 Act excluded policy or contract, section 541(4) (calculation of deficiencies) applies with the omission of paragraph (b) and the word “and” immediately preceding it.
- (2) In this paragraph “a 2004 Act excluded policy or contract” means—
- (a) a policy of life insurance issued in respect of an insurance made before 3rd March 2004,
 - (b) a contract for a life annuity made before that date, or
 - (c) a capital redemption policy where the contract was made before that date, but excluding a policy or contract within sub-paragraph (3).
- (3) A policy or contract is within this sub-paragraph if on or after 3rd March 2004—
- (a) it is varied so as to increase the benefits secured,
 - (b) there is an assignment of the rights, or a share of the rights, conferred by it, or
 - (c) all or part of those rights become held as security for a debt.
- (4) Any exercise of rights conferred by a policy or contract counts as its variation for the purposes of sub-paragraph (3)(a).

Pre-1st January 2005 contracts for immediate needs annuities: income tax treated as paid

- 118 (1) A contract for a life annuity made before 1st January 2005 is not to be treated for the purposes of paragraph (c) of section 531(3) (policies and contracts excluded from section 530) as having 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 by reason only of the immediate needs annuities exclusion.
- (2) In sub-paragraph (1) “the immediate needs annuities exclusion” means the words [F3 following paragraph (b) in the definition of “life assurance business”].

Textual Amendments

- F3** Words in [Sch. 2 para. 118\(2\)](#) 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. 79](#) (subject to transitional provisions in [Sch. 7 Pt. 2](#))

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Point in time view as at 29/04/2009.

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