



Finance Act 2007

2007 CHAPTER 11

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Anti-avoidance

29 Life policies etc: effect of rebated or reinvested commission

^{F1}(1)

(2) In section 552 of that Act (information: duty of insurers), after subsection (12) insert—

“(13) For the purposes of this section, no account is to be taken of the effect of section 548A above or section 541A of ITTOIA 2005.”

(3) In ITTOIA 2005, after section 541 insert—

“Rebated or reinvested commission

541A Effect of rebated or reinvested commission in certain cases

(1) This section applies if—

- (a) a chargeable event within section 484(1)(a)(i) to (iii), (c) or (e) occurs in respect of a policy or contract,
- (b) commission in respect of the policy or contract has at any time been rebated or reinvested, and
- (c) condition A or B is met.

(2) For the purposes of performing the calculation in section 494 (total allowable deductions) for the chargeable event, the total amount of premiums under the policy or contract paid in the period mentioned in section 494(1) or (2)(b) is to be reduced by the total amount of commission attributable to those premiums that has been rebated or reinvested.

Status: Point in time view as at 01/04/2009.

Changes to legislation: Finance Act 2007, Section 29 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Condition A is that the total amount of premiums under the policy or contract paid in a relevant period exceeds £100,000.
- (4) Condition B is that—
 - (a) at a time when the policy or contract was the taxable person's, the taxable person's policies and contracts exceeded the relevant threshold as respects a relevant period, and
 - (b) premiums under the policy or contract were paid in that relevant period.
- (5) In subsection (4)(a) “taxable person” means the person whose policy or contract the policy or contract is, immediately before the chargeable event.
- (6) For the purposes of subsection (4)(a) a person's policies and contracts “exceed the relevant threshold” as respects a relevant period if the total amount of premiums under them paid in that relevant period exceeds the sum specified in subsection (3).
- (7) In this section “relevant period” means—
 - (a) the period beginning with the beginning of the tax year in which the chargeable event occurs and ending with the chargeable event, or
 - (b) any of the 3 preceding tax years.
- (8) The Treasury may by order—
 - (a) substitute another sum for the sum for the time being specified in subsection (3);
 - (b) amend the definition of “relevant period”.

541B Section 541A: further definitions

- (1) This section supplements section 541A.
- (2) “Commission”, in relation to a policy or contract, includes any passing of value to or for the benefit of an intermediary, or a person connected with an intermediary, that can reasonably be taken to represent a reward in respect of the policy or contract.
- (3) Commission in respect of a policy or contract is “reinvested” if, as a result of a waiver of an entitlement to it, there is an increase in the total value of a relevant person's policies and contracts.
- (4) The amount of commission reinvested is the amount of the increase.
- (5) Commission in respect of a policy or contract is “rebated” if—
 - (a) value passes (directly or indirectly) from an intermediary, or a person connected with an intermediary, to or for the benefit of a relevant person (and the passing of value does not amount to the reinvestment of the commission), and
 - (b) the passing of value can reasonably be taken to be in respect of the commission.
- (6) The amount of commission rebated is the amount of value passed.

Status: Point in time view as at 01/04/2009.

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- (7) A policy or contract is a person's policy or contract if a gain arising in connection with it would be—
- (a) a gain for which the person, or (if the person is an individual) the person's spouse or civil partner, would be liable to tax under this Chapter, or
 - (b) treated by virtue of section 547(1) of ICTA as forming part of the person's income.
- (8) Any necessary apportionment is to be made (on a just and reasonable basis) as regards—
- (a) commission which is attributable to two or more premiums, and
 - (b) any part of such commission that has been rebated or reinvested.
- (9) Commission which is in respect of one or more policies or contracts (but is not attributable to particular premiums) is to be attributed to such premiums as is just and reasonable.
- (10) In subsections (3) and (5), “relevant person” means—
- (a) any of the policyholders (including any of the persons who hold the contract),
 - (b) a person who beneficially owns the rights under the policy or contract,
 - (c) if those rights are held on trust, any of the trustees, or
 - (d) a person connected with a person within any of paragraphs (a) to (c).”
- (4) The amendments made by this section have effect in relation to a policy or contract if—
- (a) it is made on or after 21st March 2007, or
 - (b) on or after that date, any of its terms are varied, or a right under it is exercised, so as to increase the benefits under it.

Textual Amendments

- F1** S. 29(1) 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(p)**

Status:

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