

SCHEDULES

SCHEDULE 14

Section 86.

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

Section 547

- 1 (1) Section 547 of the Taxes Act 1988 (method of charging gain to tax) shall be amended as follows.
- (2) In paragraph (a) of subsection (1) (individuals) the words from “(including” to “1964)” (which are superseded by the new subsection (14)) shall cease to have effect.
- (3) After paragraph (c) of subsection (1), there shall be added—
- “(d) if, immediately before the happening of that event,—
 - (i) those rights were held on trusts, and the person who created the trusts was not resident in the United Kingdom or had died or (in the case of a company or foreign institution) had been dissolved or wound up or had otherwise come to an end, or
 - (ii) those rights were held as security for a debt owed by trustees,subsection (9) or (10) below (as the case may be) shall apply in relation to the amount of the gain;
 - (e) if, immediately before the happening of that event, those rights—
 - (i) were in the beneficial ownership of a foreign institution, or
 - (ii) were held as security for a debt owed by a foreign institution,subsection (11) below shall apply in relation to the amount of the gain.”
- (4) Subsection (3) (which relates to cases where there are two or more beneficial owners, settlors or debtors and which is superseded by the new section 547A) shall cease to have effect.
- (5) In subsection (4), for “subsections (1) and (3) above” there shall (in consequence of sub-paragraph (4) above) be substituted “subsection (1) above”.
- (6) In subsection (5) (tax treatment where a sum is included in an individual’s total income by virtue of subsection (1)) for “subsection (1)” there shall be substituted “subsection (1)(a)”.
- (7) After subsection (5) there shall be inserted—
- “(5AA) If, in a case falling within subsection (1)(d) above, a sum forms part of the income of trustees by virtue of subsection (9)(a) below, subsection (5) above shall (subject to subsections (6) and (7) below and section 553(6)) apply in relation to the trustees and that sum—

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- (a) as it applies in relation to an individual and a sum included in his total income by virtue of subsection (1)(a) above, but
 - (b) with the omission from paragraph (a) of the words from “or” to the end of that paragraph.”
- (8) Subsection (9) shall be renumbered as subsection (13) and after subsection (8) there shall be inserted—
- “(9) If, in a case falling within subsection (1)(d) above, the trustees were resident in the United Kingdom immediately before the happening of the chargeable event in question, the amount of the gain—
- (a) shall be deemed to form part of the income of the trustees for the year of assessment in which the chargeable event happened; and
 - (b) shall be chargeable to income tax at the rate applicable to trusts for that year.
- (10) If, in a case falling within subsection (1)(d) above, the trustees were not resident in the United Kingdom immediately before the happening of the chargeable event in question, then, for the purpose of determining whether an individual ordinarily resident in the United Kingdom has a liability for income tax in respect of the amount of the gain, section 740 shall apply as if—
- (a) the amount of the gain constituted income becoming payable to the trustees; and
 - (b) that income were income arising to the trustees in the year of assessment in which the chargeable event happened.
- (11) In a case falling within subsection (1)(e) above, for the purpose of determining whether an individual ordinarily resident in the United Kingdom has a liability for income tax in respect of the amount of the gain, section 740 shall apply as if—
- (a) the amount of the gain constituted income becoming payable to the foreign institution; and
 - (b) that income were income arising to the foreign institution in the year of assessment in which the chargeable event happened.
- (12) For the purposes of this section, property held for the purposes of a foreign institution shall be regarded as in the beneficial ownership of the foreign institution.”
- (9) In subsection (13) (definitions) the following definition shall be inserted at the appropriate place—
- ““foreign institution” means a person which is a company or other institution resident or domiciled outside the United Kingdom.”
- (10) After that subsection there shall be inserted—
- “(14) Any reference in this section to trusts created by an individual includes a reference to trusts arising under—
- (a) section 11 of the Married Women’s Property Act 1882;
 - (b) section 2 of the Married Women’s Policies of Assurance (Scotland) Act 1880; or

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(c) section 4 of the Law Reform (Husband and Wife) Act Northern Ireland) 1964;
and references to the settlor or to the person creating the trusts shall be construed accordingly.”

Multiple interests

2 After section 547 of the Taxes Act 1988 there shall be inserted—

“547A Method of charging gain to tax: multiple interests.

- (1) Where, immediately before the happening of a chargeable event, two or more persons have relevant interests in the rights conferred by the policy or contract in question, section 547 shall have effect in relation to each of those persons as if that person had been the only person with a relevant interest in those rights, but with references to the amount of the gain construed as references to his proportionate share of the amount of the gain.
- (2) References in this section to the rights conferred by a policy or contract are, in the case of an assignment of a share only in any rights, references to that share.
- (3) For the purposes of this section, a person has a “relevant interest” in the rights conferred by a policy or contract—
 - (a) in the case of an individual, if a share in the rights is vested in him as beneficial owner, or is held on trusts created, or as security for a debt owed, by him;
 - (b) in the case of a company, if a share in the rights is in the beneficial ownership of the company, or is held on trusts created, or as security for a debt owed, by the company;
 - (c) in the case of personal representatives, if a share in the rights is vested in them;
 - (d) in the case of trustees—
 - (i) if a share in the rights is held by them, and the person who created the trusts is not resident in the United Kingdom or has died or (in the case of a company or foreign institution) has been dissolved or wound up or has otherwise come to an end; or
 - (ii) if a share in the rights is held as security for a debt owed by them;
 - (e) in the case of a foreign institution, if a share in the rights is in the beneficial ownership of the foreign institution, or is held as security for a debt owed by the foreign institution.
- (4) For the purposes of subsection (1) above, a person’s “proportionate share” of the amount of a gain is that share of it which is proportionate to the share of the rights by reference to which he has the relevant interest in question.
- (5) Where, immediately before the happening of a chargeable event, the rights conferred by the policy or contract in question are, or a share in those rights is, held as security for one or more debts owed by two or more persons, this section shall effect in relation to the chargeable event as if—

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- (a) each of those persons were instead the sole debtor in respect of a separate debt; and
 - (b) the security for that separate debt were the appropriate share of the security for the actual debt or debts (so far as consisting of the rights, or a share in the rights, conferred by the policy or contract);
- and for the purposes of paragraph (b) above the appropriate share, in the case of any person, is a share which is proportionate to that share of the actual debt or, as the case may be, the aggregate of the two or more actual debts, for which he is liable as between the debtors.
- (6) Where, immediately before the happening of a chargeable event, the rights conferred by the policy or contract in question are, or a share in those rights is, held on trusts created by two or more persons, this section shall have effect in relation to that chargeable event as if—
- (a) each of those persons had instead been the sole settlor in relation to a separate share of the rights or share so held; and
 - (b) that separate share were proportionate to the share which originates from him of the whole of the property subject to the trusts immediately before the happening of the chargeable event.
- (7) The reference in subsection (6)(b) above to the share of the property which originates from a person is a reference to the share of the property which consists of—
- (a) property which that person has provided directly or indirectly for the purposes of the trusts;
 - (b) property representing property which that person has so provided; and
 - (c) so much of any property which represents both property so provided and other property as, on a just apportionment, represents the property so provided.
- (8) References in subsection (7) above to property which a person has provided directly or indirectly—
- (a) include references to property which has been provided directly or indirectly by another in pursuance of reciprocal arrangements with the person, but
 - (b) do not include references to property which the person has provided directly or indirectly in pursuance of reciprocal arrangements with another.
- (9) References in subsection (7) above to property which represents other property include references to property which represents accumulated income from that other property.
- (10) Where immediately before the happening of a chargeable event—
- (a) the rights conferred by the policy or contract in question are, or a share in those rights is, held subject to any trusts, and
 - (b) different shares of the whole of the property subject to those trusts originate (within the meaning of subsection (6)(b) above) from different persons,
- the rights or share shall, in relation to that chargeable event, be taken for the purposes of this section to be held on trusts created by those persons.

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- (11) Where the rights conferred by a policy or contract are, or an interest in any such rights is, in the beneficial ownership of two or more persons jointly, the rights or interest shall be treated for the purposes of this section as if they were in the beneficial ownership of those persons in equal shares.
- (12) A non-fractional interest in the rights conferred by a policy or contract shall be treated for the purposes of this section as if it were instead such a share in those rights as may justly and reasonably be regarded for those purposes as representing the non-fractional interest.
- (13) For the purposes of subsection (12) above, a “non-fractional interest” in the rights conferred by a policy or contract is an interest in some or all of those rights which is not a share in all of those rights (otherwise than by virtue only of subsection (2) above).
- (14) This section applies in a case where the same person has two or more relevant interests in the rights conferred by a policy or contract as it applies in a case where two or more persons have separate relevant interests, unless—
- (a) that person is the only person with a relevant interest in those rights, and
 - (b) he has all the relevant interests in the same capacity,
- in which case section 547 applies.
- (15) In this section—
- “foreign institution” has the same meaning as in section 547;
 - “personal representatives” has the same meaning as in Part XVI.
- (16) Subsections (12) and (14) of section 547 apply for the purposes of this section as they apply for the purposes of that section.”

Right of company to recover tax from trustees

3 After section 551 of the Taxes Act 1988 (right of individual to recover tax from trustees) there shall be inserted—

“551A Right of company to recover tax from trustees.

- (1) Where—
- (a) an amount is included in a company’s income by virtue of section 547(1)(b), and
 - (b) the rights or share in question were held immediately before the happening of the chargeable event on trust,
- the company shall be entitled to recover from the trustees, to the extent of any sums, or to the value of any benefits, received by them by reason of the event, the amount (if any) by which T1 exceeds T2.
- (2) For the purposes of subsection (1) above—
- T1 is the tax with which the company is chargeable for the accounting period in question; and
 - T2 is the tax with which the company would have been chargeable for the accounting period if the amount mentioned in subsection (1)(a) above had not been included as there mentioned.

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- (3) A company may require the Board to certify any amount recoverable by the company by virtue of this section, and the certificate shall be conclusive evidence of the amount.”

Foreign institution policies: no reduction under section 553

- 4 (1) Section 553 of the Taxes Act 1988 (non-resident policies and capital redemption policies) shall be amended as follows.
- (2) In subsection (3) (which, subject to subsection (5), provides for the gain to be reduced by reference to the policy holder’s time of residence in the United Kingdom) for “subsection (5)” there shall be substituted “subsections (5) and (5A)”.
- (3) After subsection (5) there shall be inserted—
- “(5A) If, on the happening of the chargeable event referred to in subsection (3) above or at any time during the period referred to in that subsection, the policy is or was held by a foreign institution, no reduction shall be made under that subsection unless—
- (a) the policy was issued in respect of an insurance made on or before 16th March 1998; and
- (b) on that date the policy was held by a foreign institution.”
- (4) In subsection (10) (definitions) there shall be inserted at the appropriate place—
- ““foreign institution” has the same meaning as in section 547;”.

Consequential amendments

- 5 In section 7(9) of the Taxes Management Act 1970 (meaning of “relevant trustees” for the purposes of that Act)—
- (a) in paragraph (a), after “in relation to income” there shall be inserted “(other than gains treated as arising under Chapter II of Part XIII of the principal Act)”; and
- (b) after paragraph (a) there shall be inserted—
- “(aa) in relation to gains treated as arising under Chapter II of Part XIII of the principal Act, the persons who are trustees in the year of assessment in which the gains arise and any persons who subsequently become trustees; and”.
- 6 In section 151 of the Finance Act 1989 (assessment of trustees etc) for subsection (2) (definition of “the relevant trustees”) there shall be substituted—
- “(2) In this section “the relevant trustees”—
- (a) in relation to any income, other than gains treated as arising under Chapter II of Part XIII of the Taxes Act 1988, means the trustees to whom the income arises and any subsequent trustees of the settlement; and
- (b) in relation to gains treated as arising under Chapter II of Part XIII of the Taxes Act 1988, means the trustees in the year of assessment in which the gains arise and any subsequent trustees of the settlement; and “the relevant personal representatives” has a corresponding meaning.”

Commencement

- 7 (1) Paragraph (d) of section 547(1) of the Taxes Act 1988 shall not have effect in relation to the amount of a gain if—
- (a) the gain is treated as arising on the happening of a chargeable event on or after 6th April 1998 in relation to a pre-commencement policy or contract; and
 - (b) the trusts in question were created before 17th March 1998 and the person, or (disregarding section 547A(6) of that Act) at least one of the persons, who created them was an individual who died before that date.
- (2) In sub-paragraph (1) above, “pre-commencement 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 effected before that date, but does not include a policy or contract varied on or after that date so as to increase the benefits secured or to extend the term of the insurance, annuity or capital redemption policy (any exercise of rights conferred by the policy or contract being regarded for this purpose as a variation).
- (3) The amendment made by paragraph 6 above has effect in relation to income arising on or after 6th April 1998.
- (4) In that amendment, the express references to gains treated as arising under Chapter II of Part XIII of the Taxes Act 1988 are references to gains treated as so arising on the happening of chargeable events on or after 6th April 1998.
- (5) Except as provided by the preceding provisions of this paragraph, this Schedule has effect in relation to chargeable events happening on or after 6th April 1998.