

# INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 2: Transitionals and savings etc.*

#### **Part 6: Savings and investment income: insurance contracts and policies made before certain dates**

#### *Paragraph 106: Certain pre-20th March 1985 policies: application of section 529(1)*

3609. This paragraph is based on section 553(5) of ICTA. It reflects the insertion by FA 1985 of an exception to rules introduced by FA 1984. The FA 1984 rules provided for the reduction of gains where the policy holder was not UK resident during all or part of the policy period (see section 528 of this Act).
3610. The exception applies when the policy is held at the time of the chargeable event by one or more non-UK resident trustees.
3611. The paragraph reverses the exception made by section 529 if the policy was held by such a trustee or trustees on 19 March 1985 and the policy was issued in respect of an insurance (for a policy of life insurance) or contract (for a capital redemption policy) made on or before that date.
3612. The paragraph also repairs an omission in the source legislation which would exclude a capital redemption policy from the benefit of the paragraph. In the source legislation, the reduction under section 553(3) of ICTA is only made if, under section 553(5A) (a) of ICTA, the policy was *issued in respect of an insurance* made before 17 March 1998. The term used in that paragraph is only apt for a policy of life insurance, although section 553(5) of ICTA covers capital redemption policies too, and the opening words of section 553(5) of ICTA are apt for both since they just refer to “the policy”. Instead of saying “issued in respect of an insurance made”, section 553(5)(a) of ICTA should have also have referred to a capital redemption policy “issued in respect of a contract made”. In practice, section 553(5) of ICTA is interpreted as if it referred also to the making of contracts for capital redemption policies.