

INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Savings and investment income

Chapter 9: Gains from contracts for life insurance etc.

Overview

1841. This Chapter charges to tax the investment profit from life insurance policies, life annuity contracts and capital redemption policies. It is based on Chapter 2 of Part 13 of ICTA.
1842. The Chapter uses “gains” to describe what is charged to tax, as in the source legislation. The term “profits” is not used because it has different, well established meanings in the context of policies of life insurance etc. For example, the insurance industry uses “profits”, as in “with profits” policies, to describe bonuses which are not “gains” within the meaning of this charge.
1843. Whereas the source legislation often deals separately with each type of policy and contract falling within this charge, the Chapter deals with all three types at the same time, so far as possible, while still preserving any differences in the rules for each type.
1844. Most of the policies and contracts to which the Chapter applies are held by individuals or on trusts created by individuals. But the Chapter deals with all circumstances under which gains are charged to income tax, irrespective of the capacity of the policy holder.
1845. Where the gain is charged to corporation tax (that is, when the rights under the policy or contract are held by a company, or on trusts created by a company, or as security for a debt owed by a company, and the company is within the charge to corporation tax), the relevant provisions are in Chapter 2 of Part 13 of ICTA, as amended by Schedule 1 to this Act.
1846. The income tax provisions in this Chapter for charging gains and the corporation tax provisions in ICTA apply independently to any policy or contract. In practice, the same event will occur, and the amount of the gain will be the same, under both sets of provisions. But a charge to tax under one or other tax (sometimes to both taxes) only arises if someone is liable for the respective tax on the gain by virtue of sections 464 to 467 of this Act or section 547(1)(b) of ICTA. The corporation tax provisions do not include the equivalent of sections 530 to 537 (income tax treated as paid and top slicing relief) and 539 to 541 (relief for deficiencies).
1847. Life insurance policies certified by the Inland Revenue as “qualifying policies”, under paragraph 21 of Schedule 15 to ICTA, do not generally give rise to gains under this Chapter. The rules in Schedule 15 to ICTA include that:

*These notes refer to the Income Tax (Trading and Other Income)
Act 2005 (c.5) which received Royal Assent on 24 March 2005*

- the policy must have a minimum term of ten years from the date it was made to the date it is due to end; and
 - premiums of fairly even amounts must be payable at regular intervals in every year for at least ten years.
1848. Qualifying policies generally give rise to gains chargeable to tax if a “chargeable event” occurs:
- before the earlier of ten years from the beginning of the policy or three-quarters of the term for which it is due to run; or
 - after the policy has – before the earlier of those two periods – been made a “paid up” policy (that is, no further premiums need be paid).
1849. The Chapter makes a number of minor changes to the law. And it includes provisions based on extra-statutory concessions.
1850. The Chapter also incorporates, so far as relating to the income tax charge, the secondary legislation for the special charge on personal portfolio bonds (the Personal Portfolio Bonds (Tax) Regulations 1999 [SI 1999/1029](#), as amended by [SI 2001/2724](#) and [SI 2002/455](#)). In this commentary, those regulations are abbreviated as “PPB(T)R”.
1851. Date-related provisions (that is, provisions which apply only to policies or contracts issued before a particular date) are located in Parts 6 and 7 of Schedule 2 to this Act rather than in this Chapter. Part 6 is organised chronologically so that policy holders can see, in relation to their own policies or contracts, which rules qualify the provisions in the Chapter. Part 7 is wholly concerned with policies issued in respect of an insurance made before 17 March 1998 and contracts made before that date. Section 546 indicates when Schedule 2 to this Act modifies the operation of the section and the relevant paragraph(s) of the Schedule.
1852. A few date-related provisions have been retained within this Chapter where it would be unhelpful to remove them (for example, section 507(4) (method for making periodic calculations under section 498)).
1853. Some provisions in Part 5 of Schedule 2 to this Act (paragraphs 85 to 91) also apply. These depend on dates other than the date of issue of a policy or contract.
1854. The Chapter is laid out as follows-
- charge to tax under Chapter 9 (sections 461 to 463)
 - person liable etc. (sections 464 to 472)
 - policies and contracts to which Chapter 9 applies (sections 473 to 483)
 - when chargeable events occur: general (sections 484 to 490)
 - calculating gains: general (sections 491 to 497)
 - part surrenders and assignments: periodic calculations and excess events (sections 498 to 509)
 - transaction-related calculations and part surrender or assignment events (sections 510 to 514)
 - personal portfolio bonds (sections 515 to 526)
 - reductions from gains (sections 527 to 529)
 - income tax treated as paid and reliefs (sections 530 to 538)
 - deficiencies (sections 539 to 541)

These notes refer to the Income Tax (Trading and Other Income) Act 2005 (c.5) which received Royal Assent on 24 March 2005

- supplementary (sections 542 to 546)

Section 461: Charge to tax under Chapter 9

1855. This section charges gains from policies and contracts to tax. It is based on, and combines:

- the income tax charge in section 547(1) of ICTA (which stands outside the schedular system);
- the charges under Schedule D Case VI in sections 547(6) and 553(6) of ICTA; and
- the special charge on personal portfolio bonds under section 547 of ICTA by virtue of regulation 6 of PPB(T)R.

1856. The exemption mentioned in *subsection (4)* is not an exhaustive statement of exemptions that may apply.

Section 462: When gains arise from policies and contracts

1857. This section explains when a gain arises and introduces the concept of a “chargeable event”. It is based on sections 540, 542, 545 and 546C of ICTA.

Section 463: Income charged

1858. This section is based on section 547 of ICTA. It sets out the amount charged to tax.

1859. *Subsection (2)* flags the one circumstance where the gain to be charged for a tax year may have arisen in an earlier tax year. That is, the tax year for the charge is not the tax year in which the chargeable event occurred.

Section 464: Person liable for tax: introduction

1860. This section and the following three sections determine who is liable for tax charged under this Chapter. (Sections 466(3) and 468 indicate when a gain arising under this Chapter is not charged under the Chapter but may instead be taken into account for certain other income tax charges.) The section is based on section 547 of ICTA.

1861. The source legislation does not preclude an overlap between the attribution of liability to one “person liable” and to another (say, both to an individual who placed a policy in trust and to the trustees who hold the legal rights in the policy). In practice, liability of a UK resident individual normally prevails over other liability and the gain is not doubly charged to tax. See also the commentary on section 467 as it applies where the rights are held by trustees on charitable trusts (when liability falls on the trustees rather than the settlor).

1862. *Subsection (3)* provides that references in sections 464 to 467 to a surrender or assignment of rights refer, where appropriate, to a surrender or assignment of a part of, or share of, the rights. A *part* of the rights means one or more discrete rights provided by the policy or contract. A *share* in the rights means part of the ownership, where there are multiple owners, of such a discrete right or rights or of all the rights in the policy or contract. (The rule applied in this subsection is also found elsewhere in the Chapter. See in particular section 469(7) (two or more persons interested in policy or contract).)

Section 465: Person liable: individuals

1863. This section sets out three ways of holding or owning the rights under a policy or contract by virtue of any of which an individual may be liable to tax on the gain. Where an individual is so liable, the amount charged is treated as part of the individual’s “total income” (section 835 of ICTA). This section is based on section 547 of ICTA.

1864. Although unfettered beneficial ownership of the rights may be the most commonly met circumstance, policies and contracts are also commonly placed in trust for beneficiaries (whether for the settlor and/or other beneficiaries). Policies and contracts may also be used to secure a loan (such as a mortgage of property). If any of the three ways of holding or owning the rights applies, that is sufficient to attribute liability for tax on the gain to that individual. (But see section 467 when the rights are held on charitable trusts created by the individual.)
1865. *Subsection (1)* incorporates part of ESC B53. Under the concession, the Inland Revenue does not pursue liability to tax on a gain, where a non-UK resident individual is liable, in any of the circumstances mentioned in this subsection. The section achieves the same net effect by a different route. It simply limits attribution of liability to UK resident individuals, so that the non-UK resident individual is not liable to tax on the gain in the first place. See *Change 88* in Annex 1.
1866. **Chapter 1** of Part 4 of this Act provides a general territorial limitation on the scope of the Part. As regards income arising outside the United Kingdom, it limits the charge to such income arising to a UK resident. See section 368 (territorial scope of Part 4 charges) and the related commentary on that Chapter. This section overlaps and supplements that Chapter to ensure that a non-UK resident individual is not liable to tax under this Chapter on any gains, whether arising in the United Kingdom or elsewhere.
1867. *Subsection (6)* indicates that an individual is treated as creating a trust, for the purposes of this Chapter, when a policy or contract is placed in trust under any of three specific Acts. Such trusts are commonly created, for example, when a policy (such as a mortgage protection policy) is to benefit one or both parties to a marriage. But the subsection is not an exhaustive definition of all the circumstances in which trusts are created by an individual.

Section 466: Person liable: personal representatives

1868. This section sets out how a gain is charged to tax when the rights under the policy or contract are held by the personal representatives of a deceased person's estate. It is based on sections 547 and 553 of ICTA. The term "personal representatives" is defined in section 878 of this Act.
1869. There are two possible treatments. The first is conditional on the policy or contract being one that, were an individual liable to tax in respect of the gain arising on that policy or contract, no lower rate income tax allowance would be available under section 530. Broadly, that allowance is not given where the investment profits underlying the policy or contract are not subject to tax in the hands of the insurer. That may be because the investment profits were not so taxed in the hands of a UK based insurer or the policy or contract was held with a non-UK based insurer (and there was no equivalent foreign tax charge on investment profits in the hands of the insurer).
1870. Where this condition applies, the gain is taxable on the personal representatives as their income in that capacity. The personal representatives are thus liable for the tax.
1871. If the condition does not apply, the gain is not charged on the personal representatives under this Chapter. Instead, the gain falls into the "aggregate income of the estate of the deceased" for the purposes of Chapter 6 of Part 5 of this Act (see section 664 (the aggregate income of the estate)) and of Part 16 of ICTA.

Section 467: Person liable: UK resident trustees

1872. This section sets out to what extent UK resident trustees are liable for the tax charged on a gain. It is based on section 547 of ICTA. The section sets out four circumstances under any of which trustees are liable. All four circumstances depend wholly or partly on how the rights under the policy or contract are held immediately before the chargeable event

in question occurs. There are significant differences of treatment between trustees of charitable trusts and non-charitable trusts.

1873. Where the rights are held on *charitable trusts*, the liability falls on the trustees rather than on any settlor. However, the tax charge on the trustees is at the lower rate only. So there is no net liability where the lower rate income tax allowance under section 530 is available.
1874. If the rights are held on *non-charitable trusts*, the trustees are liable where:
- the settlor is non-UK resident, or is dead, or is a company or foreign institution that no longer exists (that is, the settlor could not be liable to tax on the gain or – as regards a foreign institution – be instrumental in the gain being taken into account for the purposes of section 740 of ICTA – see section 468); or
 - the rights are held in any other circumstances *excluding* those already taken into account under sections 465 (where an individual is liable) or 466(1) (where personal representatives are liable), or under section 547(1)(b) of ICTA (where a company is liable).
1875. The trustees of both charitable trusts and non-charitable trusts are liable where condition D applies.
1876. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 468: Non-UK resident trustees and foreign institutions

1877. This section sets out in what circumstances a gain treated as arising under this Chapter is taken into account under section 740 of ICTA (liability of non-transferors). It is based on section 547 of ICTA.
1878. It applies when the rights under the policy or contract are held by, or held as security for a debt owed by:
- non-UK resident trustees; or
 - a “foreign institution”.
1879. As regards trustees, the same four circumstances (conditions A to D) of section 467 apply, with the substitution of non-UK resident trustees for UK resident trustees, to determine whether this section applies. But the section makes no other distinction between cases where rights are held on charitable trusts or non-charitable trusts.
1880. A gain taken into account for the purposes of section 740 of ICTA, as modified by this section, is not charged under this Chapter.
1881. *Subsection (6)* qualifies the meaning of “rights”, where there has been an assignment or surrender of a part of or share in the rights, in the same way as does section 464 (see the commentary on that section).

Section 469: Two or more persons interested in policy or contract

1882. This section, together with sections 470 to 472, is based on section 547A of ICTA. These sections deal with cases where the rights in a policy or contract (or a share in those rights) are held immediately before the chargeable event:
- by more than one person;
 - by one person in respect of different shares held in different capacities; or
 - on non-charitable trusts created by two or more persons.

1883. The most common instance of this is where a husband and wife are co-owners of a policy or contract.
1884. The section apportions the gain in proportion to the “material interest” of each person with such an interest (see section 470). It treats each person with a material interest separately, for the purpose of assigning liability to tax etc, disregarding for this purpose how the Chapter applies in respect of a material interest held by another person. It also apportions deficiencies for the purposes of the relief given by section 539.
1885. Although the source legislation has effect for the purposes of section 547 of ICTA only, this section operates by reference to provisions that apply for the purposes of the Chapter. As a result of the significant reordering of the source legislation when rewriting it, section 547 of ICTA is the basis of numerous sections at various locations. The application of this section to sections that operate in a Chapter-wide context is a necessary consequence of the rewrite of section 547 of ICTA.
1886. *Subsection (6)* applies the section to someone who has two or more interests in a policy or contract exactly as the section applies where two or more persons have such interests. For example, a person may hold one interest beneficially and the other as a trustee. Each of those interests is treated separately. But there is an exception where all the material interests are held by that person only (that is, the interests are not shared) and are held in the same capacity. For example, one share may be beneficially owned by A, but held in a trust, and another share held by A absolutely. Both shares are held in the same capacity.
1887. *Subsection (7)* is similar in effect to the equivalent subsection in section 464 and section 468. See the commentary on section 464.

Section 470: Interests in rights under a policy or contract for section 469

1888. This section provides the meaning of “material interest” for the purposes of section 469. It is based on section 547A of ICTA. The circumstances in which someone is regarded as having an interest in rights under a policy or contract for this purpose mirror the circumstances set out in sections 465 to 468 (and, as regards companies chargeable to corporation tax, in section 547 of ICTA) for attributing liability to tax on gains or otherwise taking gains into account for tax purposes.

Section 471: Determination of shares etc.

1889. This section determines each person’s share of the rights in the policy or contract where, because the rights are held jointly by, or as security for a debt owed by, two or more persons, that share has to be established to work out the liability of one or more persons in respect of a gain. It is based on section 547A of ICTA.
1890. *Subsections (2) to (5)* deal with a person’s interest in a policy or contract held as security for one or more debts owed by two or more persons. Each debtor is treated as the sole debtor in respect of a separate debt. For each liable person, the share of any gain is proportionate to the share of the total debt for which security was provided.
1891. *Subsection (7)* deals with the case where different rights under a policy or contract are held by different people. For example, the right to a death benefit under a policy may be held by one person and the right to critical illness benefit under the same policy may be held by another person. The rights are shared between them on a just and reasonable basis. See *Change 14* in Annex 1.

Section 472: Trusts created by two or more persons

1892. This section determines each settlor’s share of the rights, or of a share in the rights, in policies or contracts where, immediately before the chargeable event in question, the rights (or that share) are held on non-charitable trusts created by two or more persons. It also sets out how that share is determined if the property held on trust was added by

different settlors, whether at the time the trust was created or at a later date. It is based on section 547A of ICTA.

1893. *Subsections (3) to (7)* determine the appropriate share if settlors contribute different property to the trust or a new settlor adds property to a trust already created. The trust is treated as if it had been created by all of them, including the new settlor where applicable, and each is treated as the only settlor for the purposes of this section. The rules set out explicitly when someone is regarded as having contributed property to the trust. For example, subsection (7) applies when A contributes property to what is essentially B's settlement because B has made an equivalent contribution to A's settlement. Although B's contribution is treated as property provided by A for the purposes of subsection (6), A's contribution under reciprocal arrangements with B is disregarded.
1894. Subsection (4)(c) allocates a bundle of types of property between settlors on the basis of a "just and reasonable" apportionment where this is necessary for the purposes of subsections (2) and (3). See *Change 14* in Annex 1.

Section 473: Policies and contracts to which Chapter 9 applies: general

1895. This section is based on section 539 of ICTA.
1896. *Subsection (2)* provides definitions. The definition of a "life annuity" is by reference both to this Act and to ICTA because the policy holder and the person liable (whether the tax charge is to income tax or corporation tax) may not be the same and may not be subject to charges under the same tax. The Chapter does not provide a definition for the more readily understood term "policy of life insurance" (nor is one provided in the source legislation). But section 545 indicates that "policy", unless the context otherwise requires, means both a policy of life insurance and a capital redemption policy.
1897. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 474: Special rules: qualifying policies

1898. This section is based on sections 553 and 553A of ICTA. "Qualifying policy" is defined in section 832(1) of ICTA as "a policy of insurance which is a qualifying policy for the purposes of Chapter 1 of Part 7 [of ICTA]". That is, it is in effect a policy meeting the conditions set out in Schedule 15 to ICTA.
1899. *Subsection (4)* takes away qualifying policy status from a policy issued by a non-UK resident insurer once it ceases to meet one of the conditions in paragraph 24(3) of Schedule 15 to ICTA (by virtue of which it was a qualifying policy). Broadly, the conditions in that paragraph are met when the policy forms part of business done through the insurer's UK permanent establishment.
1900. *Subsection (5)* denies qualifying policy status to a policy which is part of the overseas life assurance business of the insurer, that is, a policy taken out by a non-UK resident policy holder with an insurer operating in the United Kingdom. The subsection applies only in relation to the chargeable event in question.

Section 475: Special rules: personal portfolio bonds

1901. This section is new.

Section 476: Special rules: foreign policies

1902. Although gains from foreign policies and contracts are taxable under this Chapter alongside gains from UK policies and contracts, there are a number of differences of treatment. Primarily, these arise from the fact that the underlying investment profit has not usually been subject to UK tax (or to an equivalent tax regime). However, subject

to these differences, any rule in this Chapter referring to a policy or contract, or to one or more of the insurance products listed in section 473(1), applies to foreign policies and contracts. This section is based on sections 553, 553A and 553B of and paragraph 24(1) of Schedule 15 to ICTA.

1903. The source legislation uses the terms “new non-resident policy”, “overseas policy” and “new offshore capital redemption policy”. The “new” in those terms indicates such policies were issued on or after the commencement date for the legislation that introduced special rules. The terms used in this Chapter simply add “foreign” to the descriptions used for comparable UK policies and contracts.
1904. The definitions for a “foreign policy of life insurance” and a “foreign capital redemption policy” each contain two categories. This reflects the introduction at different times of the modifications of treatment for policies of life insurance and capital redemption policies, which:
- are issued by a non-UK resident insurer (introduced by FA 1984); or
 - are other policies forming part of the insurer’s overseas life assurance business (introduced by FA 1998).
1905. Some policies in the second category may also fall into the first. However, other than for the construction of the definitions themselves, certain rules in sections 474 and 531, and paragraphs 106 and 110 of Schedule 2 to this Act, the distinction between the categories is not material to the operation of this Chapter.
1906. There is no provision in the Chapter (or relevant paragraph of Schedule 2 to this Act) that applies exclusively to a foreign contract for a life annuity (although most of the contracts affected by, say, section 531(3)(c) are foreign). No definition is therefore provided for such contracts.
1907. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 477: Special rules: certain older policies and contracts

1908. This section is new.

Section 478: Exclusion of mortgage repayment policies

1909. This section is based on section 539 of ICTA. It excludes a particular type of policy taken out in connection with a mortgage. Other types of policy taken out in that connection may be affected by the rules for qualifying policies, such as section 485. See section 879 of this Act for the meaning of “mortgage” in the application of this section to Scotland.

Section 479: Exclusion of pension policies

1910. This section is based on section 539 of ICTA. The term “registered pension scheme” reflects the FA 2004 rules about pension schemes which apply from 6 April 2006 and include a substituted definition in section 539 of ICTA. Paragraph 86 of Schedule 2 to this Act ensures that the unamended definition of a “pension policy” in section 539 of ICTA applies for the tax year 2005-06.

Section 480: Exclusion of excepted group life policies

1911. This section is based on section 539(2) and (3) of ICTA. A group life policy is typically one taken out for members of trades unions, professional associations and partnerships, paying out successively on the death of any of the lives insured. But for the exclusion provided by this section, each such death would give rise to a chargeable event under section 484(1)(b).

1912. See also section 546 (table of provisions subject to special rules for older policies and contracts) and paragraph 90 of Schedule 2 to this Act (gains from contracts for life insurance etc: pure protection group life policies).

Section 481: Excepted group life policies: conditions about benefits

1913. This section is based on section 539A of ICTA. The conditions set out here and in the next section ensure that the only policies benefiting from the exclusion are those:

- providing death benefits on equal terms for all lives covered; and
- having a minimal surrender value (if any).

1914. For example, condition A (*subsection (2)*) sets an upper age limit of 75 for any age-related restriction of the payment of benefits on death in any circumstances. It also disregards any limitation on payment of death benefits for particular reasons (for example, suicide) if the same limitation (“the same specified circumstances”) applies to all lives assured.

Section 482: Excepted group life policies: conditions about persons intended to benefit

1915. This section completes the conditions relating to an excepted group life policy. It is based on section 539A of ICTA.

1916. *Subsection (3)* uses the term “connected”. Section 878 of this Act applies section 839 of ICTA (how to tell whether persons are connected) for this purpose.

Section 483: Exclusion of credit union group life policies

1917. This section excludes a particular type of group life policy. It is based on section 539 of ICTA.

1918. *Subsection (2)* defines “credit union group life policy” in terms of the single stringent condition such a policy must meet to qualify for exclusion.

Section 484: When chargeable events occur

1919. This section is the first of a group of sections which set out what does or does not constitute a chargeable event under this Chapter. This section is based on sections 539, 540, 542, 545 and 546C of ICTA, and regulation 6 of PPB(T)R. Later sections in this Chapter operate by reference to this list of chargeable events (see sections 485, 491, 493, 496, 499, and 540).

1920. *Subsection (1)* groups together in paragraph (a) the events applicable to all policies and contracts and, in paragraphs (b) to (e), the events specific to one or more type of policy or contract.

1921. The source legislation treats the events in subsection (1)(a)(iii), (d) and (e) as a surrender of the rights under the policy or contract, which then triggers a chargeable event (see sections 539(4) and 542(2) of ICTA). The section treats the events themselves as chargeable events without the preliminary treatment of them as surrenders.

1922. Subsection (1)(e) makes clear that, where a capital sum is taken as an alternative to annuity payments, such payments include future payments.

1923. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 485: Disregard of certain events in relation to qualifying policies

1924. This section is based on section 540 of ICTA. It deals with circumstances in which qualifying policies do not give rise to chargeable events.
1925. Broadly, there is no chargeable event if:
- the event is:
 - the death of a person whose life is insured; or
 - the maturity of the policy; or
 - the policy has run for a period measured by the earlier of:
 - ten years; or
 - three-quarters of the policy's term;
- so long as the policy has not been made "paid-up" within that same period.
1926. *Subsection (6)* re-starts this time calculation of how long the policy has run from the date of variation, if the policy is varied to increase the premiums payable.
1927. *Subsections (2)* and *(3)* do not rewrite the words in brackets in the opening of section 540(1)(b) of ICTA "whether or not the premiums thereunder are eligible for relief under section 266". These words add nothing of substance.
1928. Paragraph (b) in each of subsections (2) and (3) reflects a circumstance in which the restriction of what is a chargeable event for a qualifying policy is itself disapplied. It operates where a company would, by virtue of section 547(1)(b) of ICTA, be a person liable to corporation tax on a gain treated as arising on the policy or contract. As described in the commentary on section 464, attribution of corporation tax liability to that company does not prevent other persons, such as an individual, also being attributable with income tax liability in respect of the gain. This rule operates at a level – what is a chargeable event – where there is no difference between the two tax regimes. See also section 546 (table of provisions subject to special rules for older policies and contracts).
1929. Such a disapplication of the restriction is unnecessary in *subsection (5)*. This subsection is based on section 546B of ICTA. Section 540(5A) of ICTA (on which the restriction in subsections (2) and (3) is based) does not apply to the restriction provided for qualifying policies by section 546B(1A) of ICTA, in relation to events that are found by applying section 546B of ICTA (see section 546C(7)(a) of ICTA for when such events arise).
1930. *Subsection (7)* deals with the circumstance where a qualifying policy replaces another policy (which may not have been a qualifying policy). It requires certain terms in paragraph 25 of Schedule 15 to ICTA to be met. The new policy will in part have been designated a qualifying policy under Schedule 15 to ICTA because those circumstances were met. This subsection is based on section 553 of ICTA.

Section 486: Exclusion of maturity of capital redemption policies in certain circumstances

1931. This section is based on section 545(1) of ICTA. The source legislation refers in part to "annual payments chargeable to tax under Schedule D". The income tax charge on such income is rewritten in the Chapters listed in the section. The corporation tax charge on such income is still under Schedule D.

Section 487: Disregard of certain assignments

1932. This section is based on sections 540, 542, 544 and 545 of ICTA. In the source legislation the assignments mentioned here are ignored only for the purposes of

particular provisions under which assignments are chargeable events. But, because the assignments in question are disregarded for the purposes of this Chapter, not only is such an assignment not a chargeable event, it is ignored, as regards that policy or contract, in the operation of the rest of the Chapter.

Section 488: Disregard of some events after alterations of life insurance policy terms

1933. This section and the next are based on ESC A96. See *Change 89* in Annex 1.
1934. The disregard applies where a policy which is at least 20 years old is effectively made paid-up by the insurer. A chargeable event which might have arisen afterwards as a result of that variation is disregarded if the changes made to the policy would not themselves give rise to a chargeable event.
1935. *Subsection (3)* extends the disregard to a replacement policy issued by the insurer in lieu of the old, where the issue of such a policy is what the insurer does to give effect to the alteration of the original policy's terms.

Section 489: Conditions applicable to alterations of life insurance policy terms

1936. This section is based on ESC A96. See *Change 89* in Annex 1. The conditions in *subsections (2) to (8)* ensure among other things that the disregard provided by section 488 falls away if the policy is reactivated for investment purposes.

Section 490: Last payment under guaranteed income bonds etc. treated as total surrender

1937. This section supplements section 484. It is based on section 79 of FA 1997.
1938. *Section 504* deals with the treatment of payments under guaranteed income bonds prior to the last payment. *Subsection (7)* of that section defines the term "guaranteed income bond contract". See the commentary on that section for further background.

Calculating gains: general

Overview

1939. *Section 491 to 497* set out how to calculate a gain on a chargeable event *other than* one arising on any part surrender or part assignment, or an event in respect of the special charge for personal portfolio bonds.
1940. *Section 491* introduces a number of terms which are used throughout the Chapter for the computation of gains (and defines them in *subsection (4)*). These are:
- "calculation event" (an umbrella term for events, the occurrence of which is dependent on the outcome of one of several prescribed calculations); and
 - "excess event", "part surrender or assignment event" and "personal portfolio bond event" (the types of event which may flow from such a calculation).

Section 491: Calculating gains: general rules

1941. This section deals with the calculation rules for all chargeable events other than those triggered by a part surrender or part assignment of rights under the policy or contract, or by the special charge on personal portfolio bonds. It is based on sections 541, 543 and 545 of ICTA and section 79 of FA 1997. (For the relevance of section 79 of FA 1997, see section 490.)
1942. *Subsection (2)* introduces the concepts of the "total benefit value" and the "total allowable deductions". These terms are used in other sections in this Chapter (for example, section 541 (calculation of deficiencies)).

1943. *Subsection (5)* indicates that gains on a previous calculation event include gains on a “related policy” (defined in *subsection (6)*). See *Change 90* in Annex 1.

Section 492: The total benefit value of a policy or contract

1944. This section is based on sections 541, 543, 545 and 548 of ICTA, and section 79(3) of FA 1997.
1945. The “total benefit value” of a policy or contract consists of the value of the policy or contract in relation to the event (paragraph (a)) added to capital sums (or benefits or amounts treated as such) derived from the policy or contract prior to the chargeable event itself (paragraph (b)).
1946. *Subsection (2)* makes clear that capital amounts derived from a related policy are brought in for this purpose.

Section 493: The value of a policy or contract

1947. The value of a policy or contract is determined by reference to the particular kind of event. This section is based on sections 541, 542, 543, and 545 of ICTA, and section 79 of FA 1997.
1948. *Subsections (1)* and *(2)* provide for the value in the majority of events.
1949. In relation to the reference in *subsection (6)* to connected persons, see section 878 of this Act (which applies section 839 of ICTA).

Section 494: The total allowable deductions for a policy or contract

1950. This section is based on sections 541, 543, 545 and 548 of ICTA.
1951. Step 1 in *subsection (1)* lists amounts to be taken into account as deductions. Paragraph (a) deals with the vast majority of cases, where the only item to be taken into account is the total of premiums paid before the chargeable event. See also section 546 (table of provisions subject to special rules for older policies and contracts).
1952. Step 2 in *subsection (1)* reduces the total allowable deductions for a purchased life annuity by the exempt amount (or capital element) in payments to date. The exempt amount is determined under Chapter 7 of Part 6 of this Act and (as regards the capital element) under ICTA as appropriate (see the commentary on section 473).
1953. Paragraph (b) in Step 1 deals with the repayment of loans which were treated as a part surrender of the rights under the policy or contract.
1954. *Subsection (2)* caters for assignments for money or money’s worth of capital redemption policies. In the case of such assignments paragraph (a) in Step 1 in *subsection (1)* applies to the price paid in respect of the most recent such assignment instead of the premiums paid before that assignment.
1955. *Subsection (3)* makes clear that premiums etc. paid in respect of a related policy (as defined in section 491) are included in the calculation of total allowable deductions.

Section 495: Disregard of certain amounts in calculating gains under section 491

1956. This section contains rules which exclude various amounts from the calculation of the total benefit value under section 492 and the total allowable deductions under section 494 in arriving at the amount of a gain under section 491. It is based on sections 541, 543 and 545 of ICTA.
1957. *Subsections (1)* and *(2)* deal with a retained replacement policy premium. This disregard is based on paragraph 20 of Schedule 15 to ICTA, which deals with the replacement of one qualifying policy by another, where the value of the old policy is used as a

premium for the new policy. The old and new policies are treated as a single policy (see section 542). The value of the old policy is disregarded both in working out the total benefit value of that single policy and, as regards use of the value of the old policy as a premium for the new policy, in working out the total allowable deductions for the single policy.

1958. *Subsection (4)* reflects an amendment in FA 2002 of a rule introduced by FA 2001, under which an assignment which is not for money or money's worth (such as a gift) is not treated as giving rise to a chargeable event. But assignments which were not for money or money's worth still have to be taken into account in calculating gains if they occurred in an "insurance year" (see section 499) ending before 6 April 2001.

Section 496: Modification of section 494: qualifying endowment policies held as security for company debts

1959. Although this section refers to a policy held as security for a company's debt (a circumstance in which liability to corporation tax on a gain arises under section 547(1) (b) of ICTA), this modification is part of the income tax rules because liability on that gain can also be attributable to a person to whom sections 464 to 468 apply or are relevant. It is based on section 541 of ICTA. Where this section applies, the eligible amount of the debt is substituted for premiums paid under the policy in calculating any gain. A claim by the debtor company is required.

Section 497: Disregard of trivial inducement benefits

1960. This section is based on ESC B42. It excludes non-monetary benefits costing no more than £30, which are offered as inducements to attract life insurance business, from the computation of any gain under this Chapter. See *Change 91* in Annex 1.
1961. ESC B42 refers to "gifts" but the section refers to "benefits" as a more accurate description of what is provided. It also matches more closely the drafting of the various sections for calculating gains.
1962. *Subsection (3)* provides for a future increase (or increases), but not for any decrease, in the monetary limit set on this disregard. See section 873 of this Act for the procedural rules which apply to secondary legislation made under powers in this Act.
1963. The monetary limit is applied by reference to the "policy or contract and any linked policy or contract" taken as one. This caters for an insurance industry practice of issuing "clusters" of policies to give the policy holder any required flexibility in managing the total investment.

Part surrenders and assignments: periodic calculations and excess events

Overview

1964. **Sections 498 to 509** perform the same function for chargeable events which are excess events as do sections 491 to 496 for the chargeable events those sections relate to. They set out when this type of part surrender or assignment (including something treated as a part surrender) gives rise to a chargeable event, and how to calculate the amount of the gain arising on that event. The calculation of the gain is made by reference to the history of the policy or contract from when the insurance or contract was made up to the end of the insurance year in which the surrender or assignment occurred. This is the more commonly occurring type of chargeable event arising on a part surrender and assignment.
1965. The sections introduce further expressions, such as "periodic calculations" (this term is not defined but refers to situations where sections require calculations and the incidence of chargeable events is linked to the result of the calculation).

1966. The meaning of “insurance year” and “final insurance year” is provided by section 499. These terms are widely used in this Chapter in calculating gains and in determining when a gain arises and when a chargeable event occurs.

Section 498: Requirement for periodic calculations in part surrender or assignment cases

1967. This section based on sections 540, 542, 545 and 546 of ICTA.
1968. *Subsection (1)* states that the section applies when there has been an assignment for money or money’s worth or a surrender. The section omits the requirement in the source legislation that a calculation is carried out at the end of each insurance year, regardless of whether there has been any such assignment or surrender. But, in an “event-less” year, there could not be any gain, so the calculation would be pointless. See *Change 92* in Annex 1.

Section 499: Meaning of “insurance year” and “final insurance year”

1969. This section is based on sections 546, 546B and 546C of ICTA.
1970. *Subsection (1)* defines an “insurance year”. The definition is applied for the purposes of this Chapter, whereas in the source legislation the application of the definition of “year” is more limited. The source legislation to which the definition is relevant, section 546 of ICTA, is rewritten in a great number of locations in this Chapter. It is no longer practical, or indeed necessary, to limit the application of the definition.
1971. *Subsection (3)* sets out how the basic rule is varied when the sequence of insurance years is broken by certain of the events listed in section 484(1). Where such an event occurs, the year ends at that point and is called the “final insurance year”. An assignment of all the rights under the policy or contract is not such an event, as the policy or contract continues in existence despite the change of ownership of the rights.
1972. Where the term “final insurance year” is used in this Chapter, it therefore indicates that one of the specified events in section 484(1) has occurred.
1973. One of those events is “a death giving rise to benefits” under a policy of life insurance. The source legislation for the meaning of “insurance year” merely refers to a “death”, and does not cross-refer to the definition of a chargeable event in sections 540, 542 and 545 of ICTA. A cross-reference to events under section 484, rather than words describing the event, is more precise. It also disregards a death which does not give rise to benefits.
1974. *Subsection (5)* caters for when the final insurance year would begin and end in the same tax year. But for the rule in this subsection, the previous insurance year would end in the same tax year as the final year, and any part surrender or assignment in that year might give rise to a gain that would be charged for that year in addition to the gain on the final event. To avoid (in most cases) the complexity of two sets of computations in one tax year, the previous insurance year is merged with the final year as a single insurance year, the “final insurance year”.
1975. Where the year is the final insurance year, section 509(5) accordingly sets aside any chargeable event that would arise on a periodical calculation under section 507 following a part surrender or assignment,. But, where the circumstances in section 510 apply, and the year in question is the final insurance year, there will be more than one computation in that year, and there may be a gain on a transaction-related calculation as well as a gain under section 491. In most cases the persons liable in respect of the gain on the transaction-related calculation and the gain on the final event are different.

Section 500: Events treated as part surrenders

1976. This section deals with some circumstances that would not otherwise be regarded as a surrender of part of the rights under a policy or contract. Paragraph (a) is based on section 539 of ICTA, paragraph (b) on section 542 of ICTA, paragraph (c) on section 548 of ICTA and paragraph (d) on section 79 of FA 1997.
1977. Note that an “event” within this section is not a “chargeable event”, unless:
- the calculation under section 507 results in a gain; and
 - there is a chargeable event by virtue of section 509 or section 514.
1978. Paragraph (b) makes explicit the treatment of the circumstance where a capital sum is taken as an alternative to part of annuity payments under a contract for a life annuity. See *Change 93* in Annex 1.
1979. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 501: Part surrenders: loans

1980. This section is based on section 548 of ICTA. It counters the avoidance of tax when the profit accrued on the policy or contract is paid to the policy or contract holder in the form of a loan.
1981. The section includes references to a loan to a company, and to section 547 of ICTA, for reasons comparable to those given in the commentary on sections 485 and 496.
1982. See paragraph (c) of step 1 in section 494(1) for the inclusion, as an allowable deduction in certain calculations, of any repayment in whole or in part of a loan which is treated by virtue of this section as a part surrender under section 500.
1983. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 502: Exception from section 501 for loans to buy life annuities

1984. This section is based on section 548 of ICTA.

Section 503: Exception from section 501 for certain loans under qualifying policies

1985. This section is based on section 548 of ICTA.
1986. Condition B reflects the saving provided for certain loans made before 6 April 2000 by paragraph 18(3) of Schedule 4 to FA 1999 (when tax relief for interest was largely withdrawn).

Section 504: Part surrenders: payments under guaranteed income bonds etc.

1987. This section is based on section 79 of FA 1997. It applies to payments by the insurer from a certain type of life insurance policy – “guaranteed income bonds” – that would otherwise be taken into account for tax purposes as interest or an annual payment.
1988. *Subsection (6)* strips such a payment of any character it has as interest or an annual payment so that it is not charged to income tax in that capacity. It is treated instead as a part surrender of the rights under the contract under section 500.
1989. The meaning of “guaranteed income bond contract” is given, in *subsection (7)*, by reference to the statutory instrument regulating insurance business (under powers provided by the Financial Services and Markets Act 2000).

1990. *Subsection (5)* excludes the final such payment from the application of this section. But see section 490, under which that payment is treated as the surrender of all remaining rights under the contract.

Section 505: Assignments etc. involving co-ownership

1991. This section and section 506 are based on section 546A of ICTA. They cater for changes in the person(s) having beneficial ownership of the whole or a part of, or a share in, the rights under the policy or contract, however the change comes about. That ownership is described in these sections as the “ownership interest” (see *subsection (4)*). But this section does not apply when there is a complete change of ownership of that interest (for example, when all the rights are assigned by the old owner or owners to a completely different person or persons).
1992. These sections ensure that only those owners who have reduced their share in the ownership interest (whether partly or completely) are treated as having made an assignment which may give rise to a gain and a chargeable event. Whether the deemed assignment is an assignment for money or money’s worth (which is material for section 498(1)) depends on how the change of ownership was effected between the parties.
1993. This section applies for the purposes of the Chapter (other than this section and section 506, which of necessity refer to the actual assignment). References elsewhere to an assignment have therefore to be construed in accordance with the rules in these sections.

Section 506: Assignments occurring when there is a co-ownership transaction

1994. This section introduces the term “co-ownership transaction” to describe a transaction to which section 505 applies. It is based on section 546A of ICTA.
1995. *Subsections (2) to (4)* define the deemed assignment for the particular permutation of before and after ownership described in each. They should be construed in the light of *subsections (5) and (6)*, which substitute ownership in equal shares (so that each owner is treated as having a distinct share) for joint ownership (where all owners have an interest in all rights attached to the share).
1996. *Subsections (2) and (4)* deal with the reduction in a person’s share in the rights under the policy or contract. *Subsection (3)* deals with the complete disposal of a person’s share in the rights.

Section 507: Method for making periodic calculations under section 498

1997. This section provides the core calculation rules which determine whether there is a gain and, if so, the amount of the gain, when there has been an assignment for money or money’s worth or a surrender of part of, or a share in, rights under the policy or contract. The calculation introduces the terms “net total value of rights surrendered or assigned” and “net total allowable payments”. Subsequent rules (see section 509) determine whether a chargeable event occurs in respect of that gain. It is based on sections 540, 541, 542, 543, 545, and 546 of ICTA.
1998. But the calculation under this section is displaced when certain transactions have occurred (see section 510).
1999. *Subsection (4)* sets out how the net total value of rights surrendered or assigned is found. Step 1 identifies, and step 2 totals, all relevant amounts from the current and previous insurance years. Step 3 then subtracts all such amounts taken into account on previous “calculation events”. That leaves the total of those amounts since the last such event. These amounts may relate to a period of one or more insurance years, depending on when the latest calculation event occurred (the value of the rights assigned or surrendered may have been too low for this calculation to show a gain). Section 508

contains rules for how the values of part surrenders or assignments of rights are to be measured.

2000. *Subsection (5)* sets out how to calculate net total allowable payments, that is, the amount that may be deducted from the product of the calculation in subsection (4). It is similar in approach to the calculation of total allowable deductions in section 494, but treats the premiums paid in a special way. An allowance is made, equal to 5% for each insurance year to date (including the year in which the premium was paid), of each premium payment or payments. The allowance, in respect of any particular premium payment, or the payments for a particular year, cannot exceed 100% of that premium or premiums.
2001. Through the definition of “allowable payment”, *subsection (6)* excludes a “retained replacement policy premium” from the amounts that can be taken into account as allowable payments in the calculation under subsection (5). As mentioned in the commentary on section 495, a retained replacement premium is a sum which becomes payable by the insurer in connection with the ending of the policy, but which is retained by the insurer and used to meet some or all of the premiums payable under a later policy.
2002. The source legislation provides that retained replacement premiums are to be ignored in calculating the amount of premiums taken into account under sections 540 and 541 of ICTA. But, in the case of a chargeable event within section 540(1)(a)(v) of ICTA, it is section 546 of ICTA that provides the method of calculating gains. In particular, section 546(1)(b) of ICTA deals with premiums to be taken into account in the calculation of part surrenders and assignments. Clearly, it is that section that paragraph 20(3) of Schedule 15 to ICTA was intended to affect, although it does not refer to section 546 of ICTA.
2003. The calculation of net total allowable payments in subsection (5), read with the definition of “allowable payment” in subsection (6), therefore rewrites the source legislation so that retained replacement premiums are ignored in the calculation of the gain arising on a part surrender or assignment.
2004. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 508: The value of rights partially surrendered or assigned

2005. This section is based on section 546 of ICTA and section 79 of FA 1997.
2006. *Subsection (1)* sets out the general rule for valuing part surrenders. It is similar to the rule for valuing the surrender of all rights under a policy or contract (see section 492(1) and (2)). This rule fills a gap in the source legislation. In the FA 1968 legislation for taxing chargeable event gains, a gain (including a gain on a part surrender or assignment) was calculated by reference to “the amount or value of the sum payable or other benefits arising by reason of the event” (see paragraph 12(1)(b) of Schedule 9 to that Act). However, when introducing the provisions now in the source legislation, FA 1975 used slightly different wording for gains in respect of part surrenders and assignments. Section 546(1) of ICTA refers to “the value, as at the time of surrender or assignment, of any part of or share in the rights conferred by the policy or contract...”.
2007. No change was intended from the value used previously for the regime. The wording in section 546(1) of ICTA was intended to refer to the amount that is paid as a result of the part surrender or assignment; that is, what the policy holder receives for the part surrender or assignment. So this section provides that, where there is a surrender of a part of, or share in, rights under a policy or contract, the value of the part or share surrendered is the amount or value of the sum payable or other benefits arising because of the surrender, unless another rule applies.
2008. *Subsection (2)* is based on section 548 of ICTA. That section provides that, in the case of the loan in question, the same results are to follow as if, at the time the sum was lent, there had been a surrender of part of the rights conferred by the policy or contract, and

the sum had been paid as consideration for the surrender. This section drops the fiction that the amount of a loan is the consideration for a surrender.

Section 509: Chargeable events in certain cases where periodic calculations show gains

2009. This section is based on sections 540, 542, 545, 546 and 546B of ICTA.
2010. The transactions mentioned in conditions A and B are those that trigger the operation of section 510. *Subsection (6)* signposts what happens in such circumstances.
2011. The effect of condition C is that there cannot be a chargeable event as a result of a gain arising under the calculation in section 507 when the insurance year is the final insurance year.

Transaction-related calculations and part surrender or assignment events

Overview

2012. These sections perform the same function as sections 498 to 509 for a particular circumstance. This is where, in any insurance year, there has been:
- a part assignment of rights under the policy or contract for money or money's worth; or
 - an assignment of such rights by gift after a part surrender of rights in that year.
2013. Each transaction in that year is the subject of a separate calculation. The rules here ensure that liability attaches to the person who profits from the transaction regardless of the change in the ownership of the rights in the policy or contract (otherwise liability on the gain would attach to the new owner).

Section 510: Requirement for transaction-related calculations in certain part surrender and assignment cases

2014. This section is based on section 546C of ICTA.
2015. Where the section applies, *subsection (2)* substitutes a fresh calculation under section 511, for each "relevant transaction" in the insurance year, for the discarded single calculation for that year under section 507. This is a change of approach from that taken in the source legislation, which is drafted in terms of a "section 546 excess occurring at the end of any year" being charged to tax under section 546C of ICTA. But the outcome is the same whichever approach is taken.
2016. Any assignment for money or money's worth in that year of a part of, or share in, the rights is *relevant*. Any surrender in that year of a part of, or share in, the rights is *relevant*. That is, the section applies to any such surrender in the year, regardless of whether that surrender was instrumental in triggering the section or whether it preceded or followed an assignment of any kind. This is described by *subsection (3)* as a "relevant transaction". That term is used also in sections 511 to 514.
2017. By carrying out a series of calculations, any of which may give rise to a chargeable event (see section 514), the gain is attributed to those liable at the time of that event, in accordance with sections 464 to 468, rather than to those liable by reference to how the rights are held in respect of chargeable events occurring at the end of the insurance year.
2018. *Subsection (6)* indicates that *subsections (2)* and *(4)* are modified by the rules in section 513 for the final insurance year (which provides that no subsequent calculations are made once a "gains limit" has been reached).

Section 511: Method for making transaction-related calculations under section 510

2019. This section and the next set out the calculation required by section 510. This section is based on section 546C of ICTA.
2020. The calculation in these sections is designed to isolate, for each relevant transaction, the value of the transaction in question and how much of the premiums paid to the end of the insurance year in question is available to set against that value. The excess of that value over the available premium is the chargeable gain.

Section 512: Available premium left for relevant transaction

2021. This section is based on section 546C of ICTA. *Subsection (1)* provides a calculation method to isolate the available premium for the purposes of section 511. This is described as the excess of the “available net allowable payments” over the “available net total values”.
2022. The method works by identifying how much is left, after franking certain amounts, of the gross amount of allowable premiums paid under the policy or contract to the end of the insurance year, applying the twentieths rule in section 507(5). This is step 1 in *subsection (3)*. As a result of applying the rule in section 507 for net total allowable payments, so much of the premiums as has been deducted in calculating gains on a calculation event in a previous insurance year has already been removed from the pool of allowable premiums.
2023. *Subsection (3)* continues by deducting (in step 2) the total of the transaction values for any previous relevant transactions in this insurance year that did not give rise to a gain when the calculation in section 511 was made. This effectively mops up the equivalent amount of the gross allowable premiums.
2024. *Subsection (4)* next calculates an amount labelled the “available net total values”, for the purpose of the calculation in *subsection (1)*. This is the amount found by deducting:
- the total value of all part surrenders and part assignments for money or money’s worth in the insurance year (step 2); from
 - the total value of all part surrenders and part assignments (as in section 507(4) steps 1 and 2; that is, including assignments not for money or money’s worth if they are in an insurance year beginning on or before 5 April 2001) *less* all such values taken into account in gains on calculation events in previous insurance years (step 1).
2025. The computation in *subsection (4)* isolates and quantifies the value of any part surrender or part assignment between the last calculation event and the beginning of the present insurance year. That value will have been insufficient to give rise to a gain in the relevant insurance year. Again this effectively uses up the equivalent amount of the allowable premiums.
2026. Having thus deducted:
- the amount of allowable premiums used in earlier calculation events (*subsection (3)* step 1, by virtue of the calculation under section 507(5));
 - the amount of any values for part surrenders and part assignments in years since then, but before the current year (*subsection (4)*); and
 - the amount of any values in relevant transactions of this year which did not produce a gain (*subsection (3)*, step 2);
- there is available, against the transaction value of the relevant transaction in question, any “allowable payment” (that is, part of the premiums) accrued between the last calculation event in an earlier year and the end of the present year, as reduced by the amounts mentioned in the second and third bullets.

2027. *Subsection (2)* short-circuits the whole process for any relevant transaction of the year which occurs after the first relevant transaction to yield a gain. For such subsequent relevant transactions, the amount of available premium is nil. The gain equals the transaction value for the relevant transaction.

Section 513: Special rules for part surrenders and assignments in final insurance year

2028. This section is based on section 546D of ICTA. The purpose of the section is to ensure that the total amount of gains calculated under section 511 on relevant transactions, added to the gain subsequently calculated under section 491 on the event that brings the final insurance year to an end, is not greater than the gain on the final event would have been without relevant transaction calculations.
2029. For this purpose, the gain under section 491 is calculated disregarding gains on relevant transactions (as defined in section 510(3)). That re-calculated gain acts as a cap on the total gains to be charged in respect of the policy or contract for that year.
2030. In effect, that cap is placed on the latest gain on a relevant transaction, where that gain, added to previous gains on relevant transactions, would exceed the cap. Where that happens, so much of the gain as would exceed the cap is ignored, and the gain on any subsequent relevant transaction or on the event that brings about the end of the final insurance year is treated as nil. But the value of such transactions will already have been taken into account as appropriate in calculating the gains limit, and so have contributed to the size of the cap.
2031. *Subsection (4)* expresses this as a reduction in the transaction value for the particular relevant transaction in relation to which the total of the transaction values for the first and successive relevant transactions in the year (see *subsection (2)*) first exceeds the “gains limit”. The reduction in the transaction value for that relevant transaction is the amount that eliminates the excess over the gains limit.

Section 514: Chargeable events where transaction-related calculations show gains

2032. This section provides that, if the calculation under section 511 shows a gain, the relevant transaction is itself the occurrence of a chargeable event at that time. This contrasts with chargeable events under section 509, which occur at the end of the insurance year, regardless of when in that year the part surrender or part assignment took place. This section is based on sections 546B and 546C of ICTA.
2033. *Subsections (3)* and *(4)* nevertheless allot the gain on the chargeable event under this section, for the purposes of sections 464 to 467, to the tax year in which the insurance year ends where liability to tax on the gain would otherwise fall into the preceding tax year. The date of the chargeable event may therefore be in an earlier tax year than that for which the gain is charged.
2034. *Subsection (5)* clarifies the order in which chargeable events take place in the final insurance year, when there is a transaction-related chargeable event in that year. The order prescribed here avoids any suggestion that amounts relevant only to the calculation on the final event enter into the calculations under section 511, even though both calculations take the full period of the final insurance year into account.

Section 515: Requirement for annual calculations in relation to personal portfolio bonds

2035. [Sections 515 to 526](#) set out the special charge in respect of personal portfolio bonds.
2036. This section is modelled on the approach taken in sections 498 and 510. It is based on regulation 5(1) of PPB(T)R.

2037. *Subsection (1)* makes clear that it is the status of the policy or contract as at the end of the insurance year, that is, whether it is a personal portfolio bond at that time, which determines whether this requirement applies.
2038. *Subsection (3)* gives the time as at which the calculation is to be done. Section 553C of ICTA (the section providing the powers used to make PPB(T)R) does not use “insurance year” but instead refers to a “yearly charge”, using section 546(4) of ICTA to construe “yearly”. The latter section is the source legislation for the definition of “insurance year” in section 499. The section makes explicit that “yearly” refers to an insurance year.
2039. *Subsection (4)* provides that the calculation required by this section is to be made regardless of any other calculation also required by this Chapter. So a gain, treated under section 525 as arising on the chargeable event mentioned in subsection (3) of that section, is added to any other gains arising in the same tax year on other chargeable events in respect of the personal portfolio bond.

Section 516: Meaning of “personal portfolio bond”

2040. This section is based on regulation 4 of PPB(T)R. All of the types of policy or contract mentioned in section 473(1) have the potential to be a personal portfolio bond, if conditions A and B in this section are met. But, even if those conditions were met, the exclusions mentioned in section 473(3) would apply to take such policies and contracts out of the scope of this special charge.
2041. *Subsection (2)* sets out condition A. This is the *portfolio* element in a personal portfolio bond.
2042. *Subsection (4)* sets out condition B. This is the *personal* element in a personal portfolio bond. The list of persons who may be able to select property or an index includes, for example, a financial adviser who acts on behalf of a policy holder, as well as anyone “connected” with the policy holder. Section 878 of this Act applies the “connected persons” rules in section 839 of ICTA for the purposes of this Act.
2043. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 517: Policies and contracts which are not personal portfolio bonds

2044. This section introduces a let-out from the charge on personal portfolio bonds for policies and contracts where an index or property is, broadly speaking, of a public or not unusually restricted nature (as defined in sections 518 to 521). Many unit-linked policies benefit from this let-out. This section is based on regulation 4 of PPB(T)R.

Section 518: The index categories

2045. This section is based on regulation 4 of PPB(T)R.
2046. **Schedule 4** to this Act indicates that the definitions of “retail prices index” in section 833(2) of ICTA and “recognised stock exchange” in section 841(1) of ICTA apply.

Section 519: The index selection conditions

2047. This section is based on regulation 4 of PPB(T)R. The selection conditions seek to ensure that the opportunity to select is not narrowly restricted. While occasionally such an opportunity is made available to all policy holders of an insurer, or their agents (the “general selection condition”), more often various products are linked to a number of indices, when the opportunity to select is offered to one or more large classes of policy holder, or their agents (the “class selection condition”).

2048. It is made explicit that it is immaterial, in respect of both the general and the class selection conditions, whether the opportunity is offered to the policy holders themselves or to their agents (such as financial advisers).

Section 520: The property categories

2049. This section is based on regulation 4 of PPB(T)R.
2050. Categories 1 to 4 and 7 are types of collective investment scheme, whether based in the United Kingdom or elsewhere, which satisfy the appropriate rules of investment regulatory bodies.
2051. Category 5 is cash, so long as the cash is not held to realise a profit on selling it. Such a profit may only be realised on foreign currency.
2052. Category 6 is an investment in a policy or contract to which this Chapter applies, other than one that is, or is in any way related to, a personal portfolio bond. “Related property”, a term used in *subsection (3)(c)*, in relation to any policy or contract (or the premiums paid on it), means income which derives directly or indirectly from holding the policy or contract, or investing in it. In the source legislation, this term is defined by reference to section 660A(10) of ICTA, but that provision is rewritten in Chapter 5 of Part 5 of this Act.

Section 521: The property selection conditions

2053. This section is based on regulation 4 of PPB(T)R. The commentary on section 519 applies equally here.

Section 522: Method for making annual calculations under section 515

2054. This section is based on regulation 5 of PPB(T)R. It takes a similar approach to that used in the other required calculations in this Chapter, that is, a calculation formula plus supporting method statements to find the amounts relevant to the formula.
2055. However, whereas in those other calculations the figure found by applying the formula produces the amount of the gain, *subsection (4)* sets the gain at 15% of the figure found by applying the formula.
2056. Any year in which the policy or contract was not a personal portfolio bond nevertheless enters the calculation. So the relevant premiums, previous gains under this section and excess events are those of any insurance year of the policy or contract. Where regulation 5 of PPB(T)R refers to a year in which the bond was in existence, this means a year when the policy or contract was in existence, rather than a year in relation to which the policy was a personal portfolio bond. The term “personal portfolio bond” is used in the regulation merely to identify the policy or contract in question.

Section 523: The total amount of personal portfolio bond excesses

2057. This section is based on regulation 5 of PPB(T)R.

Section 524: The total amount of part surrender gains

2058. This section is based on regulation 5 of PPB(T)R.
2059. The exclusions made by *subsections (4) and (5)* affect assignments. That type of transaction has frequently been used in tax planning to avoid the charge rewritten in this Chapter.
2060. Because of the change of approach mentioned in the commentary on section 510, the calculations under sections 507 and 511 are independent (albeit sharing some features). It is therefore unnecessary to rewrite paragraph 5(2B)(c) of PPB(T)R, as the provisions mentioned there contribute only to the calculation under section 511.

Section 525: Chargeable events where annual calculations show gains

2061. This section is based on regulations 5 and 6 of PPB(T)R.

Section 526: Power to make regulations about personal portfolio bonds

2062. This section is based on section 553C of ICTA. But the powers given here for the Treasury to make regulations apply only to certain aspects of the charge on gains treated as arising under section 525. See *Change 94* in Annex 1.

2063. The regulations contained in PPB(T)R, in so far as they apply to determine the amount of the gain under the special charge and how that gain is charged to income tax, are rewritten in the preceding sections. The regulations remain in place in respect of calculating and charging gains to corporation tax. The regulations also remain in place as regards the duties of insurers in sections 552 to 552B of ICTA.

2064. To the extent that the regulations are rewritten for income tax purposes in these sections, the powers in section 553C of ICTA are spent.

2065. The power given is to make regulations about the administration of this charge, which in practice means regulations in connection with the duties of insurers.

Section 527: Reduction for sums taken into account otherwise than under Chapter 9

2066. This section is based on section 547 of ICTA. It prevents a double charge to tax where a sum, which is taken into account in calculating a gain under this Chapter, also falls to be taken into account in computing another type of taxable income. For example, it might also constitute a trading receipt.

2067. This rule is provided because the process for determining when a chargeable event occurs, and how much the gain is, does not sit well with the usual procedure for ensuring that income is taxed under one charging provision only (such as the priority rules in section 366 of this Act). That is, it may be necessary for such receipts to be brought into a calculation under this Chapter before it can be determined whether a chargeable event has occurred or a gain has arisen. Section 366(4) permits inclusion of such receipts in more than one computation.

2068. Although the source legislation is in terms of an amount taxable under section 547(1) of ICTA and an “amount which is chargeable to tax” apart from that subsection, this section reduces the gain otherwise chargeable by the “amount of the receipt or other credit item” taken into account in the other calculation. “Credit item” is not a defined term, but is used in, for example, section 4 of this Act. See *Change 95* in Annex 1.

Section 528: Reduction in amount charged: non-UK resident policy holders

2069. This section is based on section 553 of ICTA. In effect, it exempts the part of the gain on foreign policies that represents investment profit for the period when the policy holder was not resident in the United Kingdom. The reduction does not apply to gains arising on life annuity contracts.

2070. The reduction is proportionate to the period during the course of the policy, measured to the date the chargeable event occurred, in which the policy holder was not UK resident. This method reverses the approach in the source legislation, where the calculation produces the amount of the reduced gain, rather than the amount by which the gain is reduced.

2071. The policy holder and the person or persons liable to tax on the gain may not be the same.

2072. *Subsections (5) and (6)* provide a special rule for a “new policy”. Under paragraph 17 of Schedule 15 to ICTA, a “new policy” is a policy which is issued in substitution for,

or on the maturity of, an earlier policy (as a result of exercising an option contained in the earlier policy). Where there has been one or more replacement policies, the course of the policy is taken to run from the earliest original policy.

Section 529: Exceptions to section 528

- 2073. This section is based on section 553 of ICTA.
- 2074. Because the reduction under this section is not made if the policy is held by non-UK resident trustees, it is the unreduced gain which is taken into account for the purposes of section 740 of ICTA where section 468 applies.
- 2075. *Subsection (2)* applies the rules in section 110 of FA 1989, which determine when a body of trustees, one or more of whom would be regarded as resident in the United Kingdom and one or more of whom would not be so regarded, are all to be regarded as resident in the United Kingdom or not so resident.
- 2076. The source legislation does not take account of section 110 of FA 1989. Although section 110 of FA 1989 applies only to 1989-90 and subsequent years, it is applied here in respect of all earlier years where necessary, as it would be impractical to apply the provision using two different tests of residence status. See *Change 96* in Annex 1.
- 2077. See also section 546 (table of provisions subject to special rules for older policies and contracts). *Change 96* is not applied in paragraph 106 of Schedule 2 to this Act as that paragraph refers to a time wholly before the rule introduced by FA 1989 applies (see paragraph 106(3)).

Section 530: Income tax treated as paid etc.

- 2078. This section sets out when (subject to section 531) an income tax allowance is available to set off against the tax chargeable on the gain. It is based on section 547 of ICTA.
- 2079. The allowance is an amount equivalent to the lower rate of income tax on the gain (see section 1A(1B) of ICTA). It is treated as tax paid by the individual or trustees liable to tax on the gain. The allowance is not available to personal representatives who are so liable.
- 2080. An individual whose income is chargeable at the higher rate (see section 1(2)(b) of ICTA) will pay tax at that rate on the gain, against which the allowance can be set.
- 2081. The trustee or trustees of a non-charitable trust pay tax at the rate applied by section 686(1AA)(b) of ICTA, subject to the set-off of the allowance. The trustee or trustees of a charitable trust pay tax on gains at the lower rate (see section 467(7)(a)), and therefore have no net liability where the allowance is due.
- 2082. Taxpayers whose income is chargeable at the starting, lower or basic rates only, and non-taxpayers, have no further income tax liability when the allowance is due.
- 2083. *Subsection (2)* provides that the tax treated as paid is not repayable even if the individual (or the trustee or trustees) is a non-taxpayer or the allowance exceeds the tax charged on the gain.
- 2084. *Subsection (3)* caps the allowance when the net income chargeable to tax is reduced below the amount of the gain because of other deductions. The allowance is reduced accordingly.
- 2085. *Subsection (6)* ensures that the starting rate of tax (section 1(2)(aa) of ICTA) does not apply when calculating the liability to tax on a gain of an individual who is entitled to the allowance.
- 2086. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 531: Exceptions to section 530

2087. Broadly, this section denies the income tax allowance provided by section 530 to policies and contracts where the underlying investment profit is not subject to UK tax. Where this section applies, the tax charge for the person liable includes the starting rate of income tax (section 1(2)(aa) of ICTA) where applicable. It is based on sections 547, 553 and 553A of ICTA.
2088. This section is disregarded for the purposes of a top-slicing relief calculation (see sections 535 to 537) so that the calculation assumes there was an income tax allowance.
2089. And the income tax allowance may be available where the policy or contract is with a European Economic Area (“EEA”) or other non-UK resident insurer (*subsection (2)*), or where a foreign policy of life insurance is issued by the UK permanent establishment of a non-UK resident insurer (*subsections (5) and (6)*). In these circumstances, the underlying investment profit has been subject to UK tax or to comparable tax in an EEA or other country.
2090. Subsection (5) refers only to policies which are foreign policies of life insurance under the first part of the definition in section 476(3), and not to policies under the second part. This preserves the intended operation of section 553(7) of ICTA for such policies despite the apparent override of that provision in section 553A(3) of ICTA for *all* foreign policies. See *Change 97* in Annex 1.
2091. *Subsection (3)* sets out the types of policies and contracts which are excepted by this section from section 530.
2092. Paragraph (a) makes clear that life annuity contracts issued by a friendly society in its tax-exempt business are within the exception, as well as life insurance policies so issued, despite the reference in the source legislation to policies only. Section 547(7) of ICTA applies to gains under both sections 541 and 543 of ICTA. Its opening words are “Where under section 541, 543 or 546C(7)(b), a gain is to be treated as arising in connection with a policy...”. However, while section 541 of ICTA deals with gains on policies, section 543 of ICTA deals with gains on contracts for life annuities. Section 547(7) of ICTA therefore applies to contracts for life annuities.
2093. Paragraph (b) indicates section 530 does not apply to a gain on a foreign policy of life insurance unless the policy meets conditions which indicate that the underlying investment profit earned by the policy has borne UK tax.

Section 532: Relief for policies and contracts with European Economic Area insurers

2094. This section and the following section are based on sections 547 and 553 of ICTA. This section sets out when the income tax allowance provided by section 530 may be available for a gain on a foreign policy or contract, despite the exception in section 531. It applies where:
- a claim is made under this section;
 - the insurer conditions (conditions A and B) are satisfied; and
 - reinsurance of a particular type (see the definition of “excluded reinsurance contract” in *subsection (5)*) has not been made in respect of the policy or contract (condition C).
2095. In relation to “policies”, the section makes clear that the relief provided extends to foreign capital redemption policies as well as to life insurance policies.
2096. *Subsection (1)* sets out that a claim under this section must simply be made, rather than made to the Inland Revenue, or (as in the source legislation) to the Board of Inland Revenue. See *Change 149* in Annex 1.

2097. The definition of “policy period” in *subsection (5)* excludes any period when the policy or contract has already been subject to UK tax on the underlying investment profit.

Section 533: Meaning of “comparable EEA tax charge”

2098. This section sets out the requirement for the purposes of section 532 that the tax charge applied to the EEA insurer is at least broadly equivalent to that applying to insurers operating in the United Kingdom. This section is based on sections 547 and 553 of ICTA.
2099. The term “insurer” in *subsection (1)* recognises that the range of bodies issuing policies or contracts in another EEA country may be different from that met in the United Kingdom, and is not necessarily equivalent to an insurance company. And for that reason, the term “insurance company” (which is defined in section 545) has not been used here.

Section 534: Regulations providing for relief in other cases where foreign tax chargeable

2100. This section is based on section 56(3) of FA 1995. It gives the Board of Inland Revenue power to make regulations which provide the same relief as does section 532 where:
- the insurer is not resident in a EEA country or territory;
 - the insurer is subject to tax in that non-EEA country or territory (as described in section 532); and
 - a claim for the relief is made.
2101. No regulations have been made yet under section 56(3) of FA 1995.

Section 535: Top slicing relief

2102. This section, and sections 536 and 537, are based on section 550 of ICTA. They provide a relief where the gain charged under this Chapter takes an individual’s taxable income into the higher rate of tax. The relief reduces or eliminates the higher rate charge.
2103. The relief is given by reducing the amount of tax charged on the gain, or by repayment. It is given without a claim being required. See *Change 98* in Annex 1.
2104. The relief is calculated by comparing the tax chargeable on the gain (or gains) with the tax that would be chargeable on a fraction of the gain, in both cases after setting off the appropriate income tax allowance under section 530. The fraction (the “annual equivalent”) is calculated by reference to the number of years the policy or contract has been in existence. The relief is the difference between the tax otherwise chargeable on the full gain and the tax that would be charged if the full gain were taxed at the rate of tax chargeable on the fraction.
2105. How to determine the fraction, and how the tax chargeable on the fraction is calculated, depends on whether the individual is taxable under this Chapter in the tax year on a gain from one chargeable event (section 536) or on gains from more than one event (section 537).
2106. *Subsection (3)* sets out how to calculate the tax on the gain(s) before any relief under this section has been given. The gain is treated as the “top slice” of the individual’s total income.
2107. *Subsection (5)* ignores certain items of income in working out an individual’s “total income” for these purposes. Section 835 of ICTA defines “total income”, in relation to any person, as “the total income of that person from all sources estimated in accordance with the provisions of the Income Tax Acts”.

Section 536: Top slicing relieved liability: one chargeable event

2108. This section is based on sections 550 and 553 of ICTA.
2109. The method employed in *subsection (1)* takes three steps. The first step determines a fraction of the gain (called the “annual equivalent”). The second calculates the net tax charge that would apply to that fraction. The third step works out the tax on the whole gain (called the “relieved liability”) by multiplying the tax calculated under step 2 by the factor (“N” – see step 1) which was used to find the fraction.
2110. “N” represents the *number* of complete years the policy or contract has run before the chargeable event.
2111. *Subsections (2) to (8)* contain rules which modify how “N” is worked out. For example, where the gain is from a “calculation event”, that is, a part surrender or assignment that gives rise to a gain, subsection (2) substitutes the number of years since the latest “calculation event” which arose on that policy or contract. (But, where the policy is a “new policy” (see subsection (5)) in relation to a replaced policy, any calculation event which arose on the replaced policy is disregarded for the purposes of subsection (2), even though the life of the “new policy” is, under subsection (4), dated from the commencement of the earlier replaced policy.)

Section 537: Top slicing relieved liability: two or more chargeable events

2112. This section is based on section 550 of ICTA. It employs the same method approach as section 536, and the same rules modifying the calculation of the factor (“N”) by which each gain is to be divided for the purposes of the calculation.
2113. However, the actual method employed differs in two respects. First, the fractions (the “annual equivalent”) of each gain are totalled, so that the tax calculation under step 2 is made in respect of the totalled amount.
2114. Second, the relieved liability is found by multiplying the net tax on the total annual equivalents by the aggregated gains and dividing the result by the total annual equivalents. (Roughly speaking, this gives a result based on a weighted average of “N”.) This method statement expresses explicitly the calculation described in section 550(6) of ICTA for such cases.
2115. The product of this calculation is compared with the unrelieved liability on the full gains (as calculated under section 535(3)) to work out how much top slicing relief is available.
2116. For example, if an individual is chargeable on gains totalling £31,000 under this Chapter (say, gains of £6000 from one policy where “N” is four years and gains of £25,000 from another policy where “N” is ten years), and the net tax chargeable on those gains before relief (the “unrelieved liability”) would be, say, £2400:
- the “total annual equivalent” is £4000 (£1500 from the first policy plus £2500 from the second);
 - the “total relieved liability” on the total annual equivalent is, say, £200;
 - the relieved liability is £1550 (the total relieved liability £200 multiplied by the total gains £31,000, divided by the total annual equivalent £4000);
 - top-slicing relief is £850 (unrelieved liability £2400, less relieved liability £1550).

Section 538: Recovery of tax from trustees

2117. This section provides a right of recovery for an individual who, although the rights in question under the policy or contract are held by non-charitable trustees, is liable to tax on a gain or gains under this Chapter because section 465(1)(b) applies. It is based on section 551 of ICTA.

2118. *Subsection (1)(c)* defines the tax that may be recovered from the trustees. Broadly, it is the extra tax paid on the gain or gains after any top slicing relief. Where top slicing relief is available and there is more than one chargeable event in the year, with at least one gain giving liability by virtue of section 465(1)(b), *subsection (4)* provides that the relief is to be apportioned between the gains charged in working out the extra tax.
2119. *Subsection (3)* sets a cap on the amount that can be recovered from trustees, by reference to what they have derived from the relevant chargeable event.
2120. *Subsections (5) and (6)* allow the individual to require the Inland Revenue (rather than the Board of Inland Revenue) to certify an amount recoverable from the trustees. See *Change 149* in Annex 1.

Section 539: Relief for deficiencies

2121. Together with sections 540 and 541, this section is based on section 549 of ICTA. These sections provide a sort of “loss” relief where:
- the overall gain on a policy or contract is less than the amounts that were charged as gains on chargeable events occurring in earlier policy years; and
 - the individual in question was the person liable to tax on those gains.
2122. The relief is only available to an individual. It only reduces tax charged at the higher rate or the “dividend upper rate” (the Schedule F upper rate in the source legislation).
2123. Under *subsection (1)*, the relief is only given to an individual who would have been liable on a gain, had one arisen on the chargeable event in question. For this purpose, the requirement in section 465(1), that an individual must be UK resident to be liable, is disregarded. The effect of this is that a non-UK resident individual, who is not liable under section 465(1), but is chargeable to income tax on other income, is not denied the benefit of this relief.
2124. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 540: When deficiencies arise: events following calculation events

2125. This section is based on section 549 of ICTA. Under *subsections (2) to (4)*, a deficiency may only arise where:
- there is a chargeable event within certain of the categories of chargeable event listed in section 484(1);
 - there has previously been a gain on a “calculation event” (see section 491(4)), other than a “personal portfolio bond event”, in respect of that policy or contract; and
 - the calculation carried out under section 491 does not produce a gain.
2126. Although the amount of the deficiency to be relieved ignores any gains on personal portfolio bond events under section 522, the calculation under section 491 does not exclude such gains in arriving at the overall “loss”.

Section 541: Calculation of deficiencies

2127. This section explains how to calculate the amount of a deficiency. It is based on section 549 of ICTA. It uses the “total benefit value” of the policy or contract, and the “total allowable deductions”, in respect of the event, as calculated for section 491, to find the amount. What those terms mean in detail is shown by the calculation methods in sections 492 and 494 respectively.
2128. There are two possible amounts. Where the investor has made no overall gain, on comparing the “total benefit value” of the policy or contract and the “total allowable

deductions”, all earlier gains which formed part of that individual’s total income are “refunded” as the amount of the deficiency. If there is a gain, but it is less than those earlier gains, the amount of the deficiency is those gains minus the net overall gain. (In determining for this purpose whether there has been an overall gain and, if so, its amount, the earlier gains are themselves disregarded.)

Section 542: Replacement of qualifying policies

2129. This section treats a qualifying policy and another qualifying policy which it replaces as a single policy for the purposes of certain sections in this Chapter (the general rules for when chargeable events occur and how gains are calculated). The commonest circumstance in which this section applies is where a life is added to or removed from a policy on marriage or divorce. It is based on paragraph 20 of Schedule 15 to ICTA.
2130. See also section 546 (table of provisions subject to special rules for older policies and contracts).

Section 543: Issue time of qualifying policy replacing foreign policy

2131. This section substitutes the start date of the old policy as the start date of the new policy for a particular circumstance where one policy has been substituted for another. It is based on section 553 of ICTA.

Section 544: Application of Chapter to policies and contracts in which companies interested

2132. This section deals with the circumstance where the application of this Chapter, that is, whether there is a chargeable event and what the amount of the gain is, has to take into account anything that occurred (or may yet occur) in respect of the policy at a time when any liability may, wholly or in part, arise or have arisen under the equivalent corporation tax provisions. It is new. (Paragraph 210 of Schedule 1 to this Act inserts section 539ZA of ICTA for the equivalent corporation tax purposes.)
2133. The section makes clear that this Chapter applies in respect of any other circumstance regardless of any application of “the corporation tax provisions” at that time. For example, if there has been a chargeable event under section 509 at a time when liability on the gain arose wholly or in part under section 547(1)(b) of ICTA (so that there was also a chargeable event under, say, section 540(1)(a)(v) of ICTA), that event is taken into account in the later application of this Chapter, even if there would then be no liability under section 547(1)(b) of ICTA.

Section 545: Minor definitions

2134. This section provides minor definitions for the purposes of this Chapter.
2135. The definitions of “charitable trust”, “friendly society” and “non-charitable trust” are based on section 539 of ICTA.
2136. The definition of “insurance company” is new for the purposes of this charge, although the Tax Acts provide a definition for other purposes. See *Change 99* in Annex 1. (There is no Chapter-wide definition of “insurer”. Depending on the provision, that word may mean the insurer for the time being or the original insurer with whom the insurance or contract was made. Where a definition is needed, it has been provided for the purposes of the section in question (for example, see section 501)).
2137. The definition of “market value” is based on the definition provided by regulation 2(1) of PPB(T)R for the purposes of those regulations. The term is not otherwise defined in the source legislation. See *Change 100* in Annex 1.
2138. The definitions in *subsection (2)* of “premium”, and in *subsection (3)* of “the amount of premiums paid” are based on the definition in regulation 2(2) of PPB(T)R. They clarify

*These notes refer to the Income Tax (Trading and Other Income)
Act 2005 (c.5) which received Royal Assent on 24 March 2005*

rather than replace “premium” as the term is generally understood, and are not regarded (in so far as they apply for the purposes of the Chapter rather than for the special charge on personal portfolio bonds only) as a change in the law.

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

- 2139. This section provides an index to the paragraphs of Parts 6 and 7 of Schedule 2 to this Act that modify the operation of certain provisions in the Chapter for older policies and contracts. It is new.
- 2140. The section also indicates those paragraphs in Part 5 of that Schedule that are relevant to this Chapter but depend on time factors other than the date on which the policy or contract was made.