Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 4

SAVINGS AND INVESTMENT INCOME

CHAPTER 9

GAINS FROM CONTRACTS FOR LIFE INSURANCE ETC.

Calculating gains: general

491 Calculating gains: general rules

(1) This section deals with calculating—

(a) whether a gain has arisen on a chargeable event within section 484(1)(a)(i) to (iii) or (b) to (e) (surrender or assignment of all rights, final participation in profits, death, maturity, or taking a capital sum as a complete alternative to annuity payments), and

(b) if so, the amount of the gain.

(2) There is a gain if TB exceeds the sum of TD and PG where—

TB is the total benefit value of the policy or contract (see section 492),

TD is the total allowable deductions for the policy or contract (see section 494), and

PG is the total amount of gains treated as arising on calculation events occurring in relation to the policy or contract before the chargeable event in question [F1 but only in so far as those gains have been, or fall to be, taken into account in calculating the total income of a person as a result of this Chapter or Chapter 2 of Part 13 of ITA 2007] .

(3) The gain is equal to the excess.

(4) In this Chapter—

"calculation event" means an excess event, a part surrender or assignment event or a personal portfolio bond event,

"excess event" means a chargeable event within section 509(1),

"part surrender or assignment event" means a chargeable event within section 514(1), and

"personal portfolio bond event" means a chargeable event within section 525(2).

(5) The reference to the policy in the definition of "PG" in subsection (2) includes any related policy.

(6) For the purposes of this Chapter, a policy ("policy A") is a related policy as respects another ("policy B") if—

(a) policy B is a new policy (as defined in paragraph 17 of Schedule 15 to ICTA (substitutions and variations)) in relation to policy A, or

(b) policy B is a new policy (as so defined) in relation to another policy ("policy C") and policy C is a new policy (as so defined) in relation to policy A,

and so on.

(7) See section 539 (relief for deficiencies) if there is no gain under subsection (2), but a gain arose on a calculation event occurring in relation to the policy or contract before the chargeable event in question.

(8) For the rules about calculating gains on calculation events, see—

section 507 (method for making periodic calculations under section 498),

section 511 (method for making transaction-related calculations under section 510), and

section 522 (method for making annual calculations under section 515).

Textual Amendments

F1 Words in s. 491(2) inserted (with effect in accordance with s. 11(4)-(6) of the amending Act) by Finance Act 2012 (c. 14), **s. 11(2)**

492 The total benefit value of a policy or contract

(1) To calculate the total benefit value of a policy or contract for the purposes of section 491, add together—

(a) its value in accordance with section 493,

(b) any capital sum paid under the policy or contract before the event,

(c) the value of any other benefit of a capital nature conferred by the policy or contract before the event,

(d) the amount of any loan made before the event, the making of which is treated as the surrender of a part of the rights under the policy or contract under section 500(c) (loans by insurers to which section 501 applies),

(e) in the case of a guaranteed income bond contract, as defined in section 504(7), any amount paid before the event, the payment of which is treated as a surrender of a part of the rights under the contract under section 500(d) of this Act (payments by insurers under such contracts), and

(f) in the case of an assignment, the amount or value of any share in the rights under the policy or contract that was assigned before the event.

(2) References to the policy in subsection (1)(b) to (e) include any related policy.

(3) This section is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 497 (disregard of trivial inducement benefits).

493 The value of a policy or contract

(1) In the case of a chargeable event within section 484(1)(a) (i) or (iii), (c), (d) or (e) (surrender of all rights, final participation in profits, maturity or, in the case of a contract for a life annuity that provides for taking a capital sum on death, death or taking a capital sum as a complete alternative to annuity payments), the value of the policy or contract is the total of—

(a) any sum payable because of the event, and

(b) in the case of a policy of life insurance or a capital redemption policy, any value or amount specified in subsection (2).

(2) The value or amount is—

(a) if a right to periodical payments arises because of the event, an amount equal to the capital value of those payments at the time the right arises, and

(b) the amount or value of any other benefits arising because of the event.

(3) Subsection (1) does not apply to a surrender treated as made under section 490 (last payment under guaranteed income bond contracts etc. treated as total surrender).

(4) In that case the value of the rights treated as surrendered is treated as being equal to the amount of the payment treated as the surrender.

(5) In the case of a chargeable event within section 484(1)(a)(ii) (assignment of all rights), the value of the policy or contract is the amount or value of the consideration for the assignment.

(6) But an assignment of a policy of life insurance or a contract for a life annuity between connected persons is treated as made for a consideration equal to the market value of the policy or contract.

(7) In the case of a chargeable event within section 484(1)(b) (death), the value of the policy is its surrender value immediately before the death.

(8) This section is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 497 (disregard of trivial inducement benefits).

494 The total allowable deductions for a policy or contract

(1) To calculate the total allowable deductions for a policy or contract for the purposes of section 491—

Step 1

Add together—

(a) the total amount of premiums paid under the policy or contract before the event, and

(b) if the event occurs at the end of the final insurance year (see section 499), the amount of any repayment or partial repayment of a loan treated under section 500(c) as a surrender of a part of the rights under the policy or contract.

Step 2

In the case of a contract for a life annuity under which any annuity payments have been made, reduce the result of step 1 by so much of those payments as is—

(a) exempt under section 717 (exemption for part of purchased life annuity payments), or

(b) determined to be the capital element in those payments under section 658 of ICTA.

(2) In the case of a capital redemption policy which has been assigned for money or money's worth before the event, the reference in paragraph (a) of step 1 in subsection (1) to the total amount of premiums paid under the policy or contract before the event is a reference to the total of—

(a) the amount or value of the consideration given for the last such assignment, and

(b) the total amount of premiums paid under the policy or contract after that assignment and before the event.

(3) References to the policy in paragraphs (a) and (b) of step 1 in subsection (1) and in subsection (2) include any related policy.

(4) Subsection (1) is subject to—

section 495 (disregard of certain amounts in calculating gains under section 491), and

section 496 (modification of this section: qualifying endowment policies held as security for company debts).

495 Disregard of certain amounts in calculating gains under section 491

(1) A retained replacement policy premium is ignored in calculating—

(a) the total benefit value of a policy under section 492(1), or

(b) the total allowable deductions for a policy under section 494(1).

(2) In subsection (1) “retained replacement policy premium” means a sum which—

(a) has been payable under a policy which is one of two or more policies treated as a single policy under section 542(1) (qualifying policies and policies replacing them), and

(b) is such a sum as is mentioned in section 542(4) and meets the condition in that section.

(3) For the purposes of section 492(1)(b) and (c) (total benefit value: capital sums and benefits paid or conferred before the event in question), any sum paid or benefit conferred under a policy is ignored if it is attributable to a person's disability.

(4) For the purposes of section 492(1)(f) (total benefit value: assignments), a share assigned before the event is ignored if—

(a) it was assigned in an insurance year (see section 499) that began on or after 6th April 2001, and

(b) it was not assigned for money or money's worth.

(5) The reference to the policy in subsection (3) includes any related policy.

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

(1) This section applies if—

(a) a chargeable event within section 484(1)(a)(i), (b) or (c) (surrender of all rights, death or maturity) occurs in relation to a qualifying endowment policy (see subsection (7)),

(b) immediately before the event occurs the rights under the policy are held as security for a debt owed by a company, and

(c) the company debt conditions are met (see subsection (4)).

(2) If—

(a) the amount of the debt exceeds the amounts referred to in paragraph (a) of step 1 in section 494(1) (the total amount of premiums paid before the event), and

(b) the company makes a claim within two years after the end of the accounting period in which the chargeable event occurs,

section 494 applies as if that paragraph referred instead to the amount of the debt.

(3) If the amount of the debt varied during the policy period, it is to be taken for the purposes of subsection (2) as the lowest amount at which it stood during that period.

(4) The company debt conditions are that—

(a) throughout the policy period, the rights conferred by the policy have been held as security for a debt owed by the company referred to in subsection (1)(b),

(b) the capital sum payable under the policy in the event of death during the term of the policy is not less than the amount of the debt when the insurance was made,

(c) any sum payable under the policy as a result of the event is applied in repayment of the debt (except so far as it exceeds the debt), and

(d) the debt was incurred to pay money applied for the purposes of the company's trade premises.

(5) Money is applied for the purposes of a company's trade premises if it is applied—

(a) in purchasing an estate or interest in land to be occupied by the company for the purposes of a trade carried on by it, or

(b) for the purpose of the construction, extension or improvement (but not the repair or maintenance) of buildings which are or are to be so occupied.

(6) If during the policy period the company incurs a debt by borrowing in order to repay another debt, references to a debt in subsections (3) and (4) include both debts where appropriate.

(7) In this section—

"accounting period" is to be read in accordance with **[**[F2]Chapter 2 of Part 2 of CTA 2009**]**,

"the policy period" means the period beginning with the making of the insurance and ending immediately before the chargeable event, and

" qualifying endowment policy" means a policy which is a qualifying policy as a result of paragraph 2 of Schedule 15 to ICTA.

Textual Amendments

F2 Words in s. 496(7) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 633** (with Sch. 2 Pts. 1, 2)

497 Disregard of trivial inducement benefits

(1) A benefit other than a payment of money is ignored for the purposes of calculating any gain under this Chapter if—

(a) it is provided by an insurance company for any person as an inducement for the person to enter into—

(i) a policy or contract to which this Chapter applies, or

(ii) a later transaction in relation to such a policy or contract, and

(b) the condition specified in subsection (2) is met.

(2) The condition is that the total cost to the insurance company of providing the benefit and any other such benefits provided by it at any time in connection with the policy or contract, or any linked policy or contract, does not exceed £30.

(3) The Treasury may by order amend the sum for the time being specified in subsection (2) so as to increase it.

(4) For the purposes of this section, a policy or contract is linked to another policy or contract if—

(a) their terms are substantially identical, and

(b) when one of them is issued or made the issue or making of the other is contemplated.

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax (Trading and Other Income) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A-7D inserted by 2022 c. 3 Sch. 1 para. 3
- s. 31E(4) inserted by 2022 c. 3 Sch. 1 para. 7(3)
- s. 649(1A)(1B) inserted by 2023 c. 30 Sch. 2 para. 11(2)
- s. 679(3A) inserted by 2023 c. 30 Sch. 2 para. 11(5)(b)
- s. 679A(3A) inserted by 2023 c. 30 Sch. 2 para. 11(6)(b)
- s. 680(1A) inserted by 2023 c. 30 Sch. 2 para. 11(7)(a)