



# 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.

##### *Person liable etc.*

#### **464 Person liable for tax: introduction**

- (1) The person liable for any tax charged under this Chapter is the person indicated by—  
section 465 (person liable: individuals),  
section 466 (person liable: personal representatives), and  
section 467 (person liable: UK resident trustees),  
according to how the rights under the policy or contract are owned or held immediately before the chargeable event in question occurs.
- (2) References in those sections to the ownership or holding of those rights are references to their ownership or holding at that time.
- (3) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references in this section and those sections to the rights are references to that part or share.
- (4) For cases where such surrenders or assignments are taken to occur, see—  
section 500 (events treated as part surrenders), and  
section 505 (assignments etc. involving co-ownership).

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- (5) This section and sections 470 to 472 are subject to section 469(4) (application of this section and those sections where two or more persons are interested in the policy or contract in question).
- (6) See also—  
 section 468 (non-UK resident trustees and foreign institutions),  
 section 471 (determination of shares etc.), and  
 section 472 (trusts created by two or more persons).

#### **465 Person liable: individuals**

- (1) An individual is liable for tax under this Chapter if the individual is UK resident [<sup>F1</sup>for the tax year] in which the gain arises and condition A, B or C is met.

[<sup>F2</sup>(1A) But if the tax year is a split year as respects the individual, the individual is not liable for tax under this Chapter in respect of gains arising in the overseas part of that year (subject to section 465B).]

- (2) Condition A is that the individual beneficially owns the rights under the policy or contract in question.
- (3) Condition B is that those rights are held on non-charitable trusts which the individual created.
- (4) Condition C is that those rights are held as security for the individual's debt.
- (5) For the purposes of calculating the total income of an individual liable for tax under this Chapter, the amount charged is treated as income.
- (6) References in this Chapter to trusts which an individual created include references to trusts arising under any of the following provisions (and references to a settlor or to a person creating trusts are to be read accordingly)—  
 (a) section 11 of the Married Women's Property Act 1882 (c. 75),  
 (b) section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880 (c. 26), and  
 (c) section 4 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964 (c. 23 (N.I.)).
- (7) For the right of an individual to recover certain amounts from the trustees of non-charitable trusts, see section 538 (recovery of tax from trustees).

#### **Textual Amendments**

- F1** Words in s. 465(1) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 150](#)
- F2** S. 465(1A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 84](#)

#### **Modifications etc. (not altering text)**

- C1** S. 465(6) applied by 1988 c. 1, Sch. 15 Pt. A1 para. A5(4)(a) (as inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#)), [Sch. 9 para. 2](#)
- C2** S. 465(6) applied by 1988 c. 1, Sch. 15 Pt. 1 para. B2(4) (as inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#)), [Sch. 9 para. 3](#)

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### [<sup>F3</sup>465A Amounts for which individuals liable to be treated as highest part of total income

- (1) This section applies if—
  - (a) an individual is liable for tax under this Chapter in respect of an amount, and
  - (b) the individual is treated by section 530 as having paid income tax at the [<sup>F4</sup> basic rate ] on the amount.
- (2) The amount is treated as the highest part of the individual's total income.
- (3) Subsection (2) has effect for all income tax purposes except the purposes of sections 535 to 537 (gains from contracts for life insurance etc: top slicing relief).
- (4) See section 1012 of ITA 2007 (relationship between highest part rules) for the relationship between—
  - (a) the rule in subsection (2), and
  - (b) other rules requiring particular income to be treated as the highest part of a person's total income.]

#### Textual Amendments

- F3** S. 465A inserted (6.4.2007 with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 529](#) (with transitional provisions and savings in [Sch. 2](#))
- F4** Words in s. 465A(1)(b) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 51](#)

### [<sup>F5</sup>465B Temporary non-residents

- (1) This section applies if an individual is temporarily non-resident.
- (2) The individual is liable for tax under this Chapter for the year of return in respect of any gain that meets the conditions in subsection (3).
- (3) The conditions are—
  - (a) the gain arose in the temporary period of non-residence,
  - (b) it arose from a policy issued in respect of an insurance made, or from a contract made, before the start of that period,
  - (c) the chargeable event giving rise to it was neither a death nor a chargeable event treated as occurring under section 525(2),
  - (d) no-one is liable under section 466 or 467 in respect of the gain,
  - (e) no-one is liable by virtue of section 468 for either the year of return or an earlier tax year as a result of the gain, and
  - (f) the individual would have been liable under section 465 in respect of the gain, applying the assumptions in subsection (4).
- (4) The assumptions are—
  - (a) the individual was UK resident for the tax year in which the gain arose, and
  - (b) that tax year was not a split year as respects the individual.
- (5) If the individual is liable by virtue of subsection (2) in respect of a gain—

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- (a) the amount of the gain in respect of which he or she is liable is the amount on which tax would have been charged under this Chapter applying the assumptions in subsection (4), but
  - (b) in determining that amount, section 528 must be applied ignoring those assumptions.
- (6) That amount is treated as income of the individual for the year of return.
- (7) If the gain arises from a policy or contract treated under section 473A as a single policy or contract, the date, for the purposes of subsection (3)(b), on which the insurance or contract is made is the date on which the first insurance is made in respect of which the connected policies were issued or, as the case may be, the date on which the first of the connected contracts is made.
- (8) This section does not apply to a gain if—
- (a) in relation to the policy or contract from which the gain arises, a terminal event occurs in the temporary period of non-residence or in the period of return,
  - (b) the chargeable event giving rise to the gain occurred before that terminal event,
  - (c) the chargeable event giving rise to the gain is one that is treated as occurring under section 509(1) as a result of the application of section 498(1)(a),
  - (d) section 498(1)(a) applies other than by virtue of section 500, and
  - (e) a person (whether or not the individual) is liable for tax under this Chapter (including by virtue of this section) in respect of any gain resulting from the terminal event.
- (9) Nothing in any double taxation relief arrangements is to be read as preventing the individual from being liable for tax under this Chapter in respect of any gain in respect of which the individual is liable for tax by virtue of subsection (2) (or as preventing a charge to tax on that gain from arising under this Chapter).
- (10) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—
- (a) when an individual is to be regarded as “temporarily non-resident”, and
  - (b) what “the temporary period of non-residence” and “the period of return” mean.
- (11) In this section—
- “terminal event” means an event mentioned in section 499(3);
- “year of return” means the tax year that consists of or includes the period of return.”]

#### Textual Amendments

- F5** S. 465B inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 140](#)

#### 466 Person liable: personal representatives

- (1) Personal representatives are liable for tax under this Chapter if the rights under the policy or contract are held by them and the condition in subsection (2) is met (and

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accordingly the gain is treated for income tax purposes as income of the personal representatives in that capacity).

- (2) The condition is that if an individual were liable for tax on a gain in respect of the policy or contract, section 530(1) (individual treated as having paid tax at the [<sup>F6</sup>basic rate]) would be disapplied as a result of—
  - (a) section 531(1) (exceptions from section 530 for policies and contracts specified in section 531(3)), or
  - (b) paragraph 109(2) of Schedule 2 (contracts in accounting periods beginning before 1st January 1992).
- (3) For cases where the condition in subsection (2) is not met, see section 664 of this Act and [<sup>F7</sup>section 947 of CTA 2009] (under which the gain is treated as part of the aggregate income of the estate for the purposes of Chapter 6 of Part 5 of this Act and [<sup>F7</sup>Chapter 3 of Part 10 of CTA 2009] respectively).

#### Textual Amendments

- F6** Words in s. 466(2) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 52](#)
- F7** Words in s. 466(3) 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. 632](#) (with [Sch. 2 Pts. 1, 2](#))

#### 467 Person liable: UK resident trustees

- (1) Trustees are liable for tax under this Chapter if immediately before the chargeable event in question occurs they are UK resident and condition A, B, C or D is met.
- [<sup>F8</sup>(1A) If trustees are liable for tax under this Chapter, the gain is treated for income tax purposes as income of the trustees.]
- (2) Condition A is that the rights under the policy or contract are held by the trustees on charitable trusts.
- (3) Condition B is that—
  - (a) those rights are held by the trustees on non-charitable trusts, and
  - (b) one or more of the absent settlor conditions is met.
- (4) The absent settlor conditions are that the person who created the trusts—
  - (a) is non-UK resident,
  - [<sup>F9</sup>(aa) is UK resident but the gain arises in the overseas part of a tax year that is, as respects the person who created the trusts, a split year,]
  - (b) has died, or
  - (c) in the case of a company or foreign institution (see section 468(5)), has been dissolved or wound up or has otherwise come to an end.
- (5) Condition C is that—
  - (a) the rights under the policy or contract are held by the trustees on non-charitable trusts,
  - (b) condition B does not apply, and
  - [<sup>F10</sup>(c) neither section 465 nor section 466 applies.]

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(6) Condition D is that the rights under the policy or contract are held as security for a debt owed by the trustees.

[<sup>F11</sup>(7) If trustees are liable for tax under this Chapter, it is charged at the [<sup>F12</sup>basic rate] if—

- (a) condition A is met, or
- (b) condition D is met and the trustees are trustees of a charitable trust.]

#### Textual Amendments

- F8** S. 467(1A) inserted (with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 531\(2\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F9** S. 467(4)(aa) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 85](#)
- F10** S. 467(5)(c) substituted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 14 para. 11](#)
- F11** S. 467(7) substituted (with effect as stated in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 531\(3\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F12** Words in s. 467(7) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 53](#)

#### 468 Non-UK resident trustees and foreign institutions

(1) This section applies if a gain is treated as arising under this Chapter and either—

- (a) trustees who are non-UK resident would be liable for tax in respect of the gain as a result of section 467 if the trustees were UK resident immediately before the chargeable event in question occurs, or
- (b) immediately before that event occurs—
  - (i) a foreign institution beneficially owns a share in the rights,
  - (ii) the rights are held for the purposes of a foreign institution, or
  - (iii) a share in them is held as security for a foreign institution's debt.

[<sup>F13</sup>(2) Chapter 2 of Part 13 of ITA 2007 (which prevents avoidance of tax where a UK resident individual benefits from a transfer of assets) applies with the modifications specified in subsection (3) or (4).]

(3) In a case within subsection (1)(a), [<sup>F14</sup>Chapter 2 of Part 13 of ITA 2007 applies] as if—

- (a) the gain were income becoming payable to the trustees, and
- (b) that income arose to the trustees in the tax year in which the gain arises.

(4) In a case within subsection (1)(b), [<sup>F14</sup>Chapter 2 of Part 13 of ITA 2007 applies] as if—

- (a) the gain were income becoming payable to the institution, and
- (b) that income arose to the institution in the tax year in which the gain arises.

(5) In this Chapter “foreign institution” means a company or other institution resident or domiciled outside the United Kingdom.

(6) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references in this section to those rights are references to that part or share.

[<sup>F15</sup>(7) This section does not apply if someone is liable under section 465B in respect of the gain.]

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#### Textual Amendments

- F13** S. 468(2) substituted (with effect in accordance with Sch. 46 para. 72 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 46](#)
- F14** Words in s. 468(3)(4) substituted (with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 1027, 1034](#), [Sch. 1 para. 532\(b\)](#) (with transitional provisions and savings in [Sch. 2](#))
- F15** S. 468(7) inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 141](#)

### 469 Two or more persons interested in policy or contract

- (1) This section applies if immediately before a chargeable event two or more persons have material interests in the rights under the policy or contract.
- (2) Section 470 sets out the circumstances in which persons have such interests for the purposes of this section (which correspond to the circumstances referred to in sections 465 to 468 <sup>F16</sup>...).
- (3) Section 463 (income charged) applies in the case of any of the persons with such interests as if the amount of the gain arising when the event occurs were such part of it as is proportionate to the share of the rights to which the person's interest relates.
- (4) Sections 464 to 468 (persons liable for tax etc.) apply in relation to each of those persons as if that person were the only person with such an interest at that time.
- (5) Section 539(1) (relief for deficiencies) applies in relation to each of those persons as if the amount of deficiency arising when that event occurs were such part of it as is proportionate to the share of the rights to which that person's interest relates.
- (6) If a person (“A”) has two or more material interests in the rights under a policy or contract, this section applies in the same way as where two or more persons have separate such interests, unless A—
  - (a) is the only person with such interests, and
  - (b) has all those interests in the same capacity.
- (7) If there has been a surrender or assignment of only a part of or share in rights under the policy or contract, the references to those rights in this section and sections 470 to 472 are references to that part or share.

#### Textual Amendments

- F16** Words in s. 469(2) omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 14 para. 12](#)

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

- (1) This section sets out the circumstances in which a person has a material interest in the rights under a policy or contract for the purposes of section 469.
- (2) An individual has such an interest if—
  - (a) the individual beneficially owns a share in the rights,

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- (b) a share in them is held on non-charitable trusts which the individual created, or
  - (c) a share in them is held as security for the individual's debt.
- (3) A company has such an interest if—
- (a) the company beneficially owns a share in the rights,
  - (b) a share in them is held on non-charitable trusts which the company created, or
  - (c) a share in them is held as security for the company's debt.
- (4) Personal representatives have such an interest if they hold a share in the rights.
- (5) Trustees of a charitable trust have such an interest if a share in the rights—
- (a) is held by them, or
  - (b) is held as security for a debt owed by them.
- (6) Trustees of a non-charitable trust have such an interest if—
- (a) a share in the rights is held by the trustees and one of the absent settlor conditions specified in section 467(4) is met,
  - (b) a share in the rights is held by them, none of those conditions is met and no individual, company or personal representatives have an interest in the share, or
  - (c) a share in them is held as security for a debt owed by the trustees.
- (7) A foreign institution has such an interest if—
- (a) the institution beneficially owns a share in the rights,
  - (b) the rights are held for the institution's purposes, or
  - (c) a share in them is held as security for the institution's debt.

#### **471 Determination of shares etc.**

- (1) For the purposes of this Chapter—
- (a) rights under a policy or contract which are beneficially owned by two or more persons jointly, and
  - (b) an interest in such rights which is so owned,
- are treated as if they were beneficially owned by those persons in equal shares.
- (2) Subsections (3) and (4) apply if immediately before a chargeable event the rights under the policy or contract are, or a share in those rights is, held as security for one or more debts owed by two or more persons.
- (3) Each of those persons is treated for the purposes of this Chapter as the sole debtor for a separate debt.
- (4) The appropriate share of the security for the actual debt or debts, so far as it consists of the rights under the policy or contract or a share in them, is treated for the purposes of this Chapter as the security for each separate debt.
- (5) In subsection (4) “the appropriate share” means—
- (a) if there is only one actual debt for which the person is liable as between the debtors, a share proportionate to the share of that debt for which the person is so liable, and
  - (b) if there are two or more such actual debts, a share proportionate to the share of the total such debts for which the person is so liable.



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- (6) For the purposes of this section, property held for the purposes of a foreign institution is treated as being beneficially owned by the institution.
- (7) An interest in some or all of the rights under a policy or contract which is not a share in all those rights is treated for the purposes of this Chapter as such a share in those rights as may, on a just and reasonable apportionment, be regarded as representing the interest.

#### **472 Trusts created by two or more persons**

- (1) For the purposes of this Chapter, if immediately before a chargeable event—
  - (a) the rights under a policy or contract are held on non-charitable trusts created by two or more persons, or
  - (b) a share in those rights is so held,each of the persons is treated as the sole settlor of a separate share of the rights or share held on trusts.
- (2) Each settlor's separate share is proportionate to the share originating from that settlor of the whole of the property subject to the trusts immediately before the event.
- (3) If immediately before a chargeable event non-charitable trusts apply to property originating from different persons (for example, where property is added by different persons to an existing settlement)—
  - (a) as respects that event the trusts are taken to have been created by them all, and
  - (b) accordingly, each of them is treated as a sole settlor under subsection (1).
- (4) Property originates from a person for the purposes of subsections (2) and (3) if—
  - (a) it is property provided by the person for the purposes of the trusts,
  - (b) it is property representing such property, or
  - (c) in a case where property represents both property within paragraph (a) and other property, it is so much of that property as, on a just and reasonable apportionment, is to be taken to represent the property within paragraph (a).
- (5) References in subsection (4) to property representing other property include property representing accumulated income from other property.
- (6) For the purposes of this section, property is treated as provided by a person (“A”) if—
  - (a) it is provided by A directly or indirectly, or
  - (b) it is provided directly or indirectly by another person under reciprocal arrangements with A.
- (7) Property is not treated as provided by A if it is provided by A directly or indirectly under reciprocal arrangements with another person.

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**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\(7\)\(a\)](#)