

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, SCHEDULE 28. (See end of Document for details)

SCHEDULES

SCHEDULE 28

Section 83.

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

^{F1}PART 1

ASSIGNMENT OR SURRENDER OF PART OF THE RIGHTS

Textual Amendments

F1 Sch. 28 Pt. 1 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. 17(j)

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PART 2

PROVISION OF INFORMATION BY INSURERS

Information: duty of insurers

18 For section 552 of the Taxes Act 1988 substitute—

“552 Information: duty of insurers

(1) Where a chargeable event within the meaning of this Chapter has happened in relation to any policy or contract, the body by or with whom the policy or contract was issued, entered into or effected shall—

(a) unless satisfied that no gain is to be treated as arising by reason of the event, deliver to the appropriate policy holder before the end of the

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- relevant three month period a certificate specifying the information described in subsection (5) below; and
- (b) if the condition in paragraph (a) or (b) of subsection (2) below is satisfied, deliver to the inspector before the end of the relevant three month period a certificate specifying the information described in subsection (5) below together with the name and address of the appropriate policy holder.
- (2) For the purposes of this section—
- (a) the condition in this paragraph is that the event is an assignment for money or money's worth of the whole of the rights conferred by the policy or contract; or
- (b) the condition in this paragraph is that the amount of the gain, or the aggregate amount of the gain and any gains connected with it, exceeds one half of the basic rate limit for the relevant year of assessment.
- (3) If, in the case of every certificate which a body delivers under subsection (1) (a) above which relates to a gain attributable to a year of assessment (or, where the appropriate policy holder is a company, the corresponding financial year), the body also delivers to the inspector—
- (a) before the end of the relevant three month period for the purposes of subsection (1)(b) above,
- (b) by a means prescribed by the Board for the purposes of this subsection under section 552ZA(5), and
- (c) in a form so prescribed in the case of that means,
- a certificate specifying the same information as the certificate under subsection (1)(a) together with the name and address of the appropriate policy holder, the body shall be taken to have complied with the requirements of subsection (1)(b) above in relation to that year of assessment, and the corresponding financial year, so far as relating to the chargeable events to which the certificates relate.
- (4) Where a certificate is not required to be delivered under subsection (1)(b) above in the case of any chargeable event—
- (a) the inspector may by notice require the body to deliver to him a copy of any certificate that the body was required to deliver under subsection (1)(a) above which relates to the chargeable event; and
- (b) it shall be the duty of the body to deliver such a copy within 30 days of receipt of the notice.
- (5) The information to be given to the appropriate policy holder pursuant to subsection (1)(a) above or the inspector pursuant to subsection (1)(b) above is—
- (a) any unique identifying designation given to the policy or contract;
- (b) the nature of the chargeable event and—
- (i) the date on which it happened; and
- (ii) if it is a chargeable event by virtue of section 546C(7)(a), the date on which the year ends;
- (c) if the event is the assignment of all the rights conferred by the policy or contract, such of the following as may be required for computing

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the amount of the gain to be treated as arising by virtue of this Chapter—

- (i) the amount or value of any relevant capital payments;
 - (ii) the amounts previously paid under the policy or contract by way of premiums or otherwise by way of consideration for an annuity;
 - (iii) the capital element in any payment previously made on account of an annuity;
 - (iv) the value of any previously assigned parts of or shares in the rights conferred by the policy or contract;
 - (v) the total of the amounts of gains treated as arising on previous chargeable events by reason, or in consequence, of the occurrence of a section 546 excess at the end of a year;
- (d) except where paragraph (c) above applies, the amount of the gain treated as arising by reason of the event;
- (e) the number of years relevant for computing the appropriate fraction of the gain for the purposes of section 550(3), apart from section 553(8);
- (f) on the assumption that section 547(1)(a) has effect in relation to the gain—
- (i) whether an individual would fall to be treated as having paid income tax at the basic rate on the amount of the gain in accordance with section 547(5)(a); and
 - (ii) if so, except in a case where paragraph (c) above applies, the amount of such tax that would fall to be so treated as paid.
- (6) For the purposes of subsection (1)(a) above, the relevant three month period is whichever of the following periods ends the latest—
- (a) the period of three months following the happening of the chargeable event;
 - (b) if the event is a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months following the end of the year in which the event happens;
 - (c) if the event is a death or an assignment of the whole of the rights or a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months beginning with receipt of written notification of the event.
- (7) For the purposes of subsection (1)(b) above, the relevant three month period is whichever of the following periods ends the latest—
- (a) the period of three months following the end of the year of assessment, or, where the policy holder is a company, the financial year, in which the event happened;
 - (b) if the event is a surrender or assignment which is a chargeable event by virtue of section 546C(7)(a), the period of three months following the end of the year in which the event happens;
 - (c) if the event is a death or an assignment, the period of three months beginning with receipt of written notification of the event;
 - (d) if a certificate under subsection (1)(b) above would not be required in respect of the event apart from the happening of another event, and that other event is one of those mentioned in paragraph (c) above, the

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period of three months beginning with receipt of written notification of that other event.

- (8) For the purposes of this section the cases where a gain is connected with another gain are those cases where—
- (a) both gains arise in connection with policies or contracts containing obligations which, immediately before the chargeable event, were obligations of the same body;
 - (b) the policy holder of those policies or contracts is the same;
 - (c) both gains are attributable to the same year of assessment or, where the policy holder is a company, to the same financial year;
 - (d) the terms of the policies or contracts are the same, apart from any difference in their maturity dates; and
 - (e) the policies or contracts were issued in respect of insurances made, or were entered into or effected, on the same date.
- (9) For the purposes of this section, the year of assessment or financial year to which a gain is attributable is—
- (a) in the case of a gain treated as arising by virtue of section 546C(7) (b), the year of assessment or financial year which includes the end of the year as at which the section 546 excess in question occurs; or
 - (b) in any other case, the year of assessment or financial year in which happens the chargeable event by reason of which the gain is treated as arising.
- (10) In this section—
- “amount”, in relation to any gain, means the amount of the gain apart from section 553(3);
- “appropriate policy holder” means—
- (a) in relation to an assignment of part of or a share in the rights conferred by a policy or contract, any person who is both—
 - (i) the policy holder, or one of the policy holders, immediately before the assignment; and
 - (ii) the assignor or one of the assignors; and
 - (b) in relation to any other chargeable event, the person who is the policy holder immediately before the happening of the event;
- “financial year” means a period of 12 months beginning with 1st April;
- “the relevant year of assessment”, in the case of any gain, means—
- (a) the year of assessment to which the gain is attributable, or
 - (b) if the gain arises to a company, the year of assessment which corresponds to the financial year to which the gain is attributable;
- “section 546 excess” has the meaning given in section 546B(4);
- “year”, in relation to any policy or contract, has the meaning given by section 546(4).
- (11) For the purposes of this section a year of assessment and a financial year correspond to each other if the financial year ends with 31st March in the year of assessment.

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(12) This section is supplemented by section 552ZA.

552ZA Information: supplementary provisions

- (1) This section supplements section 552 and shall be construed as one with it.
- (2) Where the obligations under any policy or contract of the body that issued, entered into or effected it (“the original insurer”) are at any time the obligations of another body (“the transferee”) to whom there has been a transfer of the whole or any part of a business previously carried on by the original insurer, section 552 shall have effect in relation to that time, except where the chargeable event—
 - (a) happened before the transfer, and
 - (b) in the case of a death or an assignment, is an event of which the notification mentioned in subsection (6) or (7) of that section was given before the transfer,
 as if the policy or contract had been issued, entered into or effected by the transferee.
- (3) Where, in consequence of section 546C(7)(a), paragraph (a) or (b) of section 552(1) requires certificates to be delivered in respect of two or more surrenders, happening in the same year, of part of or a share in the rights conferred by the policy or contract, a single certificate may be delivered under the paragraph in question in respect of all those surrenders (and may treat them as if they together constituted a single surrender) unless between the happening of the first and the happening of the last of them there has been—
 - (a) an assignment of part of or a share in the rights conferred by the policy or contract; or
 - (b) an assignment, otherwise than for money or money’s worth, of the whole of the rights conferred by the policy or contract.
- (4) Where the appropriate policy holder is two or more persons—
 - (a) section 552(1)(a) requires a certificate to be delivered to each of them; but
 - (b) nothing in section 552 or this section requires a body to deliver a certificate under subsection (1)(a) of that section to any person whose address has not been provided to the body (or to another body, at a time when the obligations under the policy or contract were obligations of that other body).
- (5) A certificate under section 552(1)(b) or (3)—
 - (a) shall be in a form prescribed for the purpose by the Board; and
 - (b) shall be delivered by any means prescribed for the purpose by the Board;
 and different forms, or different means of delivery, may be prescribed for different cases or different purposes.
- (6) The Board may by regulations make such provision as they think fit for securing that they are able—
 - (a) to ascertain whether there has been or is likely to be any contravention of the requirements of section 552 or this section; and

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- (b) to verify any certificate under that section.
- (7) Regulations under subsection (6) above may include, in particular, provisions requiring persons to whom premiums under any policy are or have at any time been payable—
- (a) to supply information to the Board; and
 - (b) to make available books, documents and other records for inspection on behalf of the Board.
- (8) Regulations under subsection (6) above may—
- (a) make different provision for different cases; and
 - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.”.

Duties of overseas insurers' tax representatives

- 19 In section 552B of the Taxes Act 1988, for subsection (2) (which specifies the relevant duties) substitute—

“(2) For the purposes of this section “the relevant duties” are—

- (a) the duties imposed by section 552,
- (b) the duties imposed by section 552ZA(2), (4) or (5), and
- (c) any duties imposed by regulations made under subsection (6) of section 552ZA by virtue of subsection (7) of that section,

so far as relating to relevant insurances under which the overseas insurer in question has any obligations.”.

Penalties

- 20 In section 98 of the Taxes Management Act 1970 (c. 9), in the second column of the Table—
- (a) for the entry “section 552(1) to (4);” substitute “ section 552; ”; and
 - (b) for the entry “regulations under section 552(4A)” substitute “ regulations under section 552ZA(6); ”.

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