



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XIV

MISCELLANEOUS SPECIAL PROVISIONS

CHAPTER III

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

393 **Introductory**

- (1) This Chapter shall have effect for the purpose of imposing, in the manner and to the extent therein provided, charges to surtax and to tax under section 289 of this Act (shortfall in distributions of close company) in respect of gains to be treated in accordance with this Chapter as arising in connection with policies of life insurance, contracts for life annuities, and capital redemption policies.
- (2) Nothing in this Chapter shall apply—
 - (a) to any policy of life insurance having as its sole object the provision on an individual's death or disability of a sum substantially the same as any amount then outstanding under a mortgage of his residence, or of any premises occupied by him for the purposes of a business, being a mortgage the principal amount secured by which is repayable by instalments payable annually or at shorter regular intervals, or
 - (b) to any policy of life insurance issued in connection with a sponsored superannuation scheme as defined in section 226(11) of this Act if one-half at least of the cost of the scheme is borne by the person or persons under whom the relevant offices or employments are held.

In the application of this subsection to Scotland, for the reference to a mortgage there shall be substituted a reference to a heritable security within the meaning of the Conveyancing (Scotland) Act 1924 (but including a security constituted by ex facie absolute disposition or assignation).

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- (3) In this Chapter—
- " life annuity " means any annuity to which section 230 of this Act (purchased life annuities) applies,
 - " capital redemption policy " means any insurance effected in the course of a capital redemption business as defined in section 324(3) of this Act,
 - " assignment ", in relation to Scotland, means an assignation.
- (4) This Chapter shall have effect only as respects policies of life insurance issued in respect of insurances made after 19th March 1968, contracts for life annuities entered into after that date, and capital redemption policies effected after that date.
- (5) A policy of life insurance issued in respect of an insurance made on or before 19th March 1968 shall be treated for the purposes of subsection (4) above and the following provisions of this Chapter as issued in respect of one made after that date if it is varied after that date so as to increase the benefits secured or to extend the term of the insurance:

Provided that a variation effected before the end of the year 1968 shall be disregarded for the purposes of this subsection if its only effect was to bring into conformity with paragraph 2 of Schedule 1 to this Act (qualifying conditions for endowment policies) a policy previously conforming therewith except as respects the amount guaranteed on death, and no increase was made in the premiums payable under the policy.

394 Life policies: chargeable event

- (1) Subject to the provisions of this section, in this Chapter " chargeable event " means, in relation to a policy of life insurance—
- (a) unless it is a policy which falls within subsection (2) below, any of the following—
 - (i) any death giving rise to benefits under the policy,
 - (ii) the maturity of the policy,
 - (iii) the surrender in whole or in part of the rights conferred by the policy, and
 - (iv) the assignment for money or money's worth of those rights or of any share therein; and
 - (b) if it is a policy falling within subsection (2) below, any of the above events, but—
 - (i) in the case of death or maturity, only if the policy is converted into a paid-up policy before the expiry of ten years from the making of the insurance, or, if sooner, of three-quarters of the term for which the policy is to run if not ended by death or disability,
 - (ii) in the case of a surrender or assignment, only if it is effected within that time, or the policy has been converted into a paid-up policy within that time.
- (2) A policy falls within this subsection if (whether or not the premiums thereunder are eligible for relief under section 19 of this Act) it is a qualifying policy within the meaning of Part I of Schedule 1 to this Act.
- (3) The maturity of a policy is not a chargeable event in relation thereto if a new policy is issued in consequence of the exercise of an option conferred by the maturing policy unless the person making the insurance in respect of which the new policy is issued was

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an infant when the former policy was issued, and the former policy was one securing a capital sum payable either on a specified date falling not later than one month after his attaining twenty-five or on the anniversary of the policy immediately following his attainment of that age.

- (4) No event is a chargeable event in relation to a policy if the rights conferred by the policy have at any time before the event been assigned for money or money's worth.
- (5) No account shall be taken for the purposes of this section of any assignment effected by way of security for a debt, or on the discharge of a debt secured by the rights or share concerned, or of any assignment between spouses living together; and references in subsection (1) above to the surrender of the rights conferred by a policy do not include references to the surrender of any right to a bonus.
- (6) Where subsection (1)(b) above applies to a policy which has been varied so as to increase the premiums payable thereunder, it shall so apply as if the references in subsection (1)(b)(i) to the making of the insurance and the term of the policy were references respectively to the taking effect of the variation and the term of the policy as from the variation.

395 Life policies: computation of gain

- (1) On the happening of a chargeable event in relation to any policy of life insurance, there shall be treated as a gain arising in connection with the policy—
 - (a) if the event is a death, the excess (if any) of the surrender value of the policy immediately before the death, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums ;
 - (b) if the event is the maturity of the policy, or the surrender in whole or in part of the rights thereby conferred, the excess (if any) of the amount or value of the sum payable or other benefits arising by reason of the event, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums, or, in the case of a partial surrender, over the same proportion of that amount as is borne by the amount or value of the said sum or other benefits to the amount or value of the sum or other benefits which would have been payable, or would have arisen, if the rights had been wholly surrendered;
 - (c) if the event is an assignment—
 - (i) if it is an assignment of all the rights conferred by the policy, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments, over the total amount previously paid under the policy by way of premiums, and
 - (ii) if it is an assignment of a share only in those rights, the excess (if any) of the amount or value of the consideration, plus the amount or value of any relevant capital payments so far as attributable to the share assigned and received by the assignor or by any person at his direction, over the same proportion of the total amount previously paid under the policy by way of premiums as is borne by the amount or value of the consideration to the market value of the rights.
- (2) Where, in a case falling within subsection (1)(b) above, a right to periodical payments arises by reason of the event, there shall be treated as payable by reason thereof an amount equal to the capital value of those payments at the time the right arises.

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- (3) Where, in a case falling within subsection (1)(c) above, the assignment is between persons who are connected with each other within the meaning of section 533 of this Act, the assignment shall be deemed to have been made for a consideration equal to the market value of the rights or share assigned.
- (4) In this section, " relevant capital payments " means, in relation to any policy, any sum or other benefit of a capital nature, other than one attributable to a person's disability, paid or conferred under the policy before the happening of the chargeable event, and any sum paid, or other benefit conferred, by reason of any surrender before that time of a right to a bonus under the policy; and references in this subsection and (in relation to premiums) in subsection (1) above to " the policy " include references to any related policy, that is to say, to any policy in relation to which the policy is a new policy within the meaning of paragraph 9 of Schedule 1 to this Act, any policy in relation to which that policy is such a policy, and so on.

396 Life annuity contracts: chargeable event

- (1) Subject to subsections (2) and (3) below, in this Chapter " chargeable event " means, in relation to any contract for a life annuity, the surrender in whole or in part of the rights conferred by the contract, or the assignment for money or money's worth of those rights or of any share therein.

Where the terms of a contract provide for the payment of a capital sum as an alternative, in whole or in part, to payments by way of annuity, the taking of the capital sum shall be treated for the purposes of this section and section 397 below as a surrender in whole or in part of the rights conferred by the contract.

- (2) An event referred to in subsection (1) above is not a chargeable event in relation to any contract if the rights conferred by the contract have at any time before the event been assigned for money or money's worth.
- (3) Subsection (5) of section 394 above shall, with any necessary modification, apply for the purposes of this section as it applies for the purposes of the said section 394.

397 Life annuity contracts: computation of gain

- (1) On the happening of a chargeable event in relation to any contract for a life annuity, there shall be treated as a gain arising in connection with the contract—
- (a) if the event is the surrender in whole or in part of the rights conferred by the contract, the excess (if any) of the amount payable by reason of the event over—
 - (i) the total amount previously paid under the contract, whether by way of premiums or as lump sum consideration, reduced, if before the happening of the event one or more payments have been made on account of the annuity, by the capital element in the said payment or payments, as determined in accordance with section 230 of this Act, or
 - (ii) in the case of a partial surrender, the same proportion of that amount (as so reduced where appropriate) as is borne by the amount payable by reason of the event to the amount which would have been so payable if the rights had been wholly surrendered ;

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- (b) if the event is the assignment for money or money's worth of the rights conferred by the contract, or of any share therein, the excess (if any) of the amount or value of the consideration over—
 - (i) the amount specified in subsection (1)(a)(i) above, or
 - (ii) if the assignment is of a share only, the same proportion of that amount (reduced as therein mentioned where appropriate) as is borne by the amount or value of the consideration to the market value of the rights.
- (2) Subsection (3) of section 395 above shall apply for the purposes of subsection (1) above as it applies for the purposes of subsection (1)(c) of that section.

398 Capital redemption policies

- (1) Subject to subsection (2) below, in this Chapter "chargeable event" means, in relation to a capital redemption policy, any of the following—
 - (i) the maturity of the policy,
 - (ii) the surrender in whole or in part of the rights conferred by the policy, and
 - (iii) the assignment for money or money's worth of those rights or of any share therein.
- (2) Subsection (5) of section 394 above shall apply for the purposes of this section as it applies for purposes of the said section 394.
- (3) The provisions of section 395 above, except subsection (3) thereof, shall, so far as appropriate and subject to subsection (4) below, apply to capital redemption policies as they apply to policies of life insurance.
- (4) Where a chargeable event happens in relation to a capital redemption policy which has previously been assigned for money or money's worth, the said section 395 shall have effect in relation thereto as if, for the references to the total amount previously paid under the policy by way of premiums, there were substituted references to the amount or value of the consideration given for the last such assignment, plus the total amount of the premiums paid under the policy since that assignment.

399 Method of charging gain to tax

- (1) Where, under the preceding provisions of this Chapter, a gain is to be treated as arising in connection with any policy or contract—
 - (a) if, immediately before the happening of the chargeable event in question, the rights conferred by the policy or contract were vested in an individual as beneficial owner, or were held on trusts created by an individual (including trusts arising under section 11 of the Married Women's Property Act 1882, section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880, or section 4 of the Law Reform (Husband and Wife) Act (Northern Ireland) 1964) or as security for a debt owed by an individual, the amount of the gain shall be deemed for the purposes of surtax (but not for any other income tax purpose except the furnishing of information) to form part of that individual's total income for the year in which the event happened;
 - (b) if, immediately before the happening of that event, the said rights were in the beneficial ownership of a close company, or were held on trusts created, or as security for a debt owed, by a close company, then—

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- (i) for the purposes of section 289 of this Act (shortfall in distributions) the company's distributable income (but not its estate or trading income) for the accounting period in which the event happened shall be treated as increased by the amount of the gain, and
 - (ii) the amount of the gain shall also be deemed to form part of the company's income for that period for the purposes of section 296 of this Act (surtax apportionments);
- (c) if, immediately before the happening of that event, the said rights were vested in personal representatives within the meaning of Part XV of this Act, the amount of the gain shall, as regards surtax, be deemed for the purposes of the said Part XV to be part of the aggregate income of the estate of the deceased:

Provided that nothing in this subsection shall apply to any amount which is chargeable to tax apart from this subsection.

- (2) Where, immediately before the happening of a chargeable event, the rights conferred by any policy or contract were vested beneficially in two or more persons, or were held on trusts created, or as security for a debt owed, by two or more persons, paragraphs (a) and (b) of subsection (1) above shall have effect in relation to each of those persons as if he had been the sole owner, settlor or debtor, but with references to the amount of the gain construed as references to the part of it proportionate to his share in the rights at the time of the event or, as the case may require, when the trusts were created.
- (3) References in subsections (1) and (2) above to the rights conferred by a policy or contract are, in the case of an assignment of a share only in any rights, references to that share.

400 Relief where gain charged directly to surtax

- (1) The following provisions of this section shall have effect for the purpose of giving relief, on a claim in that behalf being made by him to the Board, in respect of any increase in an individual's liability to tax which is attributable to one or more amounts being included in his total income for a year of assessment by virtue of section 399(1) (a) above.
- (2) Where one amount only is so included, there shall be computed—
 - (a) the surtax which would be chargeable in respect of the amount if relief under this section were not available and it constituted the highest part of the claimant's total income for the year, and
 - (b) the surtax (if any) which would be chargeable in respect of the amount if calculated, in accordance with subsection (3) below, by reference to its appropriate fraction,
 and the relief shall consist of a reduction or repayment of tax equal to the difference between the two amounts of surtax so computed, or, if surtax would not be chargeable on a calculation by reference to the appropriate fraction, of a reduction or repayment of the tax equal to the surtax computed under paragraph (a) above.
- (3) In subsection (2) above "appropriate fraction" means, in relation to any amount, such a sum as bears thereto the same proportion as that borne by one to the number of complete years for which the policy or contract has run before the happening of the chargeable event; and the computation required by paragraph (b) of that subsection shall be made by applying to the amount in question the rate or rates of surtax (if more than one, in corresponding proportions) which would apply if it were reduced to that

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fraction, treating it, as so reduced, as still constituting the highest part of the claimant's total income for the year, and treating so much of it (if any) as would then not be chargeable to surtax as if it were chargeable thereto at a nil rate.

For the purposes of this subsection, the number of years for which a policy of life insurance has run before the happening of a chargeable event shall be calculated, where appropriate, from the issue of the earliest related policy, meaning, any policy in relation to which the policy is a new policy within the meaning of paragraph 9 of Schedule 1 to this Act, any policy in relation to which that policy is such a policy, and so on.

- (4) Where by virtue of the said section 399(1)(a) two or more amounts are included in an individual's total income for any year of assessment, subsections (2) and (3) above shall apply as if they together constituted a single amount, but with the appropriate fraction of the whole determined by adding together the appropriate fractions of the individual amounts.
- (5) A provision of this section requiring surtax to be calculated as if an amount constituted the highest part of a claimant's total income shall apply notwithstanding any provision of the Income Tax Acts directing any other amount to be treated as the highest part thereof, but, for the purposes of this section, a claimant's total income shall be deemed not to include any amount in respect of which he is chargeable to tax under sections 80, 81 or 82 of this Act (premiums, etc. treated as rent) or section 187 of this Act (payments on retirement or removal from office or employment).

401 Right of individual to recover tax from trustees

- (1) Where an amount is included in an individual's income by virtue of section 399(1)(a) above, and the rights or share in question were held immediately before the happening of the chargeable event on trust, the individual shall be entitled to recover from the trustees, to the extent of any sums, or to the value of any benefits, received by them by reason of the event, an amount equal to that (if any) by which the tax with which he is chargeable for the year of assessment in question, reduced by the amount of any relief available under section 400 above in respect of the amount so included, exceeds the tax with which he would have been chargeable for the year if the said amount had not been so included.
- (2) Where, for the purposes of relief under the said section 400, two or more amounts are to be treated as one, the reduction required by subsection (1) above on account of the relief available in respect of any of them shall consist of a proportionate part of the relief available in respect of their aggregate.
- (3) An individual may require the Board to certify any amount recoverable by him by virtue of this section, and the certificate shall be conclusive evidence of the amount.

402 Information: duty of insurers

- (1) Subject to subsection (2) below, 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, within three months of the event or, if it is a death or an assignment, within three months of their receiving written notification thereof, deliver to the inspector a certificate specifying—
 - (a) the name and address of the policy holder,
 - (b) the nature of the event, and the date on which it happened,

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- (c) as may be required for computing the gain to be treated as arising by virtue of this Chapter—
 - (i) the surrender value of the policy, or the sum payable, or other benefits to be conferred, by the body in question by reason of the event,
 - (ii) the amount or value of any relevant capital payments,
 - (iii) the amounts previously paid under the policy or contract by way of premiums, or otherwise by way of consideration for an annuity, and
 - (iv) the capital element in any payment previously made on account of an annuity, and
 - (d) the number of years relevant for computing the appropriate fraction of the gain for the purposes of section 400(3) above.
- (2) Subsection (1) above shall not apply where—
- (a) the body in question are satisfied that no gain is to be treated as arising by reason of the event, or
 - (b) the amount of the surrender value or sum, or the value of the other benefits, referred to in paragraph (c)(i) of that subsection, together with the amount or value of any payments within paragraph (c)(ii) thereof, does not exceed £500, but the inspector may by notice in writing require a like certificate in any such case, and it shall be the duty of the body to deliver the certificate within thirty days of receipt of the notice.