



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Insurance policies

55 Qualifying life insurance policies

- (1) Subject to subsections (2) and (3) below—
 - (a) paragraph 21 of Schedule 15 to the Taxes Act 1988 (certification of policies and of standard forms etc.) shall not apply, in relation to any time on or after 5th May 1996, for determining whether a policy is or would be a qualifying policy at that time; and
 - (b) no certificate may be issued under that paragraph at any time on or after that date except, in the case of a certificate under sub-paragraph (1)(a) of that paragraph, in relation to a time before that date.
- (2) Subsection (1) above shall not affect the right of any person to bring or continue with an appeal under paragraph 21(3) of that Schedule against either a refusal before 5th May 1996 to certify any policy or a refusal on or after that date to certify any policy in relation to times before that date.
- (3) A certificate issued—
 - (a) before 5th May 1996 in pursuance of paragraph 21(1)(a) of that Schedule, or
 - (b) in pursuance of a determination on an appeal determined after that date by virtue of subsection (2) above,shall, in relation to any time on or after that date or, as the case may be, the date on which it is issued, be conclusive evidence that the policy to which it relates is (subject to any variation of the policy) a qualifying policy.
- (4) Paragraph 22 of that Schedule (certificates from body issuing policy) shall cease to have effect in relation to any time on or after 5th May 1996.

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- (5) Paragraph 24 of that Schedule (policies issued by non-resident companies) shall have effect in relation to times on or after 5th May 1996—
- (a) with the substitution of the following sub-paragraphs for sub-paragraph (2)—
- “(2) Subject to section 55(3) of the Finance Act 1995 (transitional provision for the certification of certain policies), a new non-resident policy that falls outside sub-paragraph (2A) below shall not be a qualifying policy until such time as the conditions in sub-paragraph (3) are fulfilled with respect to it.
- (2A) A policy falls outside this sub-paragraph unless, at the time immediately before 5th May 1996, it was a qualifying policy by virtue of sub-paragraphs (2)(b) and (4) of this paragraph, as they had effect in relation to that time.”; and
- (b) with the omission, in sub-paragraph (3), of the word “first” and of sub-paragraph (4).
- (6) In paragraph 25 of that Schedule (policies substituted for policies issued by non-resident companies), for sub-paragraph (2) there shall be substituted the following sub-paragraph—
- “(2) The modifications are the following—
- (a) if, apart from paragraph 24, the old policy or any related policy (within the meaning of paragraph 17(2)(b)) of which account falls to be taken would have been a qualifying policy, that policy shall be assumed to have been a qualifying policy for the purposes of paragraph 17(2); and
- (b) if, apart from this paragraph, the new policy would be a qualifying policy, it shall not be such a policy unless the circumstances are as specified in paragraph 17(3); and
- (c) in paragraph 17(3)(c) the words “either by a branch or agency of theirs outside the United Kingdom or” shall be omitted;
- and references in this sub-paragraph to being a qualifying policy shall have effect, in relation to any time before 5th May 1996, as including a reference to being capable of being certified as such a policy.”
- (7) In paragraph 27(1) of that Schedule, except so far as it has effect for the purposes of any case to which paragraph 21 of that Schedule applies by virtue of the preceding provisions of this section, for “paragraphs 21 and” there shall be substituted “paragraph”.
- (8) In section 553 of the Taxes Act 1988 (which contains provisions referring to paragraph 24(3) or (4) of Schedule 15 to that Act)—
- (a) in subsection (2), for the words from “neither” to “fulfilled” there shall be substituted “the conditions in paragraph 24(3) of Schedule 15 to this Act are not fulfilled”; and
- (b) in subsection (7), for “either sub-paragraph (3) or sub-paragraph (4)” there shall be substituted “sub-paragraph (3)”;
- but this subsection shall not affect the operation of Chapter II of Part XIII of that Act in relation to any policy in relation to which the conditions in paragraph 24(4) of Schedule 15 to that Act, as it then had effect, were fulfilled at times in accounting

periods before those in relation to which section 103 of the Finance Act 1993 (which repealed section 445 of the Taxes Act 1988) had effect.

56 Foreign life policies etc

- (1) In section 547 of the Taxes Act 1988 (charging of certain gains arising in connection with insurance policies etc.), in subsection (5A), for “subsection (7)” there shall be substituted “subsection (6A) or (7)”; and after subsection (6) of that section there shall be inserted the following subsection—

“(6A) Subsection (6) above shall not apply in relation to a gain treated as arising in connection with a contract for a life annuity in any case where the Board are satisfied, on a claim made for the purpose—

- (a) that the company liable to make payments under the contract (“the grantor”) has not, at any time (“a relevant time”) between the date on which it entered into the contract and the date on which the gain is treated as arising, been resident in the United Kingdom;
- (b) that at all relevant times the grantor has—
 - (i) as a body deriving its status as a company from the laws of a territory outside the United Kingdom,
 - (ii) as a company with its place of management in such a territory, or
 - (iii) as a company falling, under the laws of such a territory, to be regarded, for any other reason, as resident or domiciled in that territory,been within a charge to tax under the laws of that territory;
- (c) that that territory is a territory within the European Economic Area when the gain is treated as arising;
- (d) that the charge to tax mentioned in paragraph (b) above has at all relevant times been such a charge made otherwise than by reference to profits as (by disallowing their deduction in computing the amount chargeable) to require sums payable and other liabilities arising under contracts of the same class as the contract in question to be treated as sums or liabilities falling to be met out of amounts subject to tax in the hands of the grantor;
- (e) that the rate of tax fixed for the purposes of that charge in relation to the amounts subject to tax in the hands of the grantor (not being amounts arising or accruing in respect of investments that are of a particular description for which a special relief or exemption is generally available) has at all relevant times been at least 20 per cent.; and
- (f) that none of the grantor’s obligations under the contract in question to pay any sum or to meet any other liability arising under that contract is or has been the subject, in whole or in part, of any reinsurance contract relating to anything other than the risk that the annuitant will die or will suffer any sickness or accident;

and subsection (6) above shall also not apply where the case would fall within paragraphs (a) to (f) above if references to a relevant time did not include references to any time when the contract fell to be regarded as forming part of so much of any basic life assurance and general annuity business the income

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and gains of which were subject to corporation tax as was being carried on through a branch or agency in the United Kingdom.”

- (2) In section 553 of that Act (non-resident policies and off-shore capital redemption policies), in subsection (6), for “subsection (7)” there shall be substituted “subsections (6A) and (7)”; and after that subsection there shall be inserted the following subsection—

“(6A) Paragraphs (a) and (b) of subsection (6) above do not apply to a gain in a case where the Board are satisfied, on a claim made for the purpose—

- (a) that the insurer has not, at any time (“a relevant time”) between the making of the insurance and the date on which the gain is treated as arising, been resident in the United Kingdom;
- (b) that at all relevant times the insurer has—
 - (i) as a body deriving its status as a company from the laws of a territory outside the United Kingdom,
 - (ii) as a company with its place of management in such a territory, or
 - (iii) as a company falling, under the laws of such a territory, to be regarded, for any other reason, as resident or domiciled in that territory,

been within a charge to tax under the laws of that territory;

- (c) that that territory is a territory within the European Economic Area when the gain is treated as arising;
- (d) that the charge to tax mentioned in paragraph (b) above has at all relevant times been such a charge made otherwise than by reference to profits as (by disallowing their deduction in computing the amount chargeable) to require sums payable and other liabilities arising under policies of the same class as the policy in question to be treated as sums or liabilities falling to be met out of amounts subject to tax in the hands of the insurer;
- (e) that the rate of tax fixed for the purposes of that charge in relation to the amounts subject to tax in the hands of the insurer (not being amounts arising or accruing in respect of investments that are of a particular description for which a special relief or exemption is generally available) has at all relevant times been at least 20 per cent.; and
- (f) that none of the insurer’s obligations under the policy in question to pay any sum or to meet any other liability arising under that policy is or has been the subject, in whole or in part, of any reinsurance contract relating to anything other than the risk that the person whose life is insured by the policy will die or will suffer any sickness or accident;

and paragraphs (a) and (b) of subsection (6) above shall also not apply where the case would fall within paragraphs (a) to (f) above if references to a relevant time did not include references to any time when the conditions required to be fulfilled in relation to that time for the purposes of subsection (7) below were fulfilled.”

- (3) For the purpose of securing that section 547(5) of the Taxes Act 1988 has effect in other cases (in addition to those specified in sections 547(6A) and 553(6A)) where it appears to the Board appropriate for section 547(6) or 553(6) to be disapplied by reference to tax chargeable under the laws of a territory outside the United Kingdom,

the Board may by regulations provide that the cases described in subsection (6A) of each of sections 547 and 553 of that Act are to be treated as including cases, being cases which would not otherwise fall within the subsection, where the conditions specified in the regulations are fulfilled in relation to any time (including one before the making of the regulations).

- (4) This section shall apply in relation to any gain arising on or after 29th November 1994 and in relation to any gain arising before that date the income tax on which has not been the subject of an assessment that became final and conclusive before that date.

57 Duties of insurers in relation to life policies etc

- (1) In section 552 of the Taxes Act 1988 (duties of insurers of life policies etc.), the following subsection shall be inserted after subsection (2) in relation to times on or after the day on which this Act is passed—

“(2A) 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, this section 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 assignment, is an event of which the notification mentioned in subsection (1) above was given before the transfer,

as if the policy or contract had been issued, entered into or effected by the transferee.”

- (2) In that section, the following subsections shall be inserted after subsection (4)—

“(4A) The Board may by regulations—

- (a) make provision as to the form which is to be taken by certificates under this section (including provision enabling such a certificate to be delivered otherwise than in the form of a document); and
- (b) make such provision as they think fit for securing that they are able to ascertain whether there has been or is likely to be any contravention of the requirements of this section and to verify any such certificate.

(4B) Regulations by virtue of subsection (4A)(b) above may include, in particular, provision requiring persons to whom premiums under any policy are or have at any time been payable to supply information to the Board and to make available books, documents and other records for inspection on behalf of the Board.

(4C) Regulations under subsection (4A) above may—

- (a) make different provision for different cases; and
- (b) contain such supplementary, incidental, consequential and transitional provision as appears to the Board to be appropriate.”

- (3) In the second column of the Table in section 98 of the Management Act (penalties in respect of certain information provisions), for the entry relating to section 552 of the Taxes Act 1988 there shall be substituted the following entries—

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“section 552(1) to (4);regulations under section 552(4A);”.