

## SCHEDULES

### SCHEDULE 34

Section 171

#### POLICIES OF LIFE INSURANCE ETC: MISCELLANEOUS AMENDMENTS

#### PART 1

#### GROUP LIFE POLICIES

##### *Exception of certain group life policies from Chapter 2 of Part 13*

- 1 (1) Section 539 of the Taxes Act 1988 (introductory) is amended as follows.
- (2) In subsection (2) (policies and contracts to which the Chapter does not apply) at the end of paragraph (d) add “; or
- (e) to any group life policy having as its sole object the provision, on the death or disability of any of the individuals insured under the policy, of a sum substantially the same as any amount then outstanding under a loan made by a credit union to that individual; or
  - (f) to any group life policy with respect to which the conditions in section 539A are satisfied (“an excepted group life policy”).”.
- (3) In subsection (3) (defined expressions) insert each of the following definitions at the appropriate place—
- ““credit union” means a society registered as a credit union under the Industrial and Provident Societies Act 1965 or the Credit Unions (Northern Ireland) Order 1985;”;
  - ““excepted group life policy” shall be construed in accordance with subsection (2)(f) above;”;
  - ““group life policy” means a policy of life insurance whose terms provide—
    - (a) for the payment of benefits on the death of more than one individual; and
    - (b) for those benefits to be paid on the death of each of those individuals;”.

##### *Excepted group life policies*

- 2 After section 539 of the Taxes Act 1988 insert—

#### **“539A The conditions for being an excepted group life policy**

- (1) The conditions mentioned in section 539(2)(f) (excepted group life policies) are those set out in the following provisions of this section.

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- (2) Condition 1 is that under the terms of the policy a sum or other benefit of a capital nature is payable or arises on the death of each of the individuals insured under the policy who dies without attaining an age which is specified in the policy and is not greater than 75 years.

In determining whether this condition is satisfied, disregard any terms of the policy which exclude from benefit the death of a person in specified circumstances, if the exclusion applies in relation to death in those circumstances in the case of each of the individuals insured under the policy.

- (3) Condition 2 is that under the terms of the policy—
- (a) the same method is to be used for calculating the sums or other benefits of a capital nature payable or arising on each death, and
  - (b) if there is any limitation on those sums or other benefits, the limitation is the same in the case of any death.
- (4) Condition 3 is that the policy does not have, and is not capable of having, on any day—
- (a) a surrender value that exceeds the proportion of the premiums paid which, on a time apportionment, is referable to the unexpired paid-up period beginning with that day, or
  - (b) if there is no such period, any surrender value.

For the purposes of this subsection the unexpired paid-up period beginning with any day is the period (if any) which—

- (i) begins with that day, and
  - (ii) ends with the earliest subsequent day on which—
    - (a) a payment of premium falls due under the policy, or
    - (b) the term of the policy ends.
- (5) Condition 4 is that no sums or other benefits may be paid or conferred under the policy, except as mentioned in condition 1 or condition 3.
- (6) Condition 5 is that any sums payable or other benefits arising under the policy must (whether directly or indirectly) be paid to or for, or conferred on, or applied at the direction of—
- (a) an individual or charity beneficially entitled to them, or
  - (b) a trustee or other person acting in a fiduciary capacity who will secure that the sums or other benefits are paid to or for, or conferred on, or applied in favour of, an individual or charity beneficially.

In this subsection “charity” means any body of persons or trust established for charitable purposes only.

- (7) Condition 6 is that no person—
- (a) who is an individual whose life is insured under the policy, or
  - (b) who is, within the meaning of section 839, connected with an individual whose life is so insured,
- may, by virtue of a group membership right relating to that individual, receive (directly or indirectly) any death benefit in respect of another group member.

In this subsection—

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- (i) “group membership right”, in relation to an individual, means any right (including the right of any person to be considered by trustees in their exercise of a discretion) that is referable to that individual’s being one of the individuals whose lives are insured by the policy; and
  - (ii) “death benefit in respect of another group member” means—
    - (a) any sums or other benefits payable or arising under the policy on the death of any other of those individuals, or
    - (b) anything representing any such sums or benefits.
- (8) Condition 7 is that a tax avoidance purpose is not the main purpose, or one of the main purposes, for which a person is at any time—
- (a) the holder, or one of the holders, of the policy, or
  - (b) the person, or one of the persons, beneficially entitled under the policy.

In this subsection—

- (i) “tax avoidance purpose” means any purpose that consists in securing a tax advantage (whether for the holder of the policy or any other person); and
- (ii) “tax advantage” has the same meaning as in Chapter 1 of Part 17 (tax avoidance).”.

*Retrospective exception of past and present pure protection group life policies*

- 3
- (1) For the purposes of Chapter 2 of Part 13 of the Taxes Act 1988 (and any former enactment that is re-enacted in that Chapter), any event happening before 9th April 2003 in relation to a policy of life insurance which, at the time of the event, was a pure protection group life policy shall be deemed not to have been a chargeable event.
  - (2) For the purposes of this paragraph a policy of life insurance is at any time a pure protection group life policy if at that time it is a group life policy whose terms do not provide for any sums or other benefits to be paid or conferred except on death or disability.

*Existing group life policies: time for compliance with the conditions in section 539A*

- 4
- (1) Where—
    - (a) on 9th April 2003 a policy of life insurance issued in respect of an insurance made before that date is a group life policy but the conditions in section 539A of the Taxes Act 1988 are not satisfied,
    - (b) on or after that date, the terms of the policy are varied so that those conditions are satisfied before 6th April 2004, and
    - (c) during the period beginning with 9th April 2003 and ending with the date when the variation takes effect (“the transitional period”), no sums become payable, and no other benefits arise, under the policy except on death or disability,
- the conditions in section 539A of the Taxes Act 1988 shall be taken for the purposes of Chapter 2 of Part 13 of the Taxes Act 1988 to have been satisfied with respect to the policy throughout the transitional period.

- (2) Where, for the purposes of Chapter 2 of Part 13 of the Taxes Act 1988,—

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- (a) on 9th April 2003 a policy of life insurance issued in respect of an insurance made before that date (“the old policy”) is a group life policy but the conditions in section 539A of the Taxes Act 1988 are not satisfied,
  - (b) on or after that date, the terms of the insurance are varied solely for the purpose of securing that those conditions are satisfied before 6th April 2004 with respect to a policy in respect of the insurance, and
  - (c) as a result of the variation, the old policy is replaced by a new policy (“the new policy”),
- sub-paragraph (3) applies.
- (3) Where this sub-paragraph applies—
- (a) the old policy and the new policy shall be treated for the purposes of—
    - (i) paragraph 3(1),
    - (ii) sub-paragraph (1), and
    - (iii) Chapter 2 of Part 13 of the Taxes Act 1988,
 as a single policy issued in respect of an insurance made at the time of the making of the insurance in respect of which the old policy was issued, and
  - (b) that deemed single policy shall be treated for the purposes of sub-paragraph (1) as if the variation mentioned in sub-paragraph (2)(b) had been a variation of its terms taking effect on the date on which that variation takes effect (but not resulting in the replacement of the deemed single policy).

*Deaths before 6th April 2004: period for insurer to give certificate under section 552(1)(a)*

- 5 (1) If any death giving rise to benefits under a group life policy occurs—
- (a) on or after 9th April 2003, but
  - (b) before 6th April 2004,
- subsection (6) of section 552 of the Taxes Act 1988 (relevant three month period for insurer to give certificate under section 552(1)(a) to policy holder) shall have effect in relation to that policy and that death as if there were included among the paragraphs of that subsection the unnumbered paragraph set out in sub-paragraph (2).
- (2) That paragraph is—
- “( ) if the event is a death and the policy in question is a group life policy, the period of three months following 5th April 2004;”.

## PART 2

### CHARITABLE AND NON-CHARITABLE TRUSTS

*Interpretation*

- 6 In section 539 of the Taxes Act 1988 (introductory) in subsection (3), insert each of the following definitions at the appropriate place—
- ““charitable trust” means any trust established for charitable purposes only;”;
  - ““non-charitable trust” means any trust other than a charitable trust.”.

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*Method of charging gain to tax*

- 7 (1) Section 547 of the Taxes Act 1988 is amended as follows.
  - (2) In subsection (1) (attribution of gain) in paragraph (a) (which refers to trusts created by an individual) before “trusts” insert “non-charitable”.
  - (3) In paragraph (b) of that subsection (which refers to trusts created by a company) before “trusts” insert “non-charitable”.
  - (4) After paragraph (c) of that subsection (personal representatives) insert—
    - “(cc) if, immediately before the happening of that event, those rights—
      - (i) were held on charitable trusts, or
      - (ii) were held as security for a debt owed by trustees of a charitable trust,subsection (9) or (10) below (as the case may be) shall apply in relation to the amount of the gain;”.
  - (5) In paragraph (d) of that subsection (trusts) in sub-paragraph (i) (rights held on trusts etc) before “trusts”, where first occurring, insert “non-charitable”.
  - (6) For the word “or” at the end of sub-paragraph (i) of that paragraph substitute the following sub-paragraph—
    - “(ia) those rights were held on non-charitable trusts and the circumstances were not such as are mentioned in paragraph (a), (b) or (c) above or sub-paragraph (i) above, or”.
  - (7) In sub-paragraph (ii) of that paragraph (rights held as security for debt owed by trustees) after “trustees” insert “of a non-charitable trust”.
  - (8) After subsection (4) insert—
    - “(4A) In subsection (1) above—
      - (a) paragraph (cc) is subject to paragraph 12(1) of Schedule 34 to the Finance Act 2003 (which applies paragraph 7(1) of Schedule 14 to the Finance Act 1998);
      - (b) paragraph (d)(ia) is subject to paragraph 12(2) of that Schedule (exception for certain cases where insurance etc made or effected before 9th April 2003).”.
  - (9) In subsection (5AA) (which, in a case falling within subsection (1)(d), applies, with modifications, to trustees the tax treatment for individuals under subsection (5)) for “subsection (1)(d)” substitute “subsection (1)(cc) or (d)”.
  - (10) In subsection (9) (treatment of gains in case falling within subsection (1)(d) where trustees resident in United Kingdom)—
    - (a) for “(1)(d)” substitute “(1)(cc) or (d)”; and
    - (b) in paragraph (b) (gain to be chargeable to income tax at the rate applicable to trusts) for “the rate applicable to trusts” substitute “the appropriate rate”.
  - (11) After subsection (9) insert—
    - “(9A) For the purposes of subsection (9) above, the “appropriate rate” for any year—

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- (a) in a case falling within subsection (1)(cc) above, is the basic rate for that year; and
  - (b) in a case falling within subsection (1)(d) above, is the rate applicable to trusts for that year.”
- (12) In subsection (10) (treatment of gains in case falling within subsection (1)(d) where trustees not resident in United Kingdom) for “(1)(d)” substitute “(1)(cc) or (d)”.

*Method of charging gain to tax: multiple interests*

- 8 (1) Section 547A of the Taxes Act 1988 is amended as follows.
- (2) In subsection (3) (the cases where a person has a relevant interest) in paragraph (a) (which refers to trusts created by an individual) before “trusts” insert “non-charitable”.
  - (3) In paragraph (b) of that subsection (which refers to trusts created by a company) before “trusts” insert “non-charitable”.
  - (4) After paragraph (c) of that subsection (personal representatives) insert—
    - “(cc) in the case of trustees of a charitable trust, if a share in the rights is held by them or as security for a debt owed by them;”.
  - (5) In paragraph (d) of that subsection (trustees) after “trustees” insert “of a non-charitable trust”.
  - (6) For the word “or” at the end of sub-paragraph (i) of that paragraph substitute the following sub-paragraph—
    - “(ia) if a share in the rights is held by them which does not also fall within paragraph (a), (b) or (c) above or sub-paragraph (i) above; or”.
  - (7) In subsection (6) (rights or share held on trusts created by two or more persons) before “trusts”, where first occurring, insert “non-charitable”.
  - (8) In subsection (10) (case where different shares of the whole trust property originate from different persons)—
    - (a) in paragraph (a), before “trusts” insert “non-charitable”; and
    - (b) in the closing words, before “trusts” insert “non-charitable”.

*Deemed surrender of certain loans*

- 9 (1) Section 548(1) of the Taxes Act 1988 is amended as follows.
- (2) In paragraph (a) (condition that gain would be treated under section 547 as part of an individual’s total income or income of a company) after “income of a company” insert “or of any trustees”.
  - (3) In paragraph (c) (condition that sum is lent to, or at the direction of, the individual or company by, or by arrangement with, the body issuing etc the policy or contract) after “company” insert “or those trustees”.

*Right of individual to recover tax from trustees*

- 10 In section 551 of the Taxes Act 1988, in subsection (1) (individual liable as settlor) in paragraph (b), for “trust” substitute “non-charitable trusts”.

*Right of company to recover tax from trustees*

- 11 In section 551A of the Taxes Act 1988, in subsection (1) (company liable as settlor) in paragraph (b), for “trust” substitute “non-charitable trusts”.

*Section 547(1)(cc) and (d)(ia): exception for certain old policies and contracts*

- 12 (1) Paragraph 7(1) of Schedule 14 to the Finance Act 1998 (c. 36) (exception for certain cases where the trust was created before 17th March 1998, the creator etc was an individual who died before that date and the insurance etc was made or effected before that date) has effect in relation to section 547(1)(cc) of the Taxes Act 1988 as it has effect in relation to section 547(1)(d) of that Act.
- (2) Paragraph (d) of section 547(1) of the Taxes Act 1988 (trustees of a non-charitable trust) does not have effect by virtue of sub-paragraph (ia) of that paragraph in relation to the amount of a gain if the gain is treated as arising on the happening of a chargeable event in relation to a pre-commencement policy or contract.
- (3) In this paragraph “pre-commencement policy or contract” means—
- (a) any policy of life insurance issued in respect of an insurance made before 9th April 2003,
  - (b) any contract for a life annuity made before that date, or
  - (c) any capital redemption policy where the contract was effected before that date,
- but does not include any such policy or contract falling within sub-paragraph (4).
- (4) A policy or contract falls within this sub-paragraph if, on or after 9th April 2003 (but before the happening of the chargeable event in question),—
- (a) the policy or contract has been varied so as to increase the benefits secured or to extend the term of the insurance, annuity or capital redemption policy (any exercise of rights conferred by the policy being regarded for this purpose as a variation); or
  - (b) there has been an assignment (whether or not for money’s worth) of the rights, or a share in the rights, conferred by the policy or contract to trustees of a non-charitable trust, as defined in section 539(3) of the Taxes Act 1988.

**PART 3**

MEANING OF “LIFE ANNUITY”

*Restriction of “life annuity” to contracts to which section 656 of the Taxes Act 1988 applies*

- 13 In section 539 of the Taxes Act 1988 (introductory) in subsection (3), for the definition of “life annuity” substitute—
- ““life annuity” means any annuity to which section 656 (as read with section 657) applies.”.

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## PART 4

### ROLLOVER OF GAIN ON MATURITY INTO NEW POLICY

#### *Repeal of section 540(2) of the Taxes Act 1988*

- 14 (1) Section 540(2) of the Taxes Act 1988 (maturity not a chargeable event if option exercised to re-invest whole proceeds of maturing policy in new policy) shall cease to have effect.
- (2) This paragraph is subject to paragraph 15.

#### *Saving for certain policies maturing on or after 9th April 2003*

- 15 (1) The maturity of a policy of life insurance (“the old policy”) on or after 9th April 2003 is not a chargeable event for the purposes of Chapter 2 of Part 13 of the Taxes Act 1988 if—
- (a) a new policy is issued in consequence of the exercise of an option conferred by the old policy,
  - (b) all sums becoming payable under the old policy on or after 9th April 2003 are retained by the company with which the insurance was made and applied in the payment of one or more premiums under the new policy, and
  - (c) sub-paragraph (2) applies.
- (2) This sub-paragraph applies if—
- (a) the option was exercised in writing on or before 8th April 2003, or
  - (b) the old policy matures on or before 30th April 2003 and has not been varied on or after 9th April 2003 so as to—
    - (i) change the date of maturity of the policy,
    - (ii) change any option conferred by the policy, or
    - (iii) confer any option.