

SCHEDULES

SCHEDULE 28

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

PART 1

ASSIGNMENT OR SURRENDER OF PART OF THE RIGHTS

Introductory

- 1 Chapter 2 of Part 13 of the Taxes Act 1988 is amended in accordance with the following provisions of this Part of this Schedule.

Interpretation

- 2 In section 539 (introductory) after subsection (3) insert—
- “(3A) References in this Chapter to assignment of the whole of, or assignment of part of or a share in, the rights conferred by a policy or contract shall, in any case where section 546A applies, be construed in accordance with that section.”.

Life policies: chargeable events

- 3 (1) Section 540 is amended as follows.
- (2) In subsection (1)(a) (chargeable events where policy is not a qualifying policy) at the beginning of sub-paragraph (v) (occurrence of excess under section 546 at end of year) insert “subject to section 546B(3)(a),”.
- (3) In subsection (1)(b) (chargeable events where policy is a qualifying policy) in sub-paragraph (ii) (which refers to a surrender or assignment or such an excess) after “assignment or” insert “(subject to section 546B(3)(a))”.

Life policies: computation of gain

- 4 (1) Section 541 is amended as follows.
- (2) In subsection (1), in each of paragraphs (a)(ii), (b)(ii) and (c)(ii) (which refer to the total amount treated as gain by virtue of paragraph (d) on the previous happening of chargeable events) after “paragraph (d) below” insert “or section 546C(7)(b)”.
- (3) In paragraph (d) of that subsection (if chargeable event is occurrence of excess mentioned in section 540(1)(a)(v), the gain is the amount of the excess) at the end insert “(subject to section 546B(3)(a))”.

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- (4) Subsection (4) (which makes provision about in-year assignments for no consideration and is superseded by the sections 546B to 546D inserted by this Schedule) shall cease to have effect.

Life annuity contracts: chargeable events

- 5 (1) Section 542 is amended as follows.
- (2) In subsection (1) (which specifies the chargeable events in relation to life annuity contracts) at the beginning of paragraph (c) (occurrence of excess under section 546 at end of year) insert “subject to section 546B(3)(a),”.
- (3) In subsection (3) (which provides that, subject to section 544, an event referred to in subsection (1) is not a chargeable event in relation to certain contracts made before 26th June 1982) after “subsection (1) above” insert “or section 546C(7)(a)”.

Life annuity contracts: computation of gain

- 6 (1) Section 543(1) is amended as follows.
- (2) In each of paragraphs (a)(ii) and (b)(ii) (which refer to the total amount treated as gain by virtue of paragraph (c) on the previous happening of chargeable events) after “paragraph (c) below” insert “or section 546C(7)(b)”.
- (3) In paragraph (c) (if chargeable event is occurrence of excess mentioned in section 542(1), the gain is the amount of the excess) at the end insert “(subject to section 546B(3)(a))”.

Capital redemption policies: chargeable events

- 7 In section 545(1) (which specifies the chargeable events in relation to capital redemption policies) at the beginning of paragraph (d) (occurrence of excess under section 546 at end of year) insert “subject to section 546B(3)(a),”.

The value of a part or share assigned

- 8 (1) Section 546 (calculation of certain amounts for the purposes of sections 540, 542 and 545) is amended as follows.
- (2) In subsection (1), in paragraph (a) (calculation of value of parts or shares assigned or surrendered)—
- (a) after “which” insert “—(i)”;
 - (b) for “assigned or surrendered” substitute “assigned for money or money’s worth, or surrendered,”; and
 - (c) after “13th March 1975,” insert—

“or

(ii) has been assigned otherwise than for money or money’s worth during that period but in a year beginning on or before 5th April 2001;”.
- (3) At the end of the section insert—

- “(6) Where any part of or share in the rights conferred by a policy or contract is assigned, the value of the part or share, as at the time of the assignment, shall be taken for the purposes of this section to be its surrender value at that time.”.

Assignments etc involving co-ownership

- 9 After section 546 (calculation of certain amounts for purposes of sections 540, 542 and 545) insert—

“546A Treatment of certain assignments etc involving co-ownership

- (1) This section applies in any case where—
- (a) as a result of any transaction (the “material transaction”) the whole or part of or a share in the rights conferred by a policy or contract (“the material interest”) becomes beneficially owned by one person or by two or more persons jointly or in common (“the new ownership”);
 - (b) immediately before the material transaction, the material interest was in the beneficial ownership of one person or of two or more persons jointly (“the old ownership”); and
 - (c) at least one person who is a member of the old ownership is also a member of the new ownership.
- (2) In any such case, the material transaction shall, in accordance with the following provisions of this section, be taken for the purposes of this Chapter (other than this section) to be one or more assignments, of part only of the rights conferred by the policy or contract.
- (3) For the purposes of this Chapter (other than this section), the members of the old ownership shall be treated—
- (a) where the old ownership consists of two or more persons beneficially entitled jointly, as if the material interest had been in their beneficial ownership in equal shares instead of jointly;
 - (b) where the new ownership consists of two or more persons beneficially entitled jointly, as if the result of the material transaction had been that the material interest was in the beneficial ownership of those persons in equal shares instead of jointly; and
 - (c) as if the material transaction had been the assignment by each member of the old ownership of so much (if any) of his old share as exceeds his new share (or, if he does not have a new share, the whole of his old share).
- (4) In this section—
- “new share”, in relation to the material interest and a person who is a member of the new ownership, means—
- (a) if there is only one member of the new ownership, the material interest;
 - (b) if there are two or more members of the new ownership beneficially entitled to the material interest in common, the member’s share in the material interest; or

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- (c) if there are two or more members of the new ownership beneficially entitled to the material interest jointly, the share attributed to the member by subsection (3)(b) above;
“old share”, in relation to the material interest and a person who is a member of the old ownership, means—
 - (a) if there is only one member of the old ownership, the material interest; or
 - (b) if there are two or more members of the old ownership, the share attributed to the member by subsection (3)(a) above.”.

Charging tax in respect of certain section 546 excesses

10 After section 546A insert—

“546B Special provision in respect of certain section 546 excesses

- (1) This section applies in relation to a policy or contract in any case where—
 - (a) a section 546 excess occurs at the end of any year (including the final year, whether or not ending with a terminal chargeable event); and
 - (b) the condition in subsection (2) below is satisfied in relation to that year.
- (2) The condition is that—
 - (a) during the year there has been an assignment for money or money’s worth of part of or a share in the rights conferred by the policy or contract; or
 - (b) during the year there has been both—
 - (i) an assignment, otherwise than for money or money’s worth, of the whole or part of or a share in the rights conferred by the policy or contract; and
 - (ii) an earlier surrender of part of or a share in the rights conferred by the policy or contract.
- (3) Where this section applies—
 - (a) the occurrence of the section 546 excess shall be treated for the purposes of this Chapter as not being a chargeable event; but
 - (b) the amount of the section 546 excess shall be charged to tax in accordance with the provisions of section 546C.
- (4) In this section—
 - “final year” has the meaning given by section 546(4);
 - “section 546 excess”, in relation to any year, means an excess, occurring at the end of the year, of—
 - (a) the reckonable aggregate value mentioned in subsection (2) of section 546, over
 - (b) the allowable aggregate amount mentioned in subsection (3) of that section;
 - “terminal chargeable event” means any chargeable event other than—
 - (a) an assignment for money or money’s worth of the whole of the rights conferred by the policy or contract;

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- (b) the occurrence of a section 546 excess; or
 - (c) a chargeable event by virtue of section 546C(7)(a);
- “year” has the meaning given by section 546(4).

546C Charging the section 546 excess to tax where section 546B applies

- (1) This section applies where, in relation to any policy or contract, the amount of a section 546 excess occurring at the end of any year falls to be charged to tax in accordance with this section by virtue of section 546B(3)(b).
- (2) The following amounts shall be calculated as at the end of that year—
 - (a) the aggregate of the values calculated under section 546(1)(a) in respect of any part of or share in the rights conferred by the policy or contract which has been assigned for money or money’s worth, or surrendered, during the year;
 - (b) the amount by which—
 - (i) the reckonable aggregate value mentioned in section 546(2), as at the end of the year, exceeds
 - (ii) the aggregate calculated under paragraph (a) above;and
 - (c) the amount by which—
 - (i) the allowable aggregate amount mentioned in section 546(3), as at the end of the year, exceeds
 - (ii) the amount calculated under paragraph (b) above.
- (3) In this section—
 - (a) “relevant transaction” means any assignment for money or money’s worth, or any surrender, of a part of or share in the rights conferred by the policy or contract which has happened during the year;
 - (b) “transaction value”, in relation to any relevant transaction, means the value calculated in accordance with section 546(1)(a) in the case of that transaction;
 - (c) “the amount of available premium” means—
 - (i) in relation to the earliest relevant transaction, the amount calculated under subsection (2)(c) above (that amount being taken to be nil if there is no such excess as is there mentioned); and
 - (ii) in relation to each successive relevant transaction, that amount as successively reduced under subsections (5) to (7) below.
- (4) Subsection (5) below shall apply successively to each of the relevant transactions that happened in the year, in the order in which they happened.

If the year is the final year and ends with a terminal chargeable event, this subsection is subject to section 546D.
- (5) Where this subsection applies in relation to a relevant transaction—
 - (a) the transaction value shall be compared to the amount of available premium; and

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- (b) if the amount of available premium exceeds or is equal to the transaction value, subsection (6) below shall apply in relation to the transaction; but
 - (c) if the transaction value exceeds the amount of available premium, subsection (7) below shall apply in relation to the transaction.
- (6) Where this subsection applies in relation to a relevant transaction—
 - (a) the amount of available premium shall be reduced (or further reduced) by the transaction value; and
 - (b) that reduction shall have effect in relation to the next subsequent relevant transaction.
- (7) Where this subsection applies in relation to a relevant transaction—
 - (a) the relevant transaction shall for the purposes of this Chapter be a chargeable event in relation to the policy or contract, except as provided by sections 540(3) and 542(3);
 - (b) a gain of an amount equal to that by which the transaction value exceeds the amount of available premium shall be treated for the purposes of this Chapter as arising in connection with the policy or contract on the happening of that chargeable event; and
 - (c) in relation to any subsequent relevant transaction, the amount of available premium shall be reduced to nil.
- (8) Where the whole or any part of the amount of any gain treated as arising by subsection (7)(b) above falls to be treated under any provision of section 547 as forming part of the income of any body or person for—
 - (a) the year of assessment in which the chargeable event in question happened, or
 - (b) the accounting period in which it happened,

that year of assessment or accounting period shall be taken to be the one which includes the end of the year as at which the section 546 excess in question occurs, instead of the one (if different) in which the relevant transaction happened.
- (9) Where this section applies in relation to the final year and that year ends with a terminal chargeable event—
 - (a) effect shall be given to this section before applying the provisions of this Chapter in relation to the terminal chargeable event; and
 - (b) in applying this Chapter in relation to the terminal chargeable event, any chargeable event by virtue of subsection (7)(a) above accordingly falls to be regarded as having occurred before the terminal chargeable event.
- (10) This section shall be construed as one with section 546B.

546D Modifications of s.546C for final year ending with terminal chargeable event

- (1) This section applies in any case where the year mentioned in section 546C(4) is the final year and that year ends with a terminal chargeable event.
- (2) In any such case there shall be calculated, as at the end of the year, the amount of the gain (“the gains limit”) that would have been treated as arising on the

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happening of the terminal chargeable event, apart from the application of sections 546B and 546C in relation to that year.

(3) Subsection (5) of section 546C shall apply successively to each of the relevant transactions that happened in the year, in the order in which they happened, unless and until the transaction in question (the “final transaction”) is such that the aggregate of—

- (a) its transaction value apart from subsection (4) below, and
- (b) the sum of the transaction values of any relevant transactions to which subsection (5) of that section has previously applied,

exceeds the gains limit.

(4) If, in the case of the final transaction,—

- (a) the aggregate mentioned in subsection (3) above exceeds the gains limit, but
- (b) the sum mentioned in paragraph (b) of that subsection is less than that limit,

subsection (5) of section 546C shall apply in relation to that transaction, but for the purposes of subsections (5) to (7) of that section its transaction value shall be reduced to an amount equal to the difference between the gains limit and the sum mentioned in paragraph (b) above.

(5) Except as provided by subsection (4) above, subsection (5) of section 546C shall not apply in relation to the final transaction or any subsequent relevant transaction.

(6) This section shall be construed as one with sections 546B and 546C.”.

Method of charging gain to tax

11 (1) Section 547 is amended as follows.

(2) In subsection (1) (which makes provision for charging tax in cases where under section 541, 543 or 545 a gain is treated as arising) for “or 545” substitute “, 545 or 546C”.

(3) After subsection (1) insert—

“(1A) In their application in relation to a gain which is treated as arising by virtue of section 546C(7)(b), subsection (1) above and subsections (9) to (11) below are subject to section 546C(8).”.

(4) For subsection (4) (application of section in relation to an assignment of a share only in any rights) substitute—

“(4) References in subsection (1) above to the rights conferred by a policy or contract are, in the case of an assignment or surrender of only a part of or share in any rights, references to that part or share.”.

(5) In subsection (5A) (gains treated under section 543 as arising in connection with certain life annuity contracts) after “section 543” insert “or 546C(7)(b)”.

(6) In subsection (7) (gains treated as arising under section 541 or 543 in connection with certain friendly society policies) for “or 543” substitute “, 543 or 546C(7)(b)”.

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Method of charging gain to tax: multiple interests

- 12 In section 547A, for subsection (2) (application of section in relation to an assignment of a share only in any rights) substitute—

“(2) References in this section to the rights conferred by a policy or contract are, in the case of an assignment or surrender of only a part of or share in any rights, references to that part or share.”.

Corresponding deficiency relief

- 13 In section 549(1) (deduction from individual’s total income where deficiency occurs at end of final year, so far as not exceeding total amount treated as gain by virtue of section 541(1)(d) or 543(1)(c)) for “or 543(1)(c)” substitute “, 543(1)(c) or 546C(7)(b)”.

Relief where gain charged at higher rate

- 14 In section 550, after subsection (5) (which refers to two or more chargeable events which are the occurrence of excesses under section 546) insert—

“(5A) For the purposes of this section, a chargeable event by virtue of section 546C(7)(a)—

- (a) shall be treated as being such a chargeable event as is mentioned in subsection (5) above; and
- (b) accordingly, in computing any number of complete years, shall be treated as happening at the end of the year (within the meaning given by section 546(4)) as at which occurs the excess that gives rise to it.”.

Right of individual to recover tax from trustees

- 15 In section 551(1)(b) (which refers to the rights or share in question being held on trust) for “rights or share” substitute “rights, or the part or share,”.

Right of company to recover tax from trustees

- 16 In section 551A(1)(b) (which refers to the rights or share in question being held on trust) for “rights or share” substitute “rights, or the part or share,”.

Non-resident policies and off-shore capital redemption policies

- 17 (1) Section 553 is amended as follows.
- (2) In subsection (3) (reduction for non-residence of the amount that would otherwise be treated by virtue of section 541 as a gain arising) after “section 541” insert “or 546C(7)(b)”.
 - (3) In subsection (6) (which refers to gains under section 541 reduced in accordance with subsection (3) of the section) after “section 541” insert “or 546C(7)(b)”.
 - (4) In subsection (10) (interpretation) in the definition of “chargeable event” after “545” insert “or 546C(7)(a)”.