

INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Savings and investment income

Chapter 9: Gains from contracts for life insurance etc.

Section 530: Income tax treated as paid etc.

2078. This section sets out when (subject to section 531) an income tax allowance is available to set off against the tax chargeable on the gain. It is based on section 547 of ICTA.
2079. The allowance is an amount equivalent to the lower rate of income tax on the gain (see section 1A(1B) of ICTA). It is treated as tax paid by the individual or trustees liable to tax on the gain. The allowance is not available to personal representatives who are so liable.
2080. An individual whose income is chargeable at the higher rate (see section 1(2)(b) of ICTA) will pay tax at that rate on the gain, against which the allowance can be set.
2081. The trustee or trustees of a non-charitable trust pay tax at the rate applied by section 686(1AA)(b) of ICTA, subject to the set-off of the allowance. The trustee or trustees of a charitable trust pay tax on gains at the lower rate (see section 467(7)(a)), and therefore have no net liability where the allowance is due.
2082. Taxpayers whose income is chargeable at the starting, lower or basic rates only, and non-taxpayers, have no further income tax liability when the allowance is due.
2083. *Subsection (2)* provides that the tax treated as paid is not repayable even if the individual (or the trustee or trustees) is a non-taxpayer or the allowance exceeds the tax charged on the gain.
2084. *Subsection (3)* caps the allowance when the net income chargeable to tax is reduced below the amount of the gain because of other deductions. The allowance is reduced accordingly.
2085. *Subsection (6)* ensures that the starting rate of tax (section 1(2)(aa) of ICTA) does not apply when calculating the liability to tax on a gain of an individual who is entitled to the allowance.
2086. See also section 546 (table of provisions subject to special rules for older policies and contracts).