Gains on foreign life insurance policies

Contacts

Please phone:

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Introduction	Page 2
Part 1 – Types of policy	Page 3
What sort of policy do you have?	Page 3
When will a gain arise?	Page 5
Part 2 – Whose gain is it?	Page 8
Individuals	Page 8
UK resident trustees	Page 9
Personal representatives	Page 9
Co-ownership etc.	Page 10
Part 3 – Entries on the tax return	Page 10
Determining the amount of the gain	Page 10
Multiple or 'clustered' policies	Page 10
Commission	Page 11
In which year is a gain taxable?	Page 11
Dividing gains – joint owners	Page 12
Completing your tax return	Page 13
Loss, or no gain, on the policy	Page 16
Part 4 – Other cases	Page 17
Examples of other cases	Page 17
Part 5 – How to calculate a gain	Page 18
On maturity or full surrender	Page 18
On death	Page 19
On sale	Page 20
On part surrenders/part assignments (sales)	Page 20
Examples of calculations	Page 21
More help needed?	Page 23

Introduction

This helpsheet will help you to fill in boxes 43 to 45 in the 'Other overseas income and gains' section in the *Foreign* pages of your tax return. It will help you decide what you need to enter in each of those boxes. These notes are generally applicable to individuals, trustees and personal representatives of a deceased person unless they say otherwise.

This helpsheet deals with chargeable event gains on foreign life insurance policies, life annuities and capital redemption policies. This helpsheet will help you to fill in the *Foreign* pages of your tax return for the year ended 5 April 2014. This is because it gives information based on the law for that year. It covers the most common circumstances that you are likely to come across when dealing with the taxation of gains on life insurance contracts.

Guidance

This helpsheet cannot cover every possibility. You can find more detailed guidance in the *Insurance Policyholder Taxation Manual* (IPTM), go to **hmrc.gov.uk/manualsa-z**

Is the policy a foreign policy?

A foreign policy is usually one issued by an insurer from outside the UK. A policy taken out with the UK branch of an overseas insurer is treated as a foreign policy. The UK branch will have sent you a certificate if you have made a gain, telling you how much the gain was. If you are in any doubt as to whether your policy is of this type then ask your insurer.

A UK insurer may also issue a foreign policy as part of its Overseas Life Assurance Business. This is a type of policy sold by a UK insurer to a person who, at the time it was taken out, was residing outside the UK. Gains from this type of policy go on the *Foreign* pages if the policy was taken out on or after 17 March 1998. However, gains from Overseas Life Assurance Business policies which were taken out before 17 March 1998 are treated as arising from UK policies and you should enter details of any such gains in boxes 4 to 11 on page Ai 1 of the *Additional information* pages. If you think you might have made a gain on an Overseas Life Assurance Business policy made on or after 17 March 1998 but have not received a certificate, contact your insurer.

If, when you have read the notes, you are sure that:
- you have made no gain on the payment or other benefit received in connection with a foreign policy, and
- you do not have a foreign Personal Portfolio Bond

you may leave boxes 43 to 45 blank.

Do **not** include in boxes 43 to 45 payments from foreign purchased life annuities include them in the 'Interest and other income from overseas savings' boxes on page F 2.

Policy

Where this helpsheet talks about a 'policy' it means a 'life insurance policy'. This helpsheet also talks about gains from two other types of contract. The first type is a 'life annuity' including a 'purchased life annuity'. The second type is known as a 'capital redemption policy' or 'bond'. The rules for taxing gains on these are broadly the same as the rules for taxing the gains on life insurance policies. If you believe you have one of these two types of contracts, then you should read the sections headed 'Life annuities' and 'Capital redemption policies' on page 18 of this helpsheet.

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Gains

In these notes 'gains' are chargeable event gains which are sometimes referred to as 'chargeable gains'. They are taxable as income and included in income for **all** purposes, including entitlement to personal allowances (including age-related allowances) and tax credits. They are **not** capital gains so capital losses and the annual exempt amount cannot be set against them.

Tax

The way the gain is worked out depends on the type of event – read 'Determining the amount of the gain' on page 10 and 'Part 5 – How to calculate a gain' on page 18 of this helpsheet. A gain is treated as taxable income and added to your other income. It may also have an effect if you are an individual who:
- would qualify for the age-related allowances or reliefs, or
- is receiving tax credits.

Asking your insurer

If you are in doubt about what sort of policy you have and whether there has been a chargeable event and a gain, ask your insurer.

Part 1 - Types of policy

This part will help you of decide if you have a gain because you received a payment or other benefit. The type of policy you have and the type and amount of any payment or benefit you received are all things that may affect whether you have to pay any Income Tax.

Pages TFN11 to TFN12 of the *Notes on Trust and Estate Foreign* provide similar guidance for trustees and personal representatives. This helpsheet provides supplementary information for foreign trusts too.

Not all payments from your insurer are taxable. For tax purposes, the most important distinction is between **'non-qualifying'** and **'qualifying'** policies, although most foreign policies are non-qualifying policies. Non-qualifying policies will normally give rise to a gain, but a number of things can affect whether you have to pay any tax or not.

What sort of policy do you have?

Non-qualifying policies – 'single premium' policies

A single premium life insurance policy is one where you pay an amount to the insurer (a premium) at the beginning of the policy. You may also be able to pay additional premiums.

This type of policy pays out a lump sum on its maturity or if you (or another life assured) should die. You may also withdraw sums, take a loan from the insurer or by arrangement with it while the policy is in force, or you may sell, assign or surrender the policy before it is due to mature.

This type of policy can **never** be a qualifying policy and is most likely to give rise to a taxable gain.

Qualifying policies

Most foreign policies are not qualifying policies although there are some exceptions (dependent largely on the date that the policy was issued). More details about these are in the *Insurance Policyholder Taxation Manual* (IPTM), go to **hmrc.gov.uk/manualsa-z** These types of policies do not normally give rise to a chargeable event gain although the section headed 'Will a gain ever arise on a qualifying policy?' on page 7 of this helpsheet gives details of when they can arise.

There are special rules about qualifying policies and interest-bearing loans made to you or on your behalf to someone else. If you know of such a loan and your insurer has not already told you whether a gain has arisen, you should ask your insurer. If the policy is a qualifying policy and interest at a commercial rate is payable on the money you borrowed, then the loan is not a chargeable event. This might apply, for example, where the loan was secured by way of a mortgage granted in connection with a house purchase.

Acquired/'second-hand' policies

If you are not the original owner of a policy, and you received money in connection with such a policy, or given the policy away or exchanged it for another asset, then read the section on 'Policies purchased from a third party – 'second-hand' policies' on page 17 of this helpsheet.

Personal Portfolio Bonds (PPB)

These types of policies give rise to an annual charge as well as to the other charges that arise on a gain. In general, a Personal Portfolio Bond (PPB) is a life insurance policy where the benefits payable are determined by the value of certain property chosen directly or indirectly by the policyholder, rather than investment funds generally available to other policyholders.

The charge will arise if the policy is a PPB at the end of the insurance year. You are treated as having made a gain of an amount equal to 15 per cent of premiums paid, with the premiums paid being treated as increased annually by 15 per cent, on a compound basis. However, there is no annual charge in the year the policy ends.

Most policies will not be PPBs but if you are unsure whether your policy is a PPB, then there is further guidance in the *Insurance Policyholder Taxation Manual* (IPTM). Your insurer should know and be able to tell you if you have a PPB subject to this annual charge. They may have issued a certificate to you showing your taxable gain and may also have sent a copy to us.

Life annuities

A 'life annuity' means an annuity contract for a period ending on death or at some other time linked to the end of life.

Capital redemption policies

A 'capital redemption policy' is a particular type of contract that is available from an insurer. It provides that on payment of a sum or series of sums of money, the insurer guarantees that a larger sum, or sums, will be payable on a specified future date or dates. There is no 'life assured' and therefore no amount becomes payable because of death.

There are more details about life annuity contracts and capital redemption policies in 'Part 4 – Other cases' on page 16 of this helpsheet.

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When will a gain arise?

What gives rise to a gain?

If during the year:
- you made withdrawals or received cash or other benefits on a full surrender, part surrender, maturity or death, from a foreign life insurance policy, life annuity or capital redemption policy, or
- you sold or assigned the whole or part of a foreign life insurance policy, life annuity or capital redemption policy (including as part of arrangements on divorce or separation), or
- the ownership of a policy or part of a policy changed hands for money or money's worth, or
- you held a Personal Portfolio Bond (PPB) with a foreign insurer in the year (even if the insurer had not paid cash or other benefits during the year in connection with that PPB), or
- any of the things listed under the previous bullets were done by
  - the trustees of a trust you created or contributed to, or
  - the trustees of a bare trust of which you are a beneficiary, or
  - anybody holding a policy in their own name as your nominee, or
  - a lender to whom your policy was previously assigned as security for a debt of yours

then you may have made a gain which you need to enter in box 43.

No gains arise if you have given all or part of your policy to someone else and have received nothing in return.

'Surrendering' your policy means giving up the right to receive a future benefit in exchange for something, usually cash. You can surrender:
- the 'whole' of the rights and your policy ends, or
- 'part' of the rights and the policy continues (but the benefits (money) paid out at the end will be reduced).

The benefits due to you may be paid out as a single sum or as a series of sums and you may have had to claim them from the insurer. (The deceased's personal representatives will usually claim benefits that are paid because of death.)

Other circumstances in which you may make a taxable gain

Loans – where an insurer makes you a loan, or makes a loan on your behalf to someone else, or makes an arrangement for some other person to make such a loan.

Replacement policy/related policy – this is when a policy comes to an end and all (or some) of the proceeds are kept by the insurer and used to pay a first premium under a new 'replacement' policy or some other type of insurance. You may have difficulty in recognising that one policy has ended and that a new replacement policy (or some other insurance contract such as an annuity) has taken its place. You may wish to contact your insurer if you have not received a new policy document. They may have noted the change in some other way, such as endorsing the existing policy document. The circumstances in which a policy ends include:
- exercising an option to take out a new policy
- changing the life or lives assured, for example, if on marriage or forming a civil partnership the life of a spouse or civil partner is added or on divorce or ending of civil partnership the life of a former spouse or civil partner is removed from the policy

- in certain circumstances exercising other options or making changes to a policy by agreement. Changes which end a policy include some which alter the nature of the insured risk or otherwise fundamentally change the contract. It is not possible to list all changes that have this legal result.

Changes to policies – your insurer may have told you about the effect of any change you made to your policy. If your insurer hasn't told you, ask them for details. If your insurer is unable to help, look at the *Insurance Policyholder Taxation Manual* (IPTM), go to **hmrc.gov.uk/manualsa-z**

Notification of gains

Under arrangements made with us, if your foreign insurance company knows (as they usually will) that something has happened to give rise to a chargeable event gain, including an annual gain under a Personal Portfolio Bond (read the section on 'Personal Portfolio Bonds (PPB)' on page 4 of this helpsheet), they may have sent you a certificate showing you the amount of the gain that you have made or the amount of benefits paid. Your insurer may also have provided this information to us. If you have received a certificate from your insurer then, unless more than one person made the gain, this is the amount you should enter on your tax return. If more than one person made the gain, then you should refer to the 'Co-ownership etc.' section on page 10 of this helpsheet. The rules for working out the gain depend on the type of event, but generally the gain will not be the same as the amount you have received.

If in doubt, ask your insurer to tell you what sort of policy or annuity you have and whether there has been a chargeable event and a gain.

When will a gain not arise on a non-qualifying policy?

You will not have made a gain if:

- the calculations show that there is no gain (read 'Determining the amount of the gain' on page 10 of this helpsheet), or
- the event is the transfer of beneficial ownership of the whole or part of a policy to a spouse or civil partner who you are living with at some time in the tax year in which the transfer took place, or
- the beneficial ownership was transferred as security for a debt, or
- the beneficial ownership was transferred for no money or money's worth. This includes gifts. Transfers on divorce may include money or money's worth even though no money changes hands, but where the transfer takes place under a court order or under an agreement ratified by a court, there is no money or money's worth.

If you have received a benefit or one of the other events listed in 'What gives rise to a gain?' on page 5 of this helpsheet has occurred, and you do not fall into one of the categories above, you have probably made a gain. If this describes your situation, read 'Determining the amount of the gain' on page 10 of this helpsheet.

5 per cent withdrawals

You may also have made a gain which is only taxable when your policy ends. This is because in each **insurance year** you can withdraw up to 5 per cent of the premium paid into your single premium policy without a gain happening in that year. The 5 per cent includes regular pay outs or withdrawals. If, for example, you do not make **any** withdrawals in an insurance year, the full amount of the 5 per cent 'annual allowance' is carried forward. This means that in the second insurance year, if you have not made a withdrawal in the first insurance year, you can withdraw **up to** 10 per cent of the premium paid without a gain happening in that second insurance year.

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An insurance year (sometimes called a 'policy year') begins on the anniversary of the date your policy was taken out and ends on the day before the anniversary in the next year. For example, if your policy was taken out on 1 January 2011, then the policy years will be 1 January 2011 to 31 December 2011, 1 January 2012 to 31 December 2012, 1 January 2013 to 31 December 2013 and so on. The full surrender of your policy ends the final insurance year and this means that the final insurance year may be longer or shorter than 12 months. For example, if you take out your policy on 1 January 2009 and fully surrender it on 6 March 2014, the final insurance year will be the period 1 January 2013 to 6 March 2014 because 31 December 2013 and 6 March 2014 are in the same tax year.

You do not need to include in your tax return details of payments from your insurance policy that are at or below the 5 per cent annual limit, unless your policy has ended – read 'Part 5 – How to calculate a gain' on page 18 of this helpsheet. If payments or withdrawals in an insurance year are higher than the 5 per cent annual limit or the total of the 5 per cent annual limit and any unused amounts brought forward, then you only need to include the excess over the 5 per cent annual limit or over the total of the 5 per cent annual limit and any brought forward amounts.

The 5 per cent annual limit is **not** a tax-free amount. All amounts paid from or withdrawn from a policy have to be added into the calculation made when your policy ends. There are examples in 'Part 5 – How to calculate a gain' on page 18 of this helpsheet which show how the 5 per cent annual limit works.

Other circumstances where there is no gain

Critical illness/disability – there will be no gain if you have received a lump sum as a result of a claim to a 'critical illness benefit' or a 'disability benefit' due under the policy. Benefits of this kind are never included in the calculation of any gain; for example, if another benefit is paid under the same policy later on. If you are unsure whether a benefit is a critical illness or disability benefit, ask your insurer.

Pre–March 1968 policies – policies made before 20 March 1968 (and not changed thereafter) will not give rise to gains. (If your policy was made before that date but was changed after it, the policy may be treated as made after that date. If you are unsure, see the *Insurance Policyholder Taxation Manual* (IPTM), go to **hmrc.gov.uk/manualsa-z**)

Pre–June 1982 policies – some policies made and assigned before 26 June 1982 do not give rise to gains. However, these may give rise to a Capital Gains Tax charge as explained in 'Policies purchased from a third party – 'second-hand' policies' on page 17 of this helpsheet.

Death: Some other types of policy do not usually give rise to gains. Examples of these types of policy are term assurance policies or similar policies that only pay a benefit if death occurs during the term of the policy and have no surrender value, or a surrender value no greater than the premiums paid. The only time this type of policy can give rise to a gain is if it is sold. A sale may occur, for example, because the life assured is suffering from a terminal illness.

Will a gain ever arise on a qualifying policy?

As explained in the 'Qualifying policies' section on page 4 of this helpsheet, it is unlikely that a foreign policy will be a qualifying policy.

However, a gain may have arisen on your policy if:
- you surrendered or sold the whole or any part of it, or
- you received benefits, or
- a loan was taken out, other than at a commercial rate of interest, less than 10 years from the date the policy was taken out, or
- there have been changes to such things as the terms under which premiums are paid or to the lives assured.

A gain may also arise if you or a previous owner:
- stopped paying premiums so that the policy became 'paid-up' less than 10 years from the date that it was taken out, and
- at any time later, received money in connection with the policy, for example, when it matured, paid out on death, was surrendered or where the whole or any part of it was sold.

However, if exceptionally your foreign policy is a qualifying policy, no gain arises when such a policy matures, pays out on death, is surrendered or sold if:
- the policy has run for at least 10 years,
- there have not been any changes to it, and
- all premiums have been paid when due.

Part 2 – Whose gain is it?

Individuals

A gain will be treated as part of your income if you are:
- the 'beneficial' owner of the rights under the policy. You are likely to be the beneficial owner if you paid the premium(s) and you (or your estate after your death) are entitled to any benefits under the policy. You may be regarded as the beneficial owner in other circumstances, usually because you are absolutely entitled to benefit from a policy. For example, you may be the beneficiary of what is known as a 'bare trust' or a 'resulting trust', or
- the owner of rights under a policy which is held as security for a debt of yours, such as a mortgage, or
- the person who either created or added property to a trust that holds the policy. The gain is treated as your income whether or not you are entitled to benefit under the terms of the trust (unless the trust is a bare trust or a resulting trust – immediately above). You are entitled to recover from the trustees any tax that you pay on the gain, or
- the UK beneficiary of an overseas trust or entity. An overseas entity is a company or other institution resident or domiciled outside the UK. A gain may be treated as 'unexpended income' of the trust or entity and the benefit you received may be treated as your income.

Benefits from overseas trusts and entities

A chargeable event gain on a UK or foreign life insurance policy, life annuity or capital redemption policy is also treated as income for this purpose if the rights under the policy or life annuity are held:
- by a non-resident trust and the person who created the trust is not charged UK tax on the gain. (If the rights under a policy or life annuity are held on trust, any gain is usually treated as income of the person who created the trust. But this is not the case if the trust was created by an individual who is non-resident or deceased. Nor is this the case if the trust was created by

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a company or other entity if the company or other entity is non-resident or has been dissolved, wound up or otherwise come to an end), or
- as security for a debt owed by a non-resident trust, or
- by an overseas entity, or
- as security for a debt owed by an overseas entity.

A gain is not counted as a benefit received from an overseas trust or other entity if the first or second bullet above would apply, but:
- the policy or life annuity was made before 17 March 1998, and
- the policy or life annuity has not been 'enhanced' on or after 17 March 1998 by paying further non-contractual premiums or in any other way, and
- the trusts were created by an individual who died before 17 March 1998, or if created by more than one person, at least one of those persons was an individual who died before that date.

If you received your payment or other 'benefit' from a UK trust which has been either:
- non-resident, or
- which has received assets from a trust which either is or has been non-resident

only count unexpended income that arose while the relevant trust has been abroad. Chargeable event gains count if the trust was non-resident immediately before the chargeable event. If you are not sure whether this applies to your circumstances ask the trustees or your tax adviser. For more information see the *Foreign notes* about completing boxes 41, 42 and 46 in the *Foreign* pages, and Helpsheet 262 *Income and benefits from transfers of assets abroad and income from non-resident trusts*.

'Unexpended income' means income that has not otherwise been spent by the trust or other entity. Income which arose before 10 March 1981 is not counted for this purpose. A gain on a policy or life annuity is not counted as unexpended income if the chargeable event was before 6 April 2000.

UK resident trustees

A gain will be treated as income of trustees of a trust if:
- the trust was created by an individual who, when the event that gives rise to the gain occurs, is not resident in the UK or is dead, unless the gain arises in the same tax year in which that individual died, or
- the trust was created by a company or some other entity that is not resident in the UK or that has been dissolved, wound up or has otherwise come to an end, or
- the rights under a policy are held as security for a debt owed by the trustees, or
- the trust was created by a person or body other than a company or individual, such as another trust, and the policy was taken out on or after 9 April 2003.

You can find more guidance for trustees in the Trust and Estate Tax Return guide.

Personal representatives

A gain may be treated as income of personal representatives where it arises on a policy and it is:
- not treated as income of a deceased individual, and
- not treated as having been taxed at the basic rate.

This may be the case, for example, where a policy of life insurance owned by the deceased but taken out on the life of somebody else, is surrendered by the personal representatives, or matures while it is still an asset of the estate.

Gains should be included in box 4.6 or 4.8 of the *Trust and Estate Foreign* pages. The Trust and Estate Tax Return guide has more information.

Co-ownership etc.

A policy is treated as if it is in co-ownership if:

- more than one individual is beneficially entitled to the benefits payable under the policy, or
- the rights under the policy are held on trusts created by more than one person (including where property was added to an existing trust), or
- the rights under the policy are held as security for a debt owed by more than one person, or
- the rights under the policy are held in more than one capacity (for example, part of the rights are held as beneficial owner and part as trustee).

In each case, any gain has to be divided among the co-owners in accordance with special rules. Read 'Dividing gains – joint owners' on page 12 of this helpsheet.

If a gain is to be treated as part of your income, what follows will help you to calculate it.

Part 3 - Entries on the tax return

This part of the helpsheet tells you how to work out whether you have made a gain from your policy, the amount of that gain and how to complete your tax return.

You may have received a certificate from your insurer showing any gain made but if your policy was taken out before April 2001, your insurer might only show the amount of the payment you received not the amount of the gain.

Determining the amount of the gain

'Part 5 – How to calculate a gain' on page 18 of this helpsheet it gives details of how to calculate the gain for various events. This will help if you:

- have sold your policy, or
- have received a copy of a chargeable event certificate which does not show the amount of the gain that you have made, or
- think that you may have made a gain but have not received a certificate.

If the result given by the calculation is zero, or a negative amount, go to the section 'Loss, or no gain, on the policy' on page 16 of this helpsheet.

Multiple or 'clustered' policies

Many insurance packages are made up of a number of policies taken out at the same time with the same insurer and are often referred to as a 'cluster'.
At the outset usually all of these policies will be identical. They may also have identical numbers apart from a sub-designation (for example, policies numbered AB1234567/1–10, where numbers 1–10 identify the individual policies).
You may also only have one policy document for all of the clustered contracts.

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A reference in this helpsheet to a policy means one policy and in a cluster this would be, for example, policy AB1234567/7. You should do any calculation of a gain on each policy, even if you have 20 identical policies and have received an identical lump sum from each one.

However, if you have made gains from more than one policy, and following the calculations set out in 'Part 5 – How to calculate a gain' on page 18 of this helpsheet all of the gains from all of the policies are identical, then you can add the individual gains together and include the total gains and the total of any tax treated as paid in boxes 43 to 45, as appropriate, following the guidance below.

If you have made gains from more than one policy and they were not identical or were not taken out at the same time with the same insurer, you will need to enter details in the 'Any other information' box of your tax return. Describe each policy, life annuity or cluster of identical policies. For each policy, enter the name and reference number of the policy, the insurer, the amount of the gains, the number of complete years and the amount of any tax treated as paid. Then add together all the gains and tax treated as paid and transfer the totals to boxes 43 and 45 as appropriate. Do not make any entry for the number of years in box 44.

In some insurance packages the policies concerned are treated as a single policy when calculating chargeable event gains. This applies to policies:
- made on or after 21 March 2012 where, for example one or a limited number of policies within a cluster were issued on terms that would not be expected if the policies were issued in isolation, and for policies in existence on 21 March 2012, and
- any of the policies concerned are varied so as to increase the benefits secured, or
- some or all of the policy rights are assigned, or
- some or all of the rights are held as security for a debt.

If you need to calculate a chargeable event gain then for these policies, you must treat all of the policies as a single policy and put the total gains, tax paid etc. in boxes 43 to 45 as appropriate.

Commission

Commission may have been rebated to you or reinvested as additional premium in your policy. If on or after 21 March 2007 you:
- paid premiums totalling over £100,000 into your policy or policies in the same year, and
- your adviser passed on commission for those premiums to you or reinvested commission as additional premium into your policy

then you must add the amount of commission passed on or reinvested to the gain on a full surrender or maturity and then enter the total in box 43.

In these circumstances, where tax is treated as paid on the gain, the figure you enter in box 45 is worked out by multiplying the gain by $^{20}/_{100}$.

In which year is a gain taxable?

In some cases, the insurer may have sent you more than one certificate relating to a particular gain, with the later certificate showing a revised figure of benefits paid or amount of chargeable gain. In this case, you should enter the details shown on that later certificate.

End of policy – if the event is a death or the maturity, sale or surrender of the whole of a policy, the gain is treated as income of the tax year in which the particular event occurs.

Part surrender/sale – If the event is the sale or surrender of part of a policy, including the making of a loan, it is the date on which the policy was taken out that determines the tax year in which any gain is taxed. The gain is taxed in the tax year in which the end of what is known as the 'insurance year' falls. The notes in 'Part 1 – Types of policy' on page 3 of this helpsheet explains the meaning of 'insurance year' and the example below will help you to work out the correct tax year.

Example

A policy you took out on 1 July 1998, for example, would have an insurance year ending on each 30 June following until your policy finally ends. If using this example, you made a part surrender on 31 January 2013, the end of the insurance year would be 30 June 2013. 30 June 2013 falls into the 2013–14 tax year so you would enter the gain on this year's tax return.

Dividing gains – joint owners

It is not possible to elect to share any 'gain' on a policy of life insurance, life annuity or on a capital redemption policy. Any gain is allocated to the person who actually owns the rights (or owned them immediately prior to the chargeable event) under the insurance policy or contract, or created the trusts under which the rights are held.

Proportion of rights – if you have a share in the rights under a policy, your share of any gain that arises is the same as your share of the rights. Joint owners are treated as having equal shares: if you own the policy jointly with your spouse or civil partner, you should each enter on your own tax return half the amount of the gain you have calculated or that is reported on any certificate showing a gain that you receive. You should also only enter half of any tax treated as payable.

Settlors of a trust – if the rights under a policy are held in a trust or trusts that you created, or if you added property to an existing trust, your share of the overall gain is the same as the share of the property held in trusts that originates from you at the time the gain arises. (For example, say you settled £2,500 on a trust and this was used to buy assets that have become worth £3,000 by the time the gain on a life policy in the trust arose. If the total assets of the trust were worth £4,500 at that time, then you would be taxable on $^{3000}/_{4500}$ or $^{2}/_{3}$ of the gain. The person who donated the other property held in the trust would be taxable on the other $^{1}/_{3}$ of the gain.)

Security for debt – if the rights under a policy are held as security for a debt owed by you and others, your share of any gain that arises is the same as your share of the debt.

Other – similar rules apply in more complex situations such as in apportioning gains to trustees, personal representatives and as unexpended income of an overseas trust or entity. If you need more information, see the *Insurance Policyholder Taxation Manual* (IPTM), go to **hmrc.gov.uk/manualsa-z**

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Completing your tax return

The way you complete boxes 43 to 45 will depend on several issues including the age and type of your policy. Section A that follows gives general guidance about foreign policies – read 'Is the policy a foreign policy' on page 2 of this helpseet – to help you complete the boxes, and Section B that follows gives additional guidance for certain older policies. Do not include in these boxes details of income and gains from pension or retirement annuities. See page FN 8 in the *Foreign notes* if you have received these.

Section A

Apportionment of gain for periods of non-residence

The amount of the gain you enter in box 43 is reduced if you (or, if you were not the policyholder when the gain arose and the policy was issued before 6 April 2013, the policyholder – see below) were not resident in the UK for any part of the period since the policy was taken out.

There are different rules for calculating the apportionment. If the policy was issued before 6 April 2013, then the reduction in the gain will be calculated by reference to the residence history of the policyholder.

If the policy was issued on or after 6 April 2013, or one of the following occurs on or after that date:
- The policy is varied and this results in an increase in the benefits secured. This includes such variations to policies which would not have been eligible for a time apportioned reduction under the rules applicable prior to 6 April 2013.
- There is an assignment of rights, or a share of the rights, under the policy to the individual (or deceased).
- Some or all of the rights conferred by the policy or contract become held as security for a debt of the individual or deceased

then the reduction is calculated according to the residence history of the person liable to tax on the chargeable event gain.

The gain is reduced to the fraction: A/B of the gain where:
'A' is the number of foreign days in the material interest period. Foreign days are all the days in a tax year for which the individual is not UK tax resident and any days in a split year in which the individual is taxed as though not tax resident. Foreign days throughout the duration of the policy are calculated by reference to the Statutory Residence Test.

'B' is the number of days in the material interest period. The material interest period is the part of the policy period during which the individual meets one of the following conditions:
- The individual beneficially owns the rights under the policy or contract.
- The rights are held on non-charitable trusts which the individual created.
- The rights are held as security for the individual's debt.

(See also 'In which year is a gain taxable?' on page 11 and 'Example 1' on page 21 of this helpsheet.)

If you are entitled to relief for a 'deficiency' (read 'Loss, or no gain, on the policy' on page 16 of this helpsheet), then that relief is reduced by the same fraction as a gain would have been.

However, no reduction is due if at any time in the policy period to the date the gain is treated as arising, the policy is held by:
- a non-UK resident trustee or trustees and the policy was taken out or

enhanced after 19 March 1985, or
- a non-UK resident company or other entity and the policy was taken out or enhanced after 16 March 1998.

For the purpose of the first bullet above:
- where the settlor of the trust (or, if more than one, at least one settlor) is resident, ordinarily resident or domiciled in the UK, the trustees are non-UK resident only if all of the trustees are non-UK resident
- otherwise, the trustees are non-UK resident if any of the trustees are non-UK resident.

The reduction does not apply to gains arising on a foreign annuity.

Top-slicing relief

You should ignore this section if you are a trustee or a personal representative of a deceased person who is taxable on a gain. This is because in these circumstances, you are not entitled to top-slicing relief.

Top-slicing relief is a relief that is available when you:
- do not pay higher rate tax on your other income (excluding the gain) but when the gain is added to your other income you have to pay higher rate tax, or
- do not pay additional rate tax on your other income (excluding the gain) but when the gain is added to your other income you have to pay additional rate tax.

You need to enter the number of complete years in box 44 of the *Foreign* pages or in the 'Any other information' box of your tax return. Do not leave the box blank or enter 'zero' unless you have multiple policies that have resulted in gains. In these circumstances, as explained in the 'Multiple or 'clustered' policies' section on page 10 of this helpsheet, you need to include details in the 'Any other information' box, instead.

Number of complete years – the number of years to be entered in box 44 or in the 'Any other information' box, is the number of complete periods of 12 months since the policy or life annuity was made. So, if you took out your policy or contract on 1 February 2000 and surrendered it on 30 June 2012, it has run for 12 complete years and that is the number you put in box 44.

However, if you have reduced the gain you entered in box 43 for periods of non-residence, the number of years you enter in box 44, or include in the 'Any other information' box, should also be reduced. It is reduced by dividing the number of foreign days in the material interest period by 365. If this number is not a whole number, then it is rounded down. See 'Example 1' on page 21 of this helpsheet.

The number of complete years cannot be less than 1.

Calculation – if you are due any top-slicing relief, it will be automatically calculated using the information in box 44 and given in the calculation of your overall tax due. If you do not make any entries in box 44, we will use the information in the 'Any other information' box to work it out.

Further information and guidance is available in the *Insurance Policyholder Taxation Manual* (IPTM) including the implications for individuals liable to additional rate tax, go to **hmrc.gov.uk/manualsa-z**

The calculation of top-slicing relief can be complicated and it is not possible to give full details in this helpsheet. However, there are two common scenarios which arise:
- if you are liable to higher rate tax but not additional rate tax on your other

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income (not including the gain) then no top-slicing relief is due

- if you would not be liable to higher rate tax on your other income plus the 'sliced gain', which is the gain divided by the number of years, then there is no higher rate tax to pay on the gain.

Personal allowances/age allowance/tax credits – the whole amount of the gain, not the 'sliced gain', must be added to your other income to see if your personal allowances (including age-related allowances) or tax credits are affected.

Basic rate tax treated as paid

You will not usually be entitled to relief for tax treated as paid on gains. However, if the policy is from the UK branch of a foreign insurer, then basic rate tax is treated as paid. It may also be possible that the gain should be treated as if basic rate tax has been paid on it for some policies from insurers resident in other European States if the insurer has been taxed on the investments underlying the policy.

There are other conditions, if you need more information, see the *Insurance Policyholder Taxation Manual* (IPTM), go to **hmrc.gov.uk/manualsa-z**

Section B

This section gives additional guidance about certain older policies. For the purposes of this helpsheet, these older policies are:

- a foreign policy issued by a foreign insurer that was taken out before 18 November 1983 and not enhanced since then, or
- a foreign capital redemption policy that was taken out on or before 22 February 1984 and not enhanced since then, or
- a foreign life annuity made before 27 March 1974.

'Enhanced' means changed so as to increase the benefits provided by the policy or contract, or to extend its term. If your policy was enhanced after the dates mentioned above, you will need to follow the guidance in 'Section A' on page 13 of this helpsheet.

No apportionment of gain – always enter the full amount of the gain in box 43. There is no apportionment of the gain on these policies and contracts for periods in which you (or any previous holder of the policy) were not resident in the UK.

Top-slicing relief – if the gain arises on a second or subsequent sale or surrender of part of a policy or two or more loans have been made, the number of complete years is the number of complete periods of 12 months since the last preceding gain arose (rather than the number of complete years since the policy or annuity was made). For this purpose the date on which each gain is treated as arising is the end of the insurance year in which the event occurred – read 'In which year is a gain taxable?' on page 11 of this helpsheet.

Basic rate tax treated as paid – gains on 'older policies' are treated as if tax at the basic rate has been paid on them. If appropriate, enter in box 45 an amount equal to 20/100 of the gain entered in box 43.

Loss, or no gain, on the policy

The result of the calculation when a chargeable event arises may not be a positive amount. You have not made a gain and you should not make any entries in boxes 43 to 46 of your tax return if:

- the result of the calculation, or
- the calculation on an assignment, or
- the result of a part surrender type of calculation (read 'Example 4' on page 22 of this helpsheet),

is zero or gives a negative result.

If the result of a full surrender, death or maturity calculation is negative and you made no gains on the policy in earlier years, so that the number represented by A in 'Examples 1 to 3' on page 21 of this helpsheet is zero, you have made a loss on the policy. There is no relief for that loss and you should not make any entries on your tax return. However, if the result of a full surrender, death or maturity calculation is negative but you made gains on the policy in earlier years, the section that follows about 'deficiency relief' may be relevant.

A loss on one policy cannot be set off against a gain on another policy.

Deficiency relief – if the event is death, full surrender or maturity of the policy **and** the calculation includes any amount for gains made on earlier events, the result of the calculation of the gain may be a negative amount. If so, you may be entitled to a relief known as 'deficiency relief' which reduces the amount of Income Tax due on other income liable to higher rate tax. This relief is not available to trustees, personal representatives and beneficiaries of an overseas trust, company or other entity.

If you are entitled to the relief, it can be up to the maximum amount of the gains made on earlier chargeable events from the same policy and to the extent that such gains were treated as forming part of your income. Earlier chargeable events may have arisen, for example, when during the term of the policy, you made withdrawals from your policy or part assignments of value higher than 5 per cent of the premium in a year. Details on how to calculate the amount of relief can be found in the *Insurance Policyholder Taxation Manual* (IPTM), in IPTM3860 to 3880, go to **hmrc.gov.uk/manualsa-z**

You will not get any reduction in your tax due unless you have made gains from your policy in a year before 2013–14 and you have to pay tax at the higher rate in 2013–14. If you have made gains in a year before 2013–14, your policy has ended in 2013–14 and you pay higher rate tax in 2013–14, then this relief will mean a reduction in your tax liability. Deficiency relief will not reduce the amount of tax due on income liable to additional rate tax.

If a deficiency arises from a policy or contract within 'Section A' (see page 13 of this helpsheet) and you (or, if you were not the policyholder, the policyholder) were resident outside the UK for any period since the policy was taken out, the deficiency should take account of any reduction made to the earlier gains because of any period of residency outside the UK. This reduction will have used the A/B fraction referred to on page 13 of this helpsheet.

If you are due any deficiency relief, it will be automatically calculated using the information given in box 11 of page Ai 1 on your *Additional information* pages, and given in the calculation of your overall tax due.

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Part 4 - Other cases

Examples of other cases

Other Income Tax charges take priority

If any other charge to Income Tax arises on money obtained from, or in connection with, a policy or a change of ownership or a policy coming to an end, that charge will take priority over the charge described in this helpsheet. For example, a benefit under a policy may be taxable as a receipt of your trade, profession or employment. If you think this applies to you and you need more help, read 'More help needed?' on page 23 of this helpsheet.

Lloyd's underwriters

You may hold life insurance policies, life annuities and capital redemption policies as part of funds at Lloyd's. The tax treatment of any gain on these policies or life annuities depends on how they are used to underpin or support your underwriting. If the insurer has provided a guarantee to Lloyd's secured on your policy or life annuity, you should enter the gains in the tax return as appropriate, following the guidance in this helpsheet. If, however, the trust deed governing your Lloyd's Deposit includes the policy or life annuity itself, any chargeable event gain is part of Lloyd's trading income. If you are an individual include it in box 25 of the *Lloyd's underwriters* pages of your tax return (see page LUN 8 of the *Lloyd's underwriters notes*). If you are a personal representative, include it in box 1L.58 of the *Lloyd's underwriters* pages of the Trust and Estate Tax Return. In these circumstances, the gain is treated as not having been taxed at the basic rate so enter the total sum received, with no allowance for basic rate tax treated as paid.

Policies purchased from a third party – 'second-hand' policies

If you dispose of a policy which you did not take out yourself but acquired for money or something else of value, a capital gain (or a loss) may arise. As well as a sale or other transaction that results in beneficial ownership of a policy passing to someone else, the maturity or surrender of a policy counts as a disposal for the purposes of Capital Gains Tax.

Policies purchased from a third party are sometimes called a 'Traded Endowment Policy' or 'TEP'. The maturity or disposal of a 'second-hand' qualifying policy does not generally give rise to a gain chargeable to Income Tax if you purchased the policy before 6 April 2013 – read 'Qualifying policies' on page 4 of this helpsheet. However, if it does not give rise to a gain chargeable to Income Tax, there may be a charge to Capital Gains Tax.

You should return any capital gains or claim any capital losses you make during the tax year on policies purchased from third parties on the *Capital gains summary* pages of your tax return. You will find basic information about how to work out capital gains in the *Capital gains summary notes* and relevant helpsheets referred to in those notes.

If you purchased a qualifying policy from a third party on or after 6 April 2013, then the policy will become non-qualifying. This is because the purchase of the policy will have been a non-exempt assignment which makes the policy non-qualifying in your hands as the purchaser. This means the gain is chargeable to Income Tax as a chargeable event gain. Further information can be found in the *Insurance Policyholder Taxation Manual (IPTM)*, go to **hmrc.gov.uk/manualsa-z**

Life annuities

Enter details of the total yearly or monthly overseas annuity payments received on the 'Income from overseas sources' section on pages F 2 and F 3 of the *Foreign* pages of your tax return. Read the notes on 'Interest and other income from overseas savings' on page FN 6 of the *Foreign notes*. Overseas life annuities must be distinguished from payments from an overseas pension fund.

Life annuity payments may commence immediately or be deferred. (These contracts are sometimes known as purchased life annuities.) Your insurer should be able to tell you if you have a life annuity on which a gain has arisen. It is rare for a life annuity to give rise to a gain and one will normally only arise if you have received a lump sum in return for giving up the right to receive some or all of the future annuity payments. If you need more information, see the *Insurance Policyholder Taxation Manual* (IPTM), go to **hmrc.gov.uk/manualsa-z**

Capital redemption policies

Capital redemption policies are relatively rare but you may make a gain on a capital redemption policy in the same circumstances (apart from death) as with a life insurance policy, that is:

- when you get money (or something of value) from or in connection with a policy, or
- if the insurer makes you a loan, or makes a loan on your behalf to someone else or makes an arrangement for some other person to make such a loan, or
- when ownership of a policy or part of a policy changes hands, or
- when a policy comes to an end, or
- when the policy is a Personal Portfolio Bond.

There is more detail about these circumstances in 'When will a gain arise?' on page 5 of this helpsheet.

Part 5 – How to calculate a gain

Gains on foreign life insurance policies, life annuities or capital redemption policies should be calculated in the currency in which the policy or contract is denominated and the gain converted to sterling at the rate of exchange applicable at the time of the chargeable event.

There are different rules for calculating a gain on:

- a full surrender or maturity
- death
- a sale or assignment
- a part surrender giving rise to a partial withdrawal of benefits or a payment of a cash bonus or an insurer making a loan or on the sale of part of a policy, and
- a part assignment other than by way of a gift.

On maturity or full surrender

A gain on maturity or full surrender may be shown on the certificate provided by the insurer, or its representative, together with whether the policyholder is to be treated as having paid tax at the basic rate on the amount of the gain. If not, it is calculated as follows:

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Gain = (**X** + **Y**) minus (**Z** + **A**), where:

'X' is the single lump sum benefit receivable as a result of the maturity or full surrender. (If you do not receive a cash payment on maturity or surrender because the full value of the amount of the benefits payable under the policy are transferred to a new policy, amount **X** is equal to the value transferred to the new policy. If instead of a single lump sum you are to receive a series of sums as a result of maturity or full surrender (including if you opt to receive an annuity), **X** equals the value of the right to receive those sums at the time when the right to them arises. Ask your insurer or their representative about the valuation if you do not have a chargeable event certificate or if the certificate does not tell you what the value is.)

'Y' is all benefits (money or anything of value) received at any time previously under this or any 'related policy' (read 'Related policies' on page 19 of this helpsheet) with the exception of critical illness benefits or disability benefits (read 'Critical illness/disability' on page 7 of this helpsheet). Benefits also include loans made by your insurer, or under an arrangement made by your insurer, to you or, on your behalf, to someone else.
Gifts costing your insurer no more than £30 are left out of account.

'Z' is all amounts paid as premium under this or any related policy. Where on or after 21 March 2007 you paid premiums totalling over £100,000 into your policy or policies in the same tax year and your adviser passed on commission in respect of the premiums to you, or reinvested commission as premium into your policy, then you must reduce **Z** by the amount of commission passed on or reinvested.

'A' is all gains, but excluding gains that were not included as someone's income for tax purposes which arose on part surrenders or part sales in a tax year before that in which your policy matured or was fully surrendered.

This includes gifts made before 6 April 2001 or on your insurer previously making a loan.

All of the amounts above, apart possibly from **A**, should be available from your insurer or their representative if you want to check the calculation. If you are unable to work out the amounts of previous gains, your insurer may again be able to help you.

Related policies – a 'related policy' is any policy which ended previously, read 'Replacement policy/related policy' on page 5 of this helpsheet, and which was replaced by the policy on which a gain is being calculated. An earlier policy in a chain of policies is also a 'related policy'. This applies whether or not the new policy arose as a result of the exercise of a maturity option. Your insurer should be able to tell you if there were any policies 'related' to the policy giving rise to the gain.

On death

Calculate the gain on death using the same (**X** + **Y**) minus (**Z** + **A**) formula but in this case amount **X** is the surrender value of the policy immediately before death rather than the lump sum benefit receivable as a result of death. Ask your insurer or their representative to tell you the value if they have not already done so.

On sale

You also calculate a gain on the sale of all of a policy using the same formula as for maturity or full surrender, except that in this case amount **X** is normally the sale price of the policy (or the value of any other consideration if the policy is not transferred for cash). But the transfer of ownership of a policy between a husband and wife or civil partners who are living together does not give rise to a gain – read 'When will a gain not arise on a non-qualifying policy?' on page 6 of this helpsheet. Note that amount **X** is the market value of the rights sold, not the sale price, if the person to whom you sold the policy is your wife or husband or civil partner (with whom you are not living and ceased to live with before 6 April 2013), a brother, sister, child or another 'connected person'. If you are not sure whether the person is connected with you for tax purposes, your usual HM Revenue & Customs office can help you.

Y is the same as on surrender or maturity as set out in the previous paragraph plus the aggregate value of any previous sales, or gifts before 6 April 2001, of part of the policy.

On part surrenders/part assignments (sales)

A gain on a part surrender etc. which results in a receipt of benefits or a payment of a cash bonus or on your insurer making a loan or on a sale of part of policy rights, is calculated for a year at a time. Read 'In which year is a gain taxable?' on page 11 of this helpsheet. The gain is taxable in the tax year in which the insurance year ends. Although there may have been earlier part assignments by gift, a gift of part of the rights under a policy after 5 April 2001 does not give rise to a chargeable event. Gifts of part of the rights that took place on or before that date may have given rise to chargeable event gains. If so, the gains from earlier years will be included in **A** and the value of the gifts giving rise to such gains will be included in **Y**.

The gain for an insurance year when there has been a part surrender is calculated as follows:

Gain = (B + C) minus **(D + E + F)**, where:

'B' is the value of all parts surrendered plus all cash bonuses plus the value of all parts that you have sold plus the amount of all loans in the year.

'C' is the value of all parts surrendered and all cash bonuses and the value of parts sold, or gifted before 6 April 2001, and the amounts of all loans in previous years, unless those amounts have already been taken into account in calculating a gain in a previous year.

'D' is $1/20$ (5 per cent) of premiums paid in the year.

'E' is $1/20$ (5 per cent) of premiums paid in any previous years.

'F' is $1/20$ (5 per cent) of each premium paid in any previous year for each year since the premium was paid (excluding the current year), unless those amounts have already been set off in calculating a gain in a previous year. (The maximum deduction is 100 per cent of the premium paid, which is 20 years at 5 per cent.)

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Examples of calculations

Example of a calculation of the gain on maturity or full surrender using the formula (X + Y) minus (Z + A)

See page 19 of this helpsheet for details of what X, Y, Z and A represent.

Example 1

On maturity a benefit of £10,000 arises (X). The gain arises after 6 April 2013.

The premiums paid total is £4,000 (Z).

(In this example, both Y and A = 0, and as with the other zeros in the following examples, are not shown in the calculations below.)

The gain is £10,000 minus £4,000 = £6,000.

The gain is reduced where:
- the policy is not an Overseas Life Assurance Business policy
- the policy was taken out after 17 November 1983
- the policy is not held in trust, and
- the policyholder, who was also the person liable to tax on the gain, was resident outside the UK for any part of the period since the policy was taken out.

For example, if the policy matures at the end of a term of 3,000 days (the material interest period) and the policy holder was UK resident for 2,200 days (meaning 800 foreign days) the gain entered on the *Foreign* pages is reduced to £6,000 x 2,200/3,000 = £4,400. £4,400 is the gain to be entered in box 43. However no reduction is due if at any time the policy has been held by:
- a non-UK resident trustee or trustees, and the policy was taken out or enhanced after 19 March 1985, or
- a non-UK resident company or other entity and the policy was taken out or enhanced after 16 March 1998.

The number of complete years in box 44 is calculated as follows:

Number of complete years to maturity	8
minus number of days not resident in the UK, divided by 365 800 foreign days gives 800/365 = 2.19 rounded down to:	2
Number of years	6

The gain will not be treated as having been taxed at the basic rate because the policy was taken out after 17 November 1983 unless a claim can be made, as explained in 'Basic rate tax treated as paid' on page 15 of this helpsheet, or unless the policy is from the UK branch of a foreign insurer.

Example 2

As a result of the death of the person to whom the tax return relates, a benefit of £10,000 arises and the surrender value immediately before death is £8,000 (X).

The premiums paid total is £4,000 (Z).

[Again, both Y and A = 0]

The gain is £8,000 minus £4,000 = £4,000 and the gain is treated as income of the deceased for the year of death.

Example 3

Policy is sold for £10,000 (X).

There was an earlier related policy.

On maturity of that earlier related policy a benefit of £5,000 arose (Y). The premiums (Z) paid on the first policy totalled £2,000 and on the second policy were equal to the maturity value transferred to the replacement policy £5,000 = £7,000. [Here A = 0].

The gain is (£10,000 (X) + £5,000 (Y)) minus (£7,000 (Z)) = £8,000.

Examples of calculations of the gain on part surrender etc. using the formula (B + C) minus (D + E + F)

See page 20 of this helpsheet for details of what B, C, D, E and F represent.

Example 4

Part surrenders are made in the year to 24 May 2013 of £250 and £250 = £500 (B).

The insurance was made and the only premium of £10,000 was paid on 25 May 2012.

D = 500, E = 0, F = 0
In this case C = 0

The calculation is:
£500 (B) minus (£500 (D) + 0 (F)) = £0

So there is no gain.

Example 5

Part surrenders are made in the year to 31 October 2013 of £1,500 (B). There were no part surrenders etc. in previous years.

The insurance was made and the only premium of £10,000 was paid on 1 November 2010.

D = 0, E = £500, F = £1,000 (£500 x 2 years)
In this case C = 0

The calculation is:
£1,500 (B) minus (0 (D) + £500 (E) + £1,000 (F)) = £0

So there is no gain.

Example 6

A part surrender is made in the year to 30 November 2013 of £7,500 (B). There were no part surrenders etc. in previous years.

The insurance was made and the only premium of £10,000 was paid on 1 December 2010.

D = 0, E = £500, F = £1,000 (£500 x 2 years)
In this case C = 0

The calculation is:
£7,500 (B) minus (0 (D) + £500 (E) + £1,000 (F)) = £6,000

So there is a gain of £6,000.

Example 7

An insurance was made and the only premium of £10,000 was paid on 1 January 2006.

A part surrender is made in the year to 31 December 2013 of £5,000. There were part surrenders of £500 in this year and each of the previous insurance years.

D = 0, E = £500, F = £3,000 (£500 x 6 years)

In this case:
B = £5,000 + £500
C = £3,000 (£500 x 6 years)

The calculation is:
(£5,500 (B) + £3,000 (C)) minus (0 (D) + £500 (E) + £3,000 (F)) = £5,000

So there is a gain of £5,000.

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More help needed?

If you need more help in filling in your tax return, ask your insurer, your financial or tax adviser or your usual HM Revenue & Customs office.

You can find out more about taxation charges and reliefs relating to contracts with insurance companies and the issues covered in this helpsheet in the *Insurance Policyholder Taxation Manual* (IPTM), go to **hmrc.gov.uk/manualsa-z**

These notes are for guidance only and reflect the position at the time of writing. They do not affect the right of appeal.