canada life

Time apportionment relief

Briefing Note

Where a policyholder triggers a chargeable gain on a life policy or capital redemption policy, the gain may be reduced if the policyholder has been resident outside the UK at any time whilst the policy was in force. The application of this reduction, sometimes referred to as 'time apportionment relief' (TAR), used to be limited to offshore policies. However, TAR was extended to apply also to onshore policies effected on or after 6 April 2013.

There are a number of quirks regarding how the relief works in practice but, before we take a look at these, let's discover how the relief is applied by using a simple example.

Example

Freda took out an offshore investment bond for £100,000 on 6 September 2007. She left the UK on 6 April 2007 to take up full-time employment in India and returned to the UK on 19 October 2018, again taking up full-time employment. Split year treatment applied on her return, so she was regarded as being non-resident in the UK until 19 October 2017. She subsequently encashed the bond for £250,000 on 1 December 2021.

As she had taken no previous withdrawals, the gain on encashment was simply £250,000 - £100,000 = £150,000. However, as she had been non-resident in the UK during part of the lifetime of the policy, the gain can be reduced by TAR. The reduction is in proportion to the time spent non-resident compared to the lifetime of the policy. These periods are measured in days.

The policy had been in force from 6 September 2007 to 1 December 2021, a period of 5,200 days[1]. During this time, Freda had been non-resident from 6 April 2008 to 19 October 2018, a period of 3,849 days[1]. This means that the gain can be reduced by £150,000 x 3,849/5,200 = £111,028.85. Thus, of the £150,000 gain, only £38,971.15 will be assessable on Freda for the purposes of income tax.

[1] Note that both start day and end day are counted in full. Thus, for example, a period from 1 January 2015 to 2 January 2015 would be counted as being two days long, not one day as might perhaps be expected.

It should be noted that the chargeable event certificate sent to Freda by the bond provider will show the full gain of £150,000. If Freda is to benefit from TAR, it is essential that she claims it on her self-assessment tax return.

Onshore policies

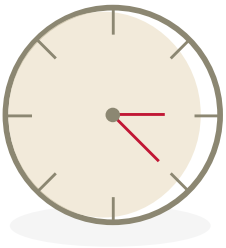
Although the application of TAR is limited to onshore policies effected on or after 6 April 2013, it can also apply to onshore policies effected before that date with a little forward planning. Where an onshore policy effected before 6 April 2013 is varied and this results in an increase in the benefits secured, it will then become eligible for TAR.

So, looking at the example, if Freda had held an onshore investment bond instead, she would not have been able to benefit from TAR at all. If, however, the policy terms and conditions allowed her to pay an additional premium as an increment to the policy, doing so before the encashment would allow her to claim TAR on the whole gain.

Top-slice relief and TAR

It is worth noting that there will be a reduction to the amount of top-slicing relief available when TAR is claimed.

The number of years used in the top-slicing relief calculation will be reduced by the number of complete years where the policyholder was non-UK resident.



Assignments

Another quirk in the legislation is that, where a policy that qualifies for TAR is assigned between spouses who are living together, the benefit of the TAR can still be claimed by the assignee, no matter what their residential history is. So if, in the example, Freda assigned her offshore investment bond to her husband, Fred, on 4 September 2018 and he subsequently encashed it for £250,000 on 1 December 2019, he could still claim TAR on the gain and reduce it by the same fraction of 3,849/5,200, even though he had been UK resident throughout his life.

Temporary non-residence

Normally, if a gain is realised while the policyholder is non-resident in the UK, there will be no liability to UK income tax (although there may be a tax liability in the country of residence). However, there will be a UK liability if the period of non-residence in the UK is temporary. An individual is temporarily non-resident if:

- They have sole UK residence for a residence period and immediately following that period one or more residence periods occur for which they do not have sole UK residence.
- In 4 or more of the 7 tax years immediately preceding the year of departure the individual had sole UK residence for the tax year (or the year must have been a split year that included a residence period for which the individual had sole UK residence).
- The temporary period of non-residence is 5 years or less.

The gain is taxable in the tax year during which the person returns to the UK. However, it is important to note that TAR can still be claimed in respect of the period of temporary non-residence.

This document is based on Canada Life's understanding of UK tax legislation as at March 2021 and could be subject to change in the future. We recommend that clients seek their own independent tax advice.

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