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Taxation of investment bonds – disproportionate gains

This guide explains the HM Revenue & Customs (HMRC) guidance for taxpayers wanting to request a recalculation of a wholly disproportionate gain arising from a part surrender from or a part assignment for money or money's worth of an investment bond. This guide is not suitable for investment bonds held by companies.

HMRC publishes guidance for affected taxpayers

HMRC has published guidance (following amendments to legislation) for taxpayers wanting to request a recalculation of a wholly disproportionate gain arising from a part surrender or a part assignment for money or money's worth.

This stems from the much-publicised case of Joost Lobler and his successful appeal for rectification after unintentionally creating a large excess withdrawal charge. Mr Lobler requested a partial surrender (without obtaining advice) across all segments of \$1,390,171. He believed he was allowed to withdraw his original investment without a tax consequence. Unaware of the 5% allowance and the liability to income tax that arises when exceeding it; his actions generated taxable income of \$1,300,000 and tax payable of \$560,000. The taxable gain was significant larger than the growth experienced on his bond.

Making an application for a recalculation

The new legislation allows an interested person – a person liable to all or some of the tax payable – to apply for a recalculation of the disproportionately large chargeable gain. All interested persons must apply which includes joint policyholders and both assignor and assignee where there has been a part assignment.

There is no prescribed format for making an application but HMRC will require as a minimum the following:

- The chargeable event certificate showing the gain
- A copy of the withdrawal request
- Relevant correspondence between the interested person and the insurer
- An explanation as to why cash was taken from the policy in the way that it was; and
- Any other relevant documents or information in support of the application.

HMRC has set a high threshold for what is a disproportionate gain

HMRC anticipates that wholly disproportionate gains will only arise in limited circumstances and generally when large withdrawals occur during the early years of a policy. Just because a gain is large does not make it a disproportionately large gain. HMRC will consider the premium size, underlying economic value of the policy and the amount of tax payable, amongst other factors they may consider relevant.

Recalculating the underlying economic gain

Rather than applying the 5% rule, the gain is calculated using the surrender value at the time of the withdrawal as shown in the example below. This way the gain is calculated using the economic value of the policy.

Example

A premium of £200,000 was invested on 10 August 2023 and the policyholder withdrew £180,000 on 19 July 2025. The policy had a surrender value of £220,000 immediately before the withdrawal.

- Gain = part surrender amount less premium related to the part surrender
- Gain = £180,000 less $[\text{£}200,000 \times \text{£}180,000/\text{£}220,000] = \text{£}16,364$

Using the 5% allowance, the chargeable gain would be £160,000.

Policyholders must keep sufficient records

After a recalculation is agreed by HMRC, policyholders must keep sufficient records. HMRC will not inform the insurance company of a recalculation, only the policyholder, and a revised chargeable event certificate will not be issued. Policyholders must therefore keep sufficient records and are responsible for accurately reporting gains on their tax return.

The recalculation will be specific to that policy year and therefore the tax year it falls within. Whilst it does not affect later part surrenders or part assignments, it will be used by HMRC when the policy is fully surrendered or matures.

Example

A premium of £100,000 was invested on 1 January 2020 and a part surrender of £70,000 taken on 1 August 2020 creating a chargeable excess of £65,000. HMRC agreed to a recalculation and the gain was reduced to £3,000.

On 24 April 2021, a withdrawal of £6,000 was taken creating a chargeable excess of £1,000.

On 25 October 2023, the policy is fully surrendered for £30,000. The insurance company will have issued chargeable events certificates for the part surrenders showing gains of £65,000 and £1,000 but not on final surrender because no gain will be calculated. However, the gain that must be declared by the policyholder to HMRC is £2,000 as calculated below.

$$\text{Gain} = [\text{£}30,000 + \text{£}70,000 + \text{£}6,000] \text{ less } [\text{£}100,000 + \text{£}3,000 + \text{£}1,000] = \text{£}2,000$$

Policyholders can ask HMRC to review its decision if they're unhappy about the result. Whilst there's no statutory right of appeal available to unhappy policyholders, they can ask for a review. If that fails to bring about a satisfactory conclusion, they can make a complaint to HMRC.

Further information can be found in [HMRC's tax manuals](#).

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