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TAXATION OF INSURANCE BUSINESS

Second edition

Butterworths

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Foreword

'In this world nothing can be said to be certain, except death and taxes' wrote Benjamin Franklin to Jean Baptiste Le Roy in 1789. In the two centuries that have almost passed since then, although medical science has done much to postpone the former it remains as certain as ever. If possible, the latter has become even more certain than it was then.

In that situation it is not surprising that life insurance is a very common and important form of contract and that the effect of tax on such a contract is a subject of more wide importance and likely to affect a great number of people. But death is not by any means the only type of disaster that can overtake us and most of us find it necessary to obtain financial protection from the consequences for a considerable variety of reasons. Such protection and indeed the companies who provide it are all subject to taxes.

The area of tax law relating to insurance companies and insurance policies is thus of great practical importance. The statutory provisions governing it are necessarily complex and I believe those affected by these provisions will welcome this book which fills an important gap in the available literature.

The authors bring to their work a very suitable blend of experience and although no treatment of this subject can be described as readable, they have produced a lucid and well ordered account of it which I anticipate will be found extremely useful.

It is a particular pleasure to note that the Inland Revenue Technical Division in London has assisted the authors by making comments. In a field of law as complicated as this such help should be much appreciated by those who use the book since it is likely to provide a balance in the treatment which otherwise it might lack. The authors have been fortunate also in the help they received from Mr J F Bowman, a former Principal Inspector of Taxes in Edinburgh, who as well as being highly distinguished, has a particularly impressive knowledge and experience of this aspect of taxation. It is no discourtesy to the authors to say that with such help their book is even better than otherwise it might have been.

5 September 1985

Addendum

It is a great pleasure for me to add a few words to the Foreword I wrote for the first edition of this invaluable book. In this field, the complexity of the law is matched only by the speed of change, and the authors are to be congratulated on producing a second edition which not only reflects the many changes but expands the scope of the original book. To do all this, and still produce a work which is readable and practical, is an impressive achievement.

Lord Mackay of Clashfern
Edinburgh
August 1988

Preface

The late Professor G S A Wheatcroft said that writing a major book on tax was like painting a picture of a sunset: as fast as a chapter was in draft, the law had changed. A better metaphor for a book on insurance taxation is that it is like driving in Scotch mist: as soon as one reaches a clear stretch, and can see the road forward, down comes the mist again, and all is obscurity. Since the first edition of this book was published in 1985 we have had to cope with a number of major changes in the law affecting insurance companies and policies, including the withdrawal of life assurance premium relief, the abolition of capital transfer tax, and the introduction of inheritance tax, and changes in pegged-rate relief, whereby it was withdrawn in respect of income, but introduced in respect of chargeable gains. In addition, further study and research has produced new material on the treatment of profit reservations, on tax relief for annuities and pensions paid abroad, and on foreign life fund relief. We have sought to incorporate all these changes in this new edition. In addition, we have produced short commentaries on life insurance taxation in the Republic of Ireland and in the Channel Islands, whose systems are based on that of the UK. Our aim, as before, has been to produce something which is practical and comprehensive, and yet readable. It is unfortunate that the Inland Revenue's review of life assurance taxation was published too late for us to comment on it, but we hope that our book contains a sufficiently detailed analysis of the law and practice, to enable the Revenue's paper to be judged.

Our thanks are due to those who have helped and encouraged us in the task of revising the text. Our thanks are due, in particular, to our colleague Roger Adams, LLB, Solicitor, a former Senior Examiner in the Capital Taxes Office in Edinburgh, who re-wrote Chapter 14, following the introduction of inheritance tax, and to Miss Raye Wilson who typed the entire text; to our many friends in the insurance industry for their comments on and criticisms of, the first edition, and to The Lord Chancellor, Lord Mackay of Clashfern, who very kindly agreed to contribute a short addendum to the Foreword which he wrote to the first edition.

James S MacLeod
Arthur Levitt
Edinburgh
August 1988

Table of statutes

Table of cases

List of abbreviations

AC	Law Reports, Appeal Cases
ACT	Advance Corporation Tax
Aust TC	Australian Tax Cases
CAA 1968	Capital Allowances Act 1968
CGTA 1979	Capital Gains Tax Act 1979
Ch D	Law Reports, Chancery Division
CIR	Commissioners of Inland Revenue
Cl & Fin	Clark and Finnelly's Reports
CLR	Commonwealth Law Reports
CT	Corporation Tax
DLTA 1976	Development Land Tax Act 1976
DT	Double Taxation
DTI	Department of Trade and Industry
DTR	Double Tax Relief
ECGD	Export Credit Guarantee Department
ER	English Reports
FA	Finance Act
FII	Franked Investment Income
FLF	Foreign Life Fund
FOTRA	Free of Tax Resident Abroad
GAF	General Annuity Fund
HO	Head Office
IBNR	(Claims) incurred but not reported
I-E	Income less Expenses
IHTA 1984	Inheritance Tax Act 1984
IR	Inland Revenue
IrR	Irish Reports
IRC	Inland Revenue Commissioners
IT	Income Tax
LAF	Life Assurance Fund
MTB	Minimum Tax Bill
MV	Market Value
NC1	Notional Case 1
OECD	Organisation for Economic Co-operation and Development
PBF	Pension Business Fund
PC	Privy Council
PETA	Pure Endowment Term Assurance

QB	Law Reports, Queens Bench Division
QBD	Law Reports, Queens Bench Division
SC	Court of Session Cases (Scotland)
SLT	Scots Law Times
SP	Statement of Practice
STC	Simon's Tax Cases
TA 1970	Taxes Act (Income and Corporation Taxes Act 1970)
TA 1988	Taxes Act (Income and Corporation Taxes Act 1988)
TC	Tax Cases
TLR	Tax Law Reports
TMA 1970	Taxes Management Act 1970
UK	United Kingdom
US	United States
WLR	Weekly Law Reports
WDV	Written Down Value
WR	Weekly Reporter

Contents