LEARNING OBJECTIVES

By the end of the session, delegates will be able to;

- Understand Time Apportionment Relief
- Understand the taxation of Personal Portfolio Bonds
- Discuss and explain this subject with a client in a clear and concise way
- Apply this knowledge to appropriate, individual, client scenarios.

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AGENDA

- SESSION IS FOR APPROX 50
- AIM OF SESSION IS TO UNDERSTAND PLANNING OPPORTUNITIES TIME APPORTIONMENT RELIEF AND ISSUES WITH PERSONAL PORTFOLIO BONDS

TIME APPORTIONMENT RELIEF

PERSONAL PORTFOLIO BONDS

1

TIME APPORTIONMENT RELIEF

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PORTABILITY

LIFE ASSURANCE WIDELY ACCEPTED AS AN INVESTMENT VEHICLE

- A degree of harmonisation?

- Significant advantages may be gained if correctly structured

- Not all policies treated equally

- Tax highly jurisdiction specific.

For example, client moving to:
- **UK:** assess if assets are permitted - PPB rules
- **Spain:** consider investment criteria at outset
- **France:** EEA or non-EEA policy?
- **Portugal:** In Trust? Cash holdings.

Utmost have specific products that can assist with portability.

A PORTABLE SOLUTION?

REQUIREMENTS

JURISDICTIONAL

a) Is it Assurance/Insurance?

b) Laws

REGULATORY

a) Product Information requirements

b) Due Diligence

c) Compliance

d) Life(lives) Assured

TAX

a) Permitted Assets

b) Policyholder influence

c) Reporting requirements

d) Trusts and recognition?

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POLICYHOLDER BENEFITS

TAX SAVING AND/OR DEFERRAL

SUCCESSION PLANNING

SECURITY OF INVESTMENT

PORTABLE ON RETURN TO THE UK IF NEEDED

INVESTMENT MANAGEMENT

a) Preserves exiting relationships
b) Allows active investment management

TIME APPORTIONMENT RELIEF

AN OVERVIEW

- The relief operates so that where the person liable for tax on a bond's encashment has been non-UK resident for a period during their ownership of the bond, when that bond is surrendered, the gain should be reduced by the period of non-UK residence as a proportion of that individual's ownership period

- Since 6 April 2013, TAR has been extended to cover new bonds issued by UK-based insurers on or after that date, as well as bonds issued by UK insurers before 6 April 2013 which are varied on or after that date

- Variations include an increase to the benefits payable (top up) , assignments irrespective of consideration and where the bond is held for security against a debt.

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SEQUENCE OF RELIEFS

For onshore and offshore bonds, the sequence to arrive at the correct tax charge is as follows:

1. Calculate the chargeable gain
2. Consider time apportionment
3. Consider top-slicing
4. Adjust if 2 and 3 interact
5. Pay the tax or,

Where the above calculations produce a loss consider Deficiency Relief.

CASE STUDY 1

- Susan is 50 year-old
- She was gifted a CRB from her parents
- She lives in the UAE -having moved there before 22/8/2009

Parents original investment in a CRB is made on 22/8/2009

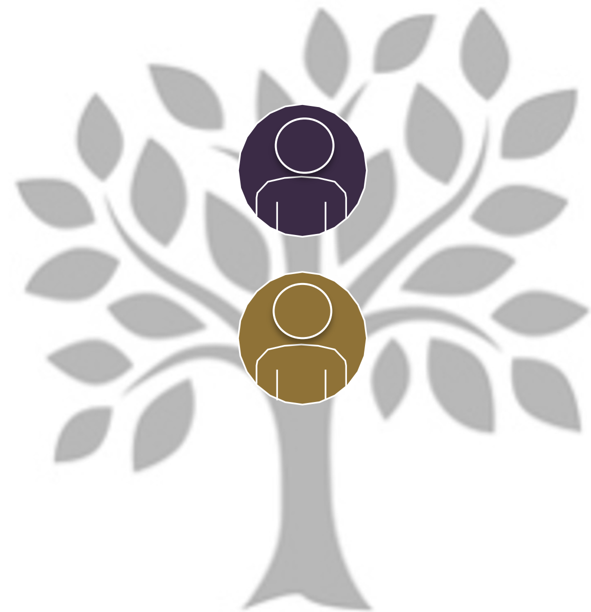
Original investment £450,000

Withdrawals £9,000

Additional Investment £50,000

Value 22/8/2024 £982,000

N = 15



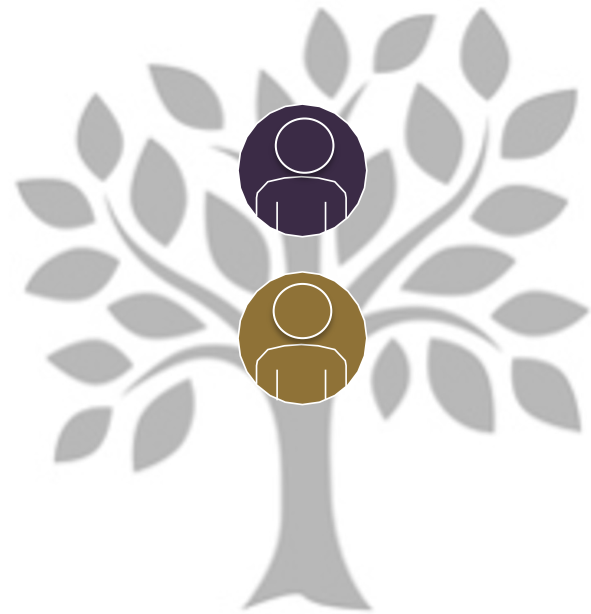
CEG: £982,000 + £9,000 - £500,000

£491,000

CASE STUDY 1

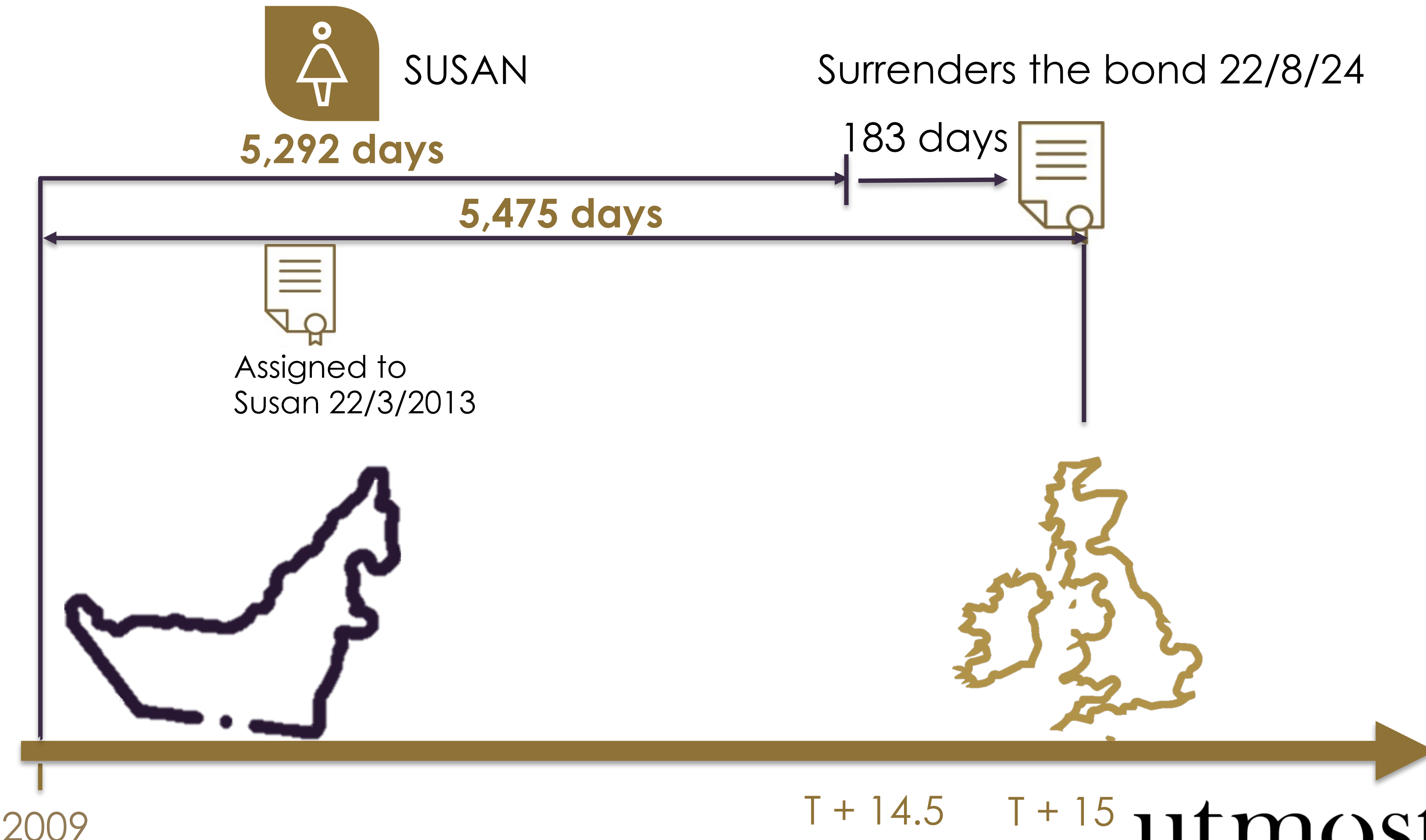
Calculate the time apportionment relief available assuming:

1. The policy has been assigned to Susan before April 2013
2. Policy assigned to Susan August 2013.



SUSAN IS RESIDENT IN THE UAE PRE 22/8/2009

ASSIGNED THE POLICY PRE APRIL 2013



CASE STUDY 1

For bonds which commenced prior to 6 April 2013, TAR can be claimed for the period where the legal owner of the bond at the time of the chargeable event was resident outside of the UK during the time the bond has been in force.

The reduction applied to the gain for pre-2013 bonds is as follows:

$$\text{Gain} \times \frac{\text{The policyholder's overseas days whilst the bond was in force}}{\text{The total period in days the bond was in force}}$$

All examples use approximations for day counting. In reality, the true number of days should be used, always accounting for factors such as leap years when day counting.

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TIME APPORTIONMENT RELIEF (TAR)

PRE-APRIL 2013 POLICIES – GIFTED BEFORE APRIL 2013

TAR is available in respect of the period when the legal owner of the policy was non resident during the time the policy has been in force.

Reduction in gain =

$$\frac{\textbf{policyholder's overseas days whilst policy in force}}{\textbf{The total period the policy was in force}}$$

CEG £491,000

Assume policy had been assigned to Susan before April 2013

Reduction in gain = $491{,}000 \times \frac{5{,}292}{5{,}475}$

= £474,000

UK Taxable gain = (£491,000 -£474,000)

= **£17,000**

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TIME APPORTIONMENT RELIEF (TAR)

POST APRIL 2013 POLICIES

TAR is available in respect of the period when the individual liable to tax (as opposed to the "policy holder") is non-UK resident throughout the "Material Interest Period (MIP)"

MIP is where:

- The individual beneficially owns the rights under the policy or contract, OR
- The rights are held on non-charitable trusts which the individual created (although isn't available if the policy is held by non-UK trustees), OR
- The rights are held as security for the individual's debt
- MIP is combined for assignments between spouses.

Assume: Policy assigned to Susan August 2013 (post April 2013) or,
Additional premium paid by Susan

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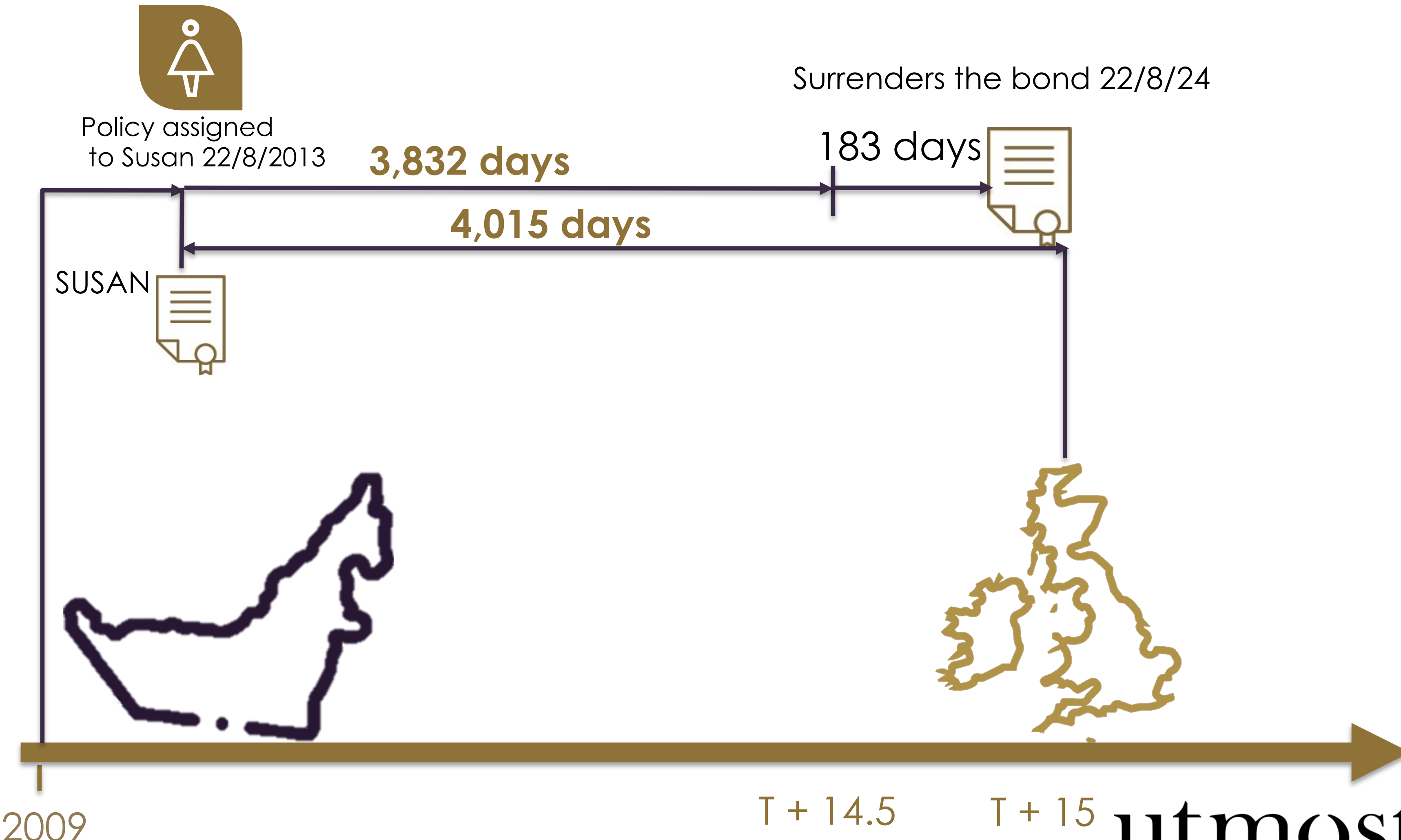
SUSAN IS RESIDENT IN THE UAE PRE 22/8/2009

ASSIGNED THE POLICY AUGUST 2013



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TIME APPORTIONMENT RELIEF (TAR)

POST APRIL 2013 POLICIES

- Calculate gain in normal way using (A+B)-(C+D) method
- Only gain relevant to period when UK resident is taxed, i.e. 'the gain is reduced by appropriate fraction'.

Gain x

$$\frac{\text{Period of non-residence in UK of taxpayer in the material interest period (in days)}}{\text{Total period the policy in force in the material interest period (in days)}}$$

i.e. £491,000 gain, bond held for 11 years, 4.5 of which the tax payer is not UK resident

Reduction in gain noting the change in the divisor (now 4015):

£491,000 x

$$\frac{\text{3,832 (Days non-UK Resident in the MIP)}}{\text{4,015 (Days policy in force in the MIP)}}$$

= **£468,000**

UK taxable gain = (£491,000 - £468,000)
=£23,000

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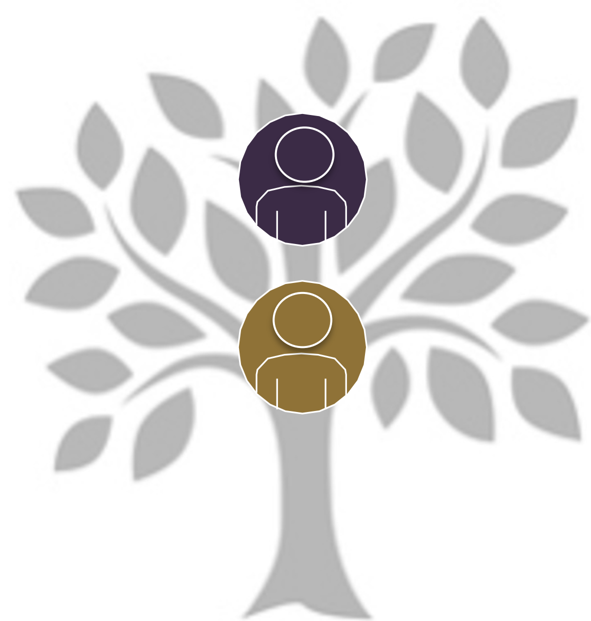
CASE STUDY 2

- Sophie is Susan's sister
- She was gifted an identical CRB from her parents

Investment date 22/8/2009



Original investment £450,000

Withdrawals £9,000

Additional Investment £50,000

Value 22/8/2024 £982,000

N = 15

CEG: £982,000 + £9,000 - £500,000

£491,000

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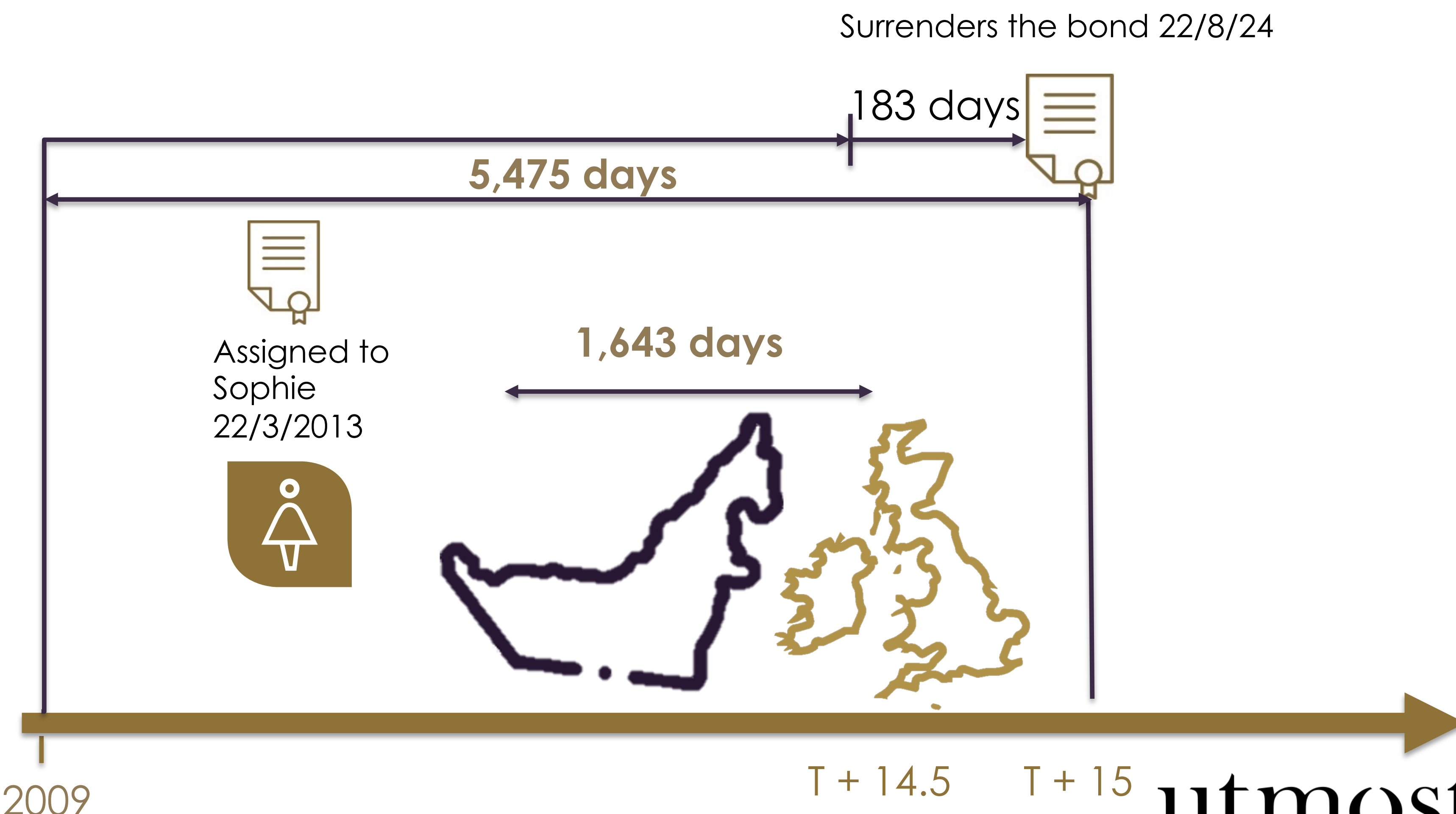
SOPHIE LEAVES THE UK

MOVES TO THE UAE FOR 4.5 YEARS (1643 DAYS)



SEQUENCE OF RELIEFS

For onshore and offshore bonds, the sequence to arrive at the correct tax charge is as follows:

1. Calculate the chargeable gain
2. Consider time apportionment
3. Consider top-slicing
4. Adjust if 2 and 3 interact
5. Pay the tax or,

Where the above calculations produce a loss consider Deficiency Relief.

TIME APPORTIONMENT RELIEF (TAR)

PRE-APRIL 2013 POLICIES – GIFTED BEFORE APRIL 2013

TAR is available in respect of the period when the legal owner of the policy was non-resident during the time the policy has been in force.

Reduction in gain =

$$\frac{\textbf{policyholder's overseas days whilst policy in force}}{\textbf{The total period the policy was in force}}$$

CEG £491,000

Assume policy had been assigned to Sophie before April 2013

Reduction in gain = $491{,}000 \times \frac{1{,}643}{5{,}475}$

= £147,000

UK Taxable gain = (£491,000 -£147,000)

= **£344,000**

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TIME APPORTIONMENT RELIEF (TAR)

POST APRIL 2013 POLICIES

TAR is available in respect of the period when the individual liable to tax (as opposed to the "policy holder") is non-UK resident throughout the "Material Interest Period (MIP)"

MIP is where:

- The individual beneficially owns the rights under the policy or contract, OR
- The rights are held on non-charitable trusts which the individual created (although isn't available if the policy is held by non-UK trustees), OR
- The rights are held as security for the individual's debt
- MIP is combined for assignments between spouses.

Assume: Policy assigned to Sophie August 2013 (post April 2013) or,
Additional premium paid by Sophie

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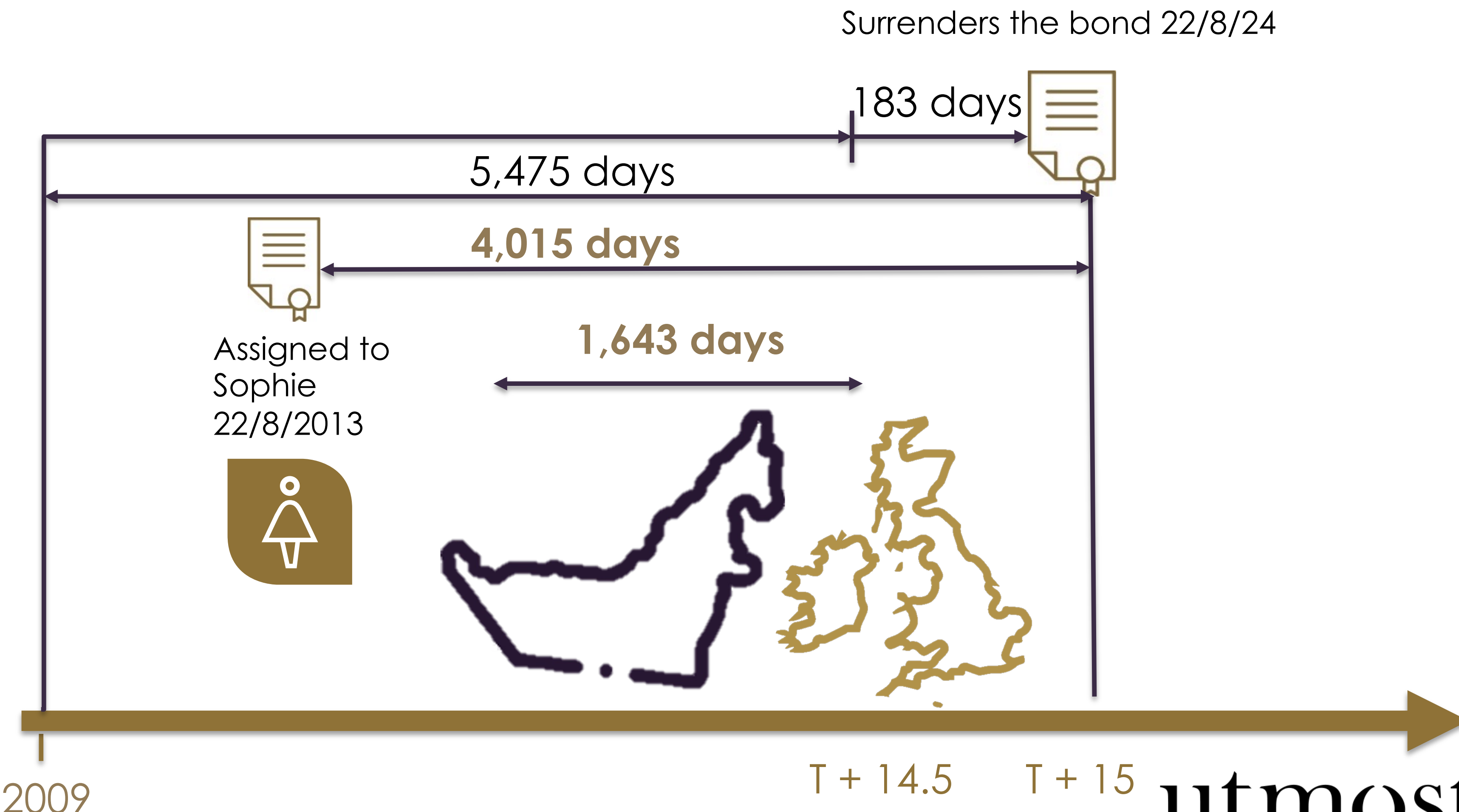
SOPHIE LEAVES THE UK

MOVES TO THE UAE FOR 4.5 YEARS (1643 DAYS)



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TIME APPORTIONMENT RELIEF – THE CALCULATION

POST APRIL 2013 POLICIES

- Calculate gain in normal way using (A+B)-(C+D) method
- Only gain relevant to period when UK resident is taxed, i.e. 'the gain is reduced by appropriate fraction'.

Gain x

$$\frac{\text{Period of non-residence in UK of taxpayer in the material interest period (in days)}}{\text{Total period the policy in force in the material interest period (in days)}}$$

i.e. £491,000 gain, bond held for 11 years, 4.5 of which the taxpayer is not UK resident

Reduction in gain noting the change in the divisor (now 4015):

£491,000 x

$$\frac{\text{1643 (Days non-UK Resident in the MIP)}}{\text{4,015 (Days policy in force in the MIP)}} = \textbf{£200,000}$$

UK taxable gain = (£491,000 - £200,000) **= £291,000**

£291,000 would then be used in our TSR calculations (based on 4.5 years of overseas residence in days) yet 4 years can still be used as the figure "N", i.e. the 4.5 years she has been overseas is rounded down to 4 years for the purposes of calculating "N" which gives a larger divisor.

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TIME APPORTIONMENT RELIEF (TAR)

TOP-UP OF BOND TRIGGERS NEW RULES

POLICYHOLDER AND APPLICABLE RULES	CHARGEABLE GAIN *	AFTER TAR
Susan pre-2013	£491,000	£17,000
Susan post 2013	£491,000	£23,000
Sophie pre-2013	£491,000	£344,000
Sophie post 2013	£491,000	**£291,000**

Pre-2013 may be better to retain in some cases but…

Pre-2013 policies in an offshore trust do not benefit from TAR - maybe better to trigger new rules but remember the golden policy rule pre-21st March 2012…

***ignoring top slicing relief and any applicable policy charges**

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PERSONAL REPRESENATIVES

WHAT IF SOPHIE HAD DIED AND THE PRs SURRENDER THE POLICY?

528AReduction in amount charged on basis of non-UK residence of deceased person

(1)Subsection (3) applies if:

a) personal representatives are liable for tax charged on a gain from a policy of life insurance or a capital redemption policy under section 466, and

b) there were one or more days in the material interest period.

(3)In determining the liability for tax of the personal representatives or trustees, the gain on which the tax is charged in the case of the personal representatives or trustees is to be reduced by the appropriate fraction.

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TIME APPORTIONMENT RELIEF

ASSIGNMENTS

487 Disregard of certain assignments

For the purposes of this Chapter, an assignment of rights under a policy or contract or a share in such rights is ignored if it is:

a) by way of security for a debt,

b) on the discharge of a debt secured by the rights or share, or

c) between spouses (Or civil partners) living together.

An assignment between spouses or civil partners will extend the MIP

Note 487(c) does NOT include assignments between PRs and spouses/civil partners. Such an assignment will extend the MIP.

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PERSONAL PORTFOLIO BONDS

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PROPERTY SELECTION

THE LEGISLATION

- **s516 ITTOIA 2005 Meaning of a portfolio bond**
    - Condition A and B must be met
- Condition A
    - Some benefits determine with reference to
        - *Index or property*
- Condition B
    - Selection of the index or property by
        - *Policyholder or connected person*

But …

PROPERTY SELECTION

THE LEGISLATION

s517 Policies which are not Personal Portfolio Bonds

1. **If its terms permit an index selection and the index fall within s518**
2. **If the property that may be selected falls with the categories listed in s520**

s520

Seven categories including collective funds, internal linked funds, UK investment Trusts

UK TAXATION OF PORTFOLIO BONDS

- If a Policyholder, or connected person, has the ability to select property or an index other than those listed in s 520 ITTOIA 2005

$$\frac{(PP + TPE - TSG) \times 15}{100}$$

Where: PP is the amount of the premium paid up to the end of the insurance year;

TPE is the total amount of PPB excesses; and

TSG is the total amount of part surrender gains.

- On the full surrender of the policy the tax paid by virtue of the Regulations will be permitted as a deduction when determining the chargeable event gain.

PERSONAL PORTFOLIO BONDS

CASE STUDY 3

Mike returns to the UK in year 5 of his policy ownership. He is a 45% taxpayer and had invested £1,000,000 in a bond which is non-PPB compliant.

Year 1 gain	£1,000,000 x 15%	= £150,000
Year 2 gain	(£1,000,000 + £150,000) x 15%	= £172,500
Year 3 gain	(£1,000,000 + £150,000 + £172,500) x 15%	= £198,375
Year 4 gain	(£1,000,000 + £150,000 + £172,500 + £198,375) x 15%	= £228,131
Year 5 gain	(£1,000,000 + £150,000 + £172,500 + £198,375 + £228,131) x 15%	= £262,235

CASE STUDY 3

DEEMED GAIN AFTER TAR

If Mike was non-UK resident for 1600 days and has owned the policy for 1800 days in the Material Interest period.

TAR reduction

£262,235 x 1,600/1,800 = 233,097

UK taxable gain =

£262,235 - £233,097 = £29,138

As Mike, the person liable to the PPB gain, has been overseas for the majority of the time prior to the PPB event arising, TAR effectively reduces the deemed gain charge to almost zero.

However, if Mike failed to endorse the policy, the deemed gain that would arise in future years will start to increase as the impact of TAR reduces.

Top slicing relief would not be available.

PERSONAL PORTFOLIO BONDS

FINAL SURRENDER

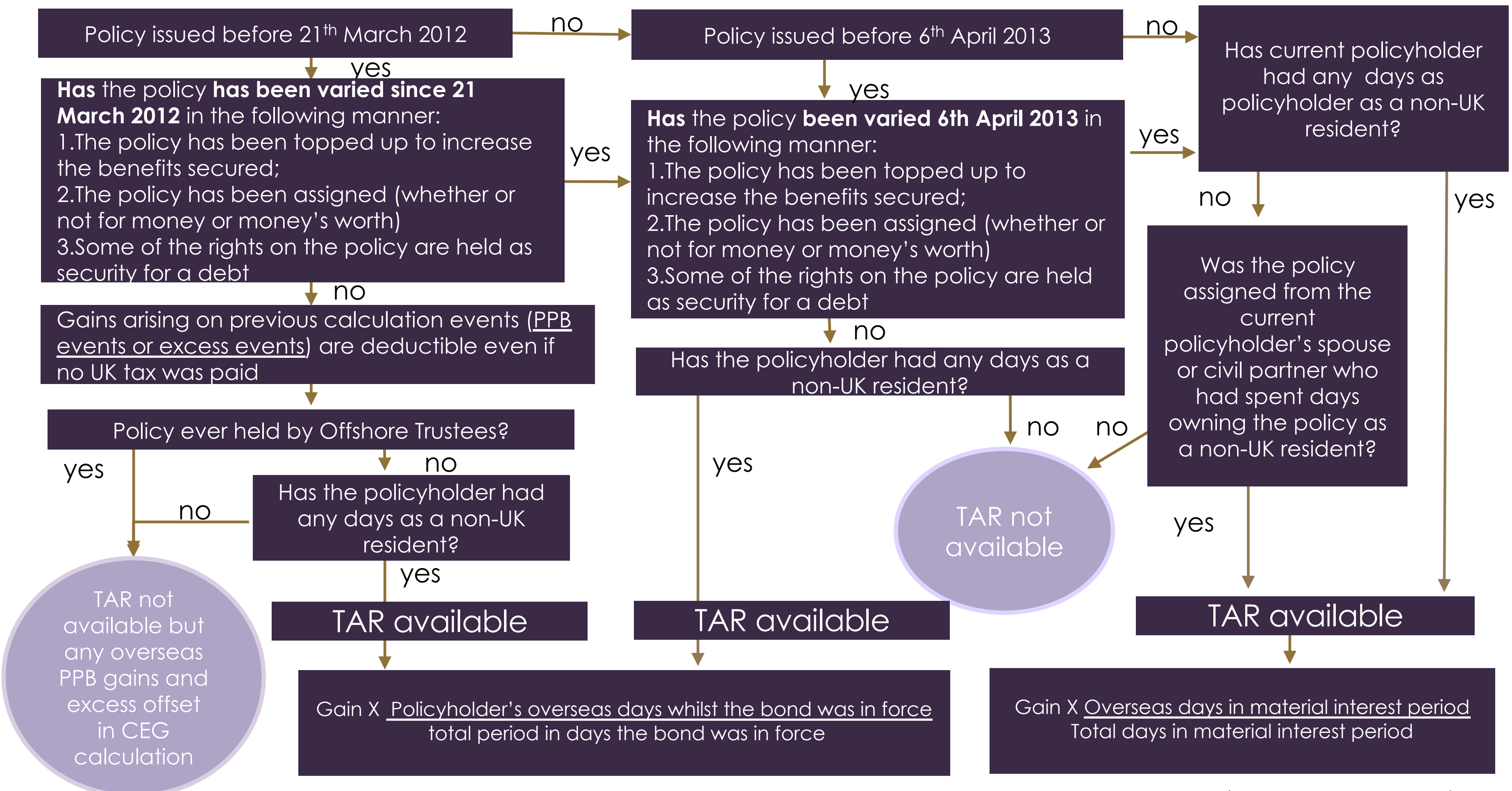
Here the benefits include any capital sums paid previously (such as under the 5% entitlement) and the sum payable because of the surrender. The deductions then include the amount of any premiums paid before the event and any gains arising on previous 'calculation events' which include excess events (amounts above the 5% entitlement) and PPB events.

Golden Policies

Prior to the change in the Finance Act 2012 (21st March 2021) it didn't matter whether the gains that arose on these previous calculation events were subject to tax in the UK.

The Finance Act 2012 changed the rules here so that, when considering the tax paid on surrender, previous gains that were not subject to tax are now ignored.

SUMMARY



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DEFICIENCY RELIEF

DEEMED GAIN AFTER TAR

An individual will be entitled to deficiency relief if:

1. The calculation of the gain on the final chargeable event shows a negative amount
2. One or more gains arose on 'excess events' or 'part surrender or assignment events' – in earlier tax years on which the individual was liable, and
3. The individual is the liable person.

Assume

› £30,000 previous chargeable gain

› £20,000 loss on final surrender…

Therefore, deficiency restricted to the lower amount of **£20,000.**

But how is deficiency relief applied?

› **The individual's Basic Rate Tax band is extended by £20,000**
› Deficiency relief grants higher rate tax relief not basic rate relief and,
› What if less than £20,000 of income sits in the higher rate band?

Deficiency relief may not be sufficient to cover the tax liability on the previous tax year's liability on the gain.

DEFICIENCY RELIEF

IMPORTANT

PPB gains are deducted in the gain calculation on a final chargeable event to see if a negative amount arises, but they do not count towards determining how much of that negative amount is available for deficiency relief – see IPTM3860 onwards.