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# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XII U.K.

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

### CHAPTER I U.K.

#### INSURANCE COMPANIES, UNDERWRITERS AND CAPITAL REDEMPTION BUSINESS

*[<sup>F1</sup>Miscellaneous provisions relating to life assurance business]*

#### Textual Amendments

- F1** Cross-heading before s. 434 inserted (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 51\(4\)](#) (with [Sch. 8 para. 55\(2\)](#))

#### 434 Franked investment income etc. U.K.

<sup>F2</sup><sup>F3</sup><sup>F4</sup>(1) Where an insurance company makes a payment representative of a distribution made by a company resident in the United Kingdom in respect of an asset of its long-term insurance fund, the payment is to be taken into account in computing its profits in accordance with the provisions applicable to Case I of Schedule D unless the amount taken into account in accordance with section 83(2)(a) of the Finance Act 1989 includes the amount of the payment.]]]

(2) <sup>F5</sup>.....

[<sup>F6</sup>(3) <sup>F7</sup>.....

(3A) [<sup>F8</sup>So much of the policy holders' share of the franked investment income from investments of a company's long-term insurance fund as is referable to its] life assurance business shall be left out of account in determining, under subsection (7)

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[<sup>F9</sup>(3B) <sup>F10</sup>.....]

(3C) <sup>F10</sup>.....]

(3D) <sup>F10</sup>.....]

(4) <sup>M1</sup>Subject to subsection (5) below, the specified part shall be, in the case of any unrelieved income, the same fraction of it as the fraction which, on a computation of the profits of the company in respect of its life assurance business in accordance with the provisions applicable to Case I of Schedule D (whether or not the company is in fact charged to tax under that Case for the relevant accounting period or periods), would be connoted by the words in section 433 “such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants”.  
<sup>F11</sup>

(5) If the income exceeds the profits as computed in accordance with the provisions applicable to Case I of Schedule D other than section 433, the specified part shall be that fraction of the income so far as not exceeding the profits, together with the amount of the excess.  
<sup>F12</sup>

(6) <sup>F7</sup>.....]

[<sup>F13</sup>(6A) For the purposes of this section—

(a) “the policy holders’ share” of any franked investment income is so much of that income as is not the shareholders’ share within the meaning of section 89 of the Finance Act 1989,  
<sup>F14</sup>.....]

<sup>F15</sup> [ <sup>F16</sup>.....]

(aa) <sup>F16</sup>.....]

(ab) <sup>F16</sup>.....]

(ac) <sup>F16</sup>.....]

(b) <sup>F17</sup>.....]

(7) <sup>F5</sup>.....]

(8) <sup>F7</sup>.....]

**Textual Amendments**

- F2** S. 434(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 19(2)** (with Sch. 8 para. 55(2))
- F3** S. 434(1)-(1B) substituted for s. 434(1) (with effect in accordance with Sch. 3 para. 3(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 3 para. 3(2)**
- F4** S. 434(1) substituted for s. 434(1)(1B) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 22(2)** (with Sch. 7 Pt. 2)
- F5** S. 434(2)(7) repealed (with effect in accordance with Sch. 29 Pt. 8(5) Note 2 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**
- F6** S. 434(3)(3A) substituted for s. 434(3) by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 3(1)**
- F7** S. 434(3)(6)(8) repealed (with effect in accordance with Sch. 3 para. 25(5)(6) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 25(2)-(4), **Sch. 27 Pt. 3(2)**, Note
- F8** Words in s. 434(3A) substituted (with effect in accordance with Sch. 33 para. 12(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 12(2)**
- F9** S. 434(3B)-(3D) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 5(4)**

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<b>F10</b>	S. 434(2) repealed (with effect in accordance with Sch. 6 para. 6(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 6(2), <b>Sch. 8 Pt. 2(11)</b> , Note
<b>F11</b>	Repealed by 1989 ss.84 and 187 and Sch. 8 para. 3(2) and Sch. 17 Part IV with respect to accounting periods beginning on or after 1 January 1990.
<b>F12</b>	Repealed by 1989 ss.84 and 187 and Sch. 8 para. 3(2) and Sch. 17 Part IV with respect to accounting periods beginning on or after 1 January 1990.
<b>F13</b>	1990 s.45(7).
<b>F14</b>	Word at the end of s. 434(6A)(a) repealed (3.5.1994) by Finance Act 1994 (c. 9), Sch. 16 para. 5(5), <b>Sch. 26 pt. 5(16)</b>
<b>F15</b>	S. 434(6A)(aa)-(ac) inserted (3.5.1994) by Finance Act 1994 (c. 9), <b>Sch. 16 para 5(5)</b>
<b>F16</b>	S. 434(6A)(aa)-(ac) repealed (with effect in accordance with Sch. 6 para. 6(4) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 6(3), <b>Sch. 8 Pt. 2(11)</b> , Note
<b>F17</b>	S. 434(6A)(b) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 22(3), <b>Sch. 27 Pt. 2(7)</b> , Note (with Sch. 7 Pt. 2)
<b>Modifications etc. (not altering text)</b>	
<b>C1</b>	S. 434 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)
<b>Marginal Citations</b>	
<b>M1</b>	Source—1970 s.310(6)

[<sup>F18</sup>][<sup>F19</sup>]**43CA** **Computation of losses and limitation on relief.** **U.K.**

(1) <sup>F20</sup> . . . . .

[<sup>F21</sup>(2) Where for any accounting period the loss arising to an insurance company from its life assurance business falls to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D—

(a) the loss resulting from the computation shall be reduced (but not below nil) by <sup>F22</sup> . . . —

(i) <sup>F23</sup> . . . . .

(ii) any relevant non-trading deficit for that period on the company's debtor relationships; and

[<sup>F24</sup>(iii) <sup>F25</sup> . . . . .]

(b) if the whole or any part of that loss as so reduced is set off—

(i) under section 393A, or

(ii) under section 403(1),

[<sup>F26</sup>any loss for that period under section 436A shall be reduced (but not below nil) by the total of the amounts set off as mentioned in sub-paragraphs (i) and (ii) above.]]

[<sup>F27</sup>(2A) The reference in subsection [<sup>F28</sup>(2)(a)(ii)] above to a relevant non-trading deficit for any period on a company's debtor relationships is a reference to the non-trading deficit on the company's loan relationships which would be produced by any separate computation made under [<sup>F29</sup>paragraph 2(1)] of Schedule 11 to the Finance Act 1996 for the company's basic life assurance and general annuity business if credits and debits given in respect of the company's creditor relationships (within the meaning of Chapter II of Part IV of that Act) were disregarded.]

(3) In the case of a company carrying on life assurance business, no relief shall be allowable [<sup>F30</sup>—

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<sup>F31</sup>(aa) (where the company's life assurance business is not mutual business) in respect of any amount which is a charge on income for the purposes of corporation tax,] or

(b) in respect of any amount representing a non-trading deficit on the company's loan relationships that has been computed otherwise than by reference to debits and credits referable to that business,]

against the policy holders' share of the relevant profits for any accounting period.

For the purposes of this subsection "the policy holders' share of the relevant profits" has the same meaning as in section <sup>F32</sup>89] of the Finance Act 1989.

<sup>F33</sup>(4) For the purposes of section 403, where the surrendering company is an insurance company which is charged to tax under the I minus E basis in respect of its life assurance business for the surrender period, the company's gross profits of that period do not include its relevant profits (within the meaning of section 88 of the Finance Act 1989) for that period; and expressions used in this subsection and section 403 have the same meaning here as there.]]]

#### Textual Amendments

- F18** S. 434A inserted by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 4**
- F19** S. 434A substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para 20(1)** (with Sch. 8 para. 55(2))
- F20** S. 434A(1) repealed (with effect in accordance with Sch. 3 para. 4(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 4(1), **Sch. 8 Pt. 2(6)**, Note
- F21** S. 434A(2) substituted (with effect in accordance with Sch. 31 paras. 2(1), 10(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 31 para. 2(1)(a)(2)**
- F22** Words in s. 434A(2)(a) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 23(2)(a), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F23** S. 434A(2)(a)(i) repealed (with effect in accordance with s. 38(6) of the repealing Act) by Finance (No. 2) Act 2005 (c. 22), s. 38(4), **Sch. 11 Pt. 2(7)**, Note
- F24** S. 434A(2)(a)(iii) inserted (with effect in accordance with Sch. 27 para. 12(1) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 27 para. 8(a)**
- F25** S. 434A(2)(a)(iii) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 23(2)(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F26** Words in s. 434A(2)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 23(3)** (with Sch. 7 Pt. 2)
- F27** S. 434A(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 23(2)** (with Sch. 15)
- F28** Words in s. 434A(2A) substituted (with effect in accordance with Sch. 31 paras. 2(1), 10(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 31 para. 2(1)(b)**
- F29** Words in s. 434A(2A) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 15(2)**
- F30** Words in s. 434A(3) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 23(3)** (with Sch. 15)
- F31** S. 434A(3)(aa) inserted (with effect in accordance with Sch. 17 para. 22(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 22(1)**
- F32** Words in s. 434A(3) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 6(7)(b)**
- F33** S. 434A(4) inserted (with effect in accordance with Sch. 17 para. 21(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 21(1)**

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**Modifications etc. (not altering text)**

- C2** S. 434A(2) modified (with effect in accordance with s. 105(1) of the modifying Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 23\(1\)](#) (with [Sch. 15](#))
- C3** S. 434A(2) modified by [Finance Act 1996 \(c. 8\)](#), [Sch. 31 para. 2\(3\)](#)

VALID FROM 21/07/2009

<sup>F34</sup>**434A Reduced loss relief for additions to non-profit funds** **U.K.**

- (1) Where this section applies in the case of a company carrying on life assurance business, relief allowable under section 393A or Chapter 4 of Part 10 in respect of losses incurred by the company in the life assurance business in an accounting period is reduced in accordance with section 434AZB.
- (2) This section applies in the case of a company where—
  - (a) there has been a relevant addition to one or more non-profit funds in a period of account ending no later than the accounting period (“the relevant period of account”) (see subsection (3)),
  - (b) the company is not a non-profit company in relation to the relevant period of account and has not elected under subsection (9) of section 83YA of the Finance Act 1989 to be treated for the purposes of that section as if it were, and
  - (c) condition A or B is met,
 and, if the relevant period of account is not the period of account ending with the accounting period (“the current period of account”), condition C is also met.
- (3) For the purposes of subsection (2), there is a relevant addition to a non-profit fund in the relevant period of account if an amount is shown as a transfer from non-technical account in line 32 of the Form 58 of the non-profit fund in the periodical return for that period of account.
- (4) Condition A is that there is a relevant book value election in relation to assets of a non-profit fund of the company.
- (5) For the purposes of subsection (4), there is a relevant book value election in relation to assets of a non-profit fund if an amount is shown in relation to the non-profit fund as the excess of the value of net admissible assets in line 51 of the Form 14 of the non-profit fund in the periodical return for the current period of account.
- (6) Condition B is that the company is party to arrangements the main purpose, or one of the main purposes, of which is to reduce the relevant admissible value of assets of a non-profit fund of the company, other than any structural assets.
- (7) For the purposes of subsection (6) (and section 434AZB), the “relevant admissible value” means the value reflected in line 89 of Form 13 of the periodical return for the current period of account.
- (8) Condition C is that the surplus arising since the last valuation shown in line 34 of the Form 58 of the non-profit fund, or any of the non-profit funds, in relation to which condition A or B is met in the periodical return for the current period of account is a negative amount.]

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### Textual Amendments

**F34** Ss. 434AZA-434AZC inserted (with effect in accordance with [Sch. 23 para. 3\(2\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 23 para. 3\(1\)](#)

VALID FROM 21/07/2009

### [<sup>F34</sup>434AZB] **Conditions to non-profit funds: amount of loss reduction** **U.K.**

- (1) The amount of the relief allowable as mentioned in section 434AZA(1) is reduced by whichever of the following is the least—
  - (a) the amount of the loss,
  - (b) the amount specified in subsection (2), and
  - (c) the amount specified in subsection (4).
- (2) The amount mentioned in subsection (1)(b) is—
  - (a) where only condition A in section 434AZA is met, the relevant amount relating to the non-profit fund in relation to which it is met or (where it is met in relation to more than one non-profit fund) the sum of the relevant amounts relating to them,
  - (b) where only condition B is met, the amount of the relevant reduction relating to the non-profit fund in relation to which it is met or (where it is met in relation to more than one non-profit fund) the sum of the relevant reductions relating to them, and
  - (c) where both condition A and condition B are met, the aggregate of the amounts in paragraphs (a) and (b).
- (3) In subsection (2)—
  - (a) “relevant amount”, in relation to a non-profit fund, means the amount shown in relation to the non-profit fund as the excess of the value of net admissible assets in line 51 of the Form 14 of the non-profit fund in the periodical return for the current period of account (as reduced by any amount which has had effect to reduce relief for losses for a previous accounting period), and
  - (b) “relevant reduction”, in relation to a non-profit fund, means the reduction of the relevant admissible value of assets of the non-profit fund (other than structural assets) which is attributable to the arrangements (as so reduced).
- (4) The amount mentioned in subsection (1)(c) is—
  - (a) if the relevant period of account is the current period of account, the amount referred to in section 434AZA(3) in the case of the non-profit fund, or of each of the non-profit funds, to which there has been a relevant addition in the relevant period of account, and
  - (b) otherwise, so much of the amount shown in line 31 of the Form 58 of the non-profit fund or non-profit funds in the periodical return for the current period of account as is attributable to the amount so referred to.]



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**Textual Amendments**

**F34** Ss. 434AZA-434AZC inserted (with effect in accordance with [Sch. 23 para. 3\(2\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 23 para. 3\(1\)](#)

VALID FROM 21/07/2009

[<sup>F34</sup> **Sections 434AZA and 434AZB: supplementary** **U.K.**]

- (1) For the purposes of sections 434AZA and 434AZB, a non-profit fund required to support a with-profits fund is to be treated as not being a non-profit fund.
- (2) Sections 434AZA and 434AZB apply to a non-profit part of a with-profits fund as if references to something shown in the Form 14 or Form 58 of the non-profit fund in a periodical return were to what would be so shown if there were a Form 14 or Form 58 of the non-profit part of the with-profits fund in the periodical return.
- (3) In sections 434AZA and 434AZB—  
“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and  
“structural assets” has the same meaning as in section 83XA of the Finance Act 1989 (see subsection (3) of that section and any regulations made under it.)]

**Textual Amendments**

**F34** Ss. 434AZA-434AZC inserted (with effect in accordance with [Sch. 23 para. 3\(2\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 23 para. 3\(1\)](#)

[<sup>F35</sup> **Treatment of interest and annuities.** **U.K.**]

- (1) <sup>F36</sup> .....
- (2) <sup>F37</sup> .....

**Textual Amendments**

- F35** S. 434B inserted (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 21\(1\)](#) (with [Sch. 8 para. 55\(2\)](#))
- F36** S. 434B(1) repealed (with effect in accordance with s. 165(4)(5) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), s. 165(3), [Sch. 41 Pt 5\(25\)](#), Note (with [Sch. 14 para. 24](#))
- F37** S. 434B(2) repealed (with effect in accordance with s. 67(7), [Sch. 18 Pt. 6\(6\)](#) Note of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), s. 67(4), [Sch. 18 Pt. 6\(6\)](#)

[<sup>F38</sup> **Interest on repayment of advance corporation tax.** **U.K.**]

- <sup>F39</sup> .....

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#### Textual Amendments

- F38** S. 434C inserted (with effect in accordance with Sch. 8 paras. 54, 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 22** (with Sch. 8 para. 55(2))
- F39** S. 434C repealed (with effect in accordance with Sch. 3 para. 26(2) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 26(1), **Sch. 27 Pt. 3(2)**, Note

#### [<sup>F40</sup> 434D Capital allowances: management assets. **U.K.**

F41 .....

#### Textual Amendments

- F40** Ss. 434D, 434E inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 23(1)** (with Sch. 8 para. 55(2))
- F41** S. 434D repealed (with effect in accordance with s. 579 of the repealing Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 39, **Sch. 4**

#### 434E Capital allowances: investment assets. **U.K.**

F42 .....]

#### Textual Amendments

- F40** Ss. 434D, 434E inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 23(1)** (with Sch. 8 para. 55(2))
- F42** S. 434E repealed (with effect in accordance with s. 579 of the repealing Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 39, **Sch. 4**

#### <sup>F43</sup> 435 Taxation of gains reserved for policy holders and annuitants. **U.K.**

.....

#### Textual Amendments

- F43** S. 435 repealed (with effect in accordance with s. 84(5)(b) of the repealing Act) by Finance Act 1989 (c. 26), s. 84(4), Sch. 8 para. 5, **Sch. 17 Pt. IV**, Note 3 (with s. 84(6))

#### 436 [<sup>F44</sup> Pension business]: separate charge on profits. **U.K.**

F45 .....

#### Textual Amendments

- F44** Words in s. 436 sidenote substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 51(5)** (with Sch. 8 para. 55(2))
- F45** S. 436 repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 24, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)



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**[<sup>F46</sup>436A Gross roll-up business: separate charge on profits U.K.]**

- (1) Profits arising to an insurance company from gross roll-up business—
  - (a) are to be treated as income within Schedule D, and
  - (b) are chargeable under Case VI of that Schedule.
- (2) For that purpose—
  - (a) the gross roll-up business is to be treated separately, and
  - (b) the profits from it are to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) In making that computation, sections 82 and 82B to [<sup>F47</sup>83ZA] of the Finance Act 1989 apply with the necessary modifications.
- (4) If in any accounting period an insurance company incurs a loss, to be computed on the same basis as the profits, arising from its gross roll-up business—
  - (a) the loss must be set off against the amount of any profits chargeable under this section for any subsequent accounting period, and
  - (b) accordingly, the amount of the company's profits so charged in any such accounting period is to be treated as reduced by the amount of the loss or so much of that amount as cannot be relieved under this section against profits of an earlier accounting period.
- (5) Section 396 does not apply to a loss incurred by an insurance company on its gross roll-up business.
- (6) No loss to which section 396 applies may be set off <sup>F48</sup> . . . against the amount of any profits chargeable under this section.
- (7) This section does not apply in relation to an insurance company for an accounting period if the profits of its long-term business for the accounting period are charged to tax under Case I of Schedule D.]

**Textual Amendments**

- F46** Ss. 436A, 436B inserted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 25](#) (with [Sch. 7 Pt. 2](#))
- F47** S. 436A(3): "83ZA" substituted for "83AB" (with effect in accordance with [Sch. 9 para. 17\(2\)\(3\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 12](#); [S.I. 2008/379](#), [art. 2](#)
- F48** Words in s. 436A(6) omitted (with effect in accordance with [Sch. 17 para. 40\(2\)](#) of the repealing Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 40\(1\)](#)

**Modifications etc. (not altering text)**

- C4** S. 436A modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [reg. 13A](#) (as inserted (14.8.2007 with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2007 \(S.I. 2007/2134\)](#), [regs. 1\(1\), 14](#))

**[<sup>F46</sup>436B Gains referable to gross roll-up business not to be chargeable gains U.K.]**

- (1) Gains referable to gross roll-up business are not chargeable gains.

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- (2) For the purposes of this section “gains referable to gross roll-up business” means gains which—
- (a) accrue to an insurance company on the disposal by it of assets of its long-term insurance fund, and
  - (b) are referable (in accordance with section 432A) to gross roll-up business.]

#### Textual Amendments

**F46** Ss. 436A, 436B inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 25 (with Sch. 7 Pt. 2)

### 437 General annuity business. **U.K.**

<sup>F49</sup><sup>F50</sup>(1A) In the computation [<sup>F51</sup>under the I minus E basis] of the [<sup>F52</sup>relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period], new annuities paid by the company in that period shall be brought into account by treating an amount equal to the income limit for that period [<sup>F53</sup>as expenses payable which fall to be brought into account for that period at Step 3 in section 76(7)].]

(1C) For the purposes of this section [<sup>F54</sup>(but subject to subsections (1CA) to (1CD) below)]—

- (a) “new annuity” means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company’s basic life assurance and general annuity business;
- (b) “the income limit” for an accounting period of an insurance company is the difference between—
  - (i) the total amount of the new annuities paid by the company in that accounting period; and
  - (ii) the total of the <sup>F55</sup> . . . [<sup>F56</sup>amounts exempt under section 717 of ITTOIA 2005] contained in the new annuities so paid; <sup>F57</sup> . . .
- (c) <sup>F58</sup> . . . . . [<sup>F59</sup>and
- (d) the amounts exempt under section 717 of ITTOIA 2005 [<sup>F60</sup>are so much of the payments under the new annuities as would be within the exemption in subsection (1) of that section if—
  - (i) section 718 of that Act were omitted, and
  - (ii) that exemption were an exemption applying in relation to companies as well as individuals.]]

[ Where a new annuity (“the actual annuity”) is a steep-reduction annuity, the income <sup>F61</sup>(1CA) limit for an accounting period of the company paying the annuity shall be computed for the purposes of this section as if—

- (a) the contract providing for the actual annuity provided instead for the annuities identified by subsections (1CB) and (1CC) below; and
- (b) the consideration for each of those annuities were to be determined by the making of a just and reasonable apportionment of the consideration for the actual annuity.

(1CB) The annuities mentioned in subsection (1CA)(a) above are—

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~~(a) applied to an annuity the payments in respect of which are continued to the payments in~~

respect of the actual annuity that fall to be made before the earliest time for the making in respect of the actual annuity of a reduced payment such as is mentioned in section 437A(1)(c); and

- (b) subject to subsection (1CC) below, an annuity the payments in respect of which are all the payments in respect of the actual annuity other than those mentioned in paragraph (a) above.

(1CC) Where an annuity identified by paragraph (b) of subsection (1CB) above (“the later annuity”) would itself be a steep-reduction annuity, the annuities mentioned in subsection (1CA)(a) above—

- (a) shall not include the later annuity; but
- (b) shall include, instead, the annuities which would be identified by subsection (1CB) above (with as many further applications of this subsection as may be necessary for securing that none of the annuities mentioned in subsection (1CA)(a) above is a steep-reduction annuity) if references in that subsection to the actual annuity were references to the later annuity.

(1CD) Subsections (1CA) to (1CC) above shall be construed in accordance with section 437A.]

(1D) In any case where—

- (a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in an accounting period beginning before 1st January 1992,
- (b) the company’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (c) the company’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall be treated for the purposes of this section, other than this subsection, as if the group annuity contract had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1E) In any case where—

- (a) a payment in respect of an annuity is made by a reinsurer under a reinsurance treaty made in an accounting period beginning before 1st January 1992,
- (b) the reinsurer’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (c) the reinsurer’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall, as respects the reinsurer, be treated for the purposes of this section, other than this subsection, as if the reinsurance treaty had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1F) In this section—

“group annuity contract” means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

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reinsurance treaty means a contract under which one insurance company is obliged to cede, and another (in this section referred to as a “reinsurer”) to accept, the whole or part of a risk of a class or description to which the contract relates.]

F62 (2) .....

F63 (3) .....

F64 (4) .....

F65 (5) .....

(6) F66 .....

### Textual Amendments

- F49** S. 437(1A)-(1F) substituted for s. 437(1) (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 5, 18
- F50** S. 437(1A) substituted for s. 437(1A)(1B) (with effect in accordance with s. 67(7) of the amending Act) by Finance Act 1997 (c. 16), s. 67(1)
- F51** Words in s. 437(1A) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 8 para. 6 (with Sch. 8 Pt. 2)
- F52** Words in s. 437(1A) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 6(9)
- F53** Words in s. 437(1A) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 18
- F54** Words in s. 437(1C) inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), s. 67(2)
- F55** Words in s. 437(1C)(b)(ii) omitted (with effect in accordance with Sch. 14 para. 18(1) of the repealing Act) by virtue of Finance Act 2008 (c. 9), Sch. 14 para. 2(2)
- F56** Words in s. 437(1C)(b)(ii) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 178(2) (with Sch. 2)
- F57** Word at the end of s. 437(1C)(b) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 178(3), Sch. 3 (with Sch. 2)
- F58** S. 437(1C)(c) omitted (with effect in accordance with Sch. 14 para. 18(1) of the repealing Act) by virtue of Finance Act 2008 (c. 9), Sch. 14 para. 2(3)
- F59** S. 437(1C)(d) and preceding word inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 178(4) (with Sch. 2)
- F60** Words in s. 437(1C)(d) substituted (with effect in accordance with Sch. 14 para. 18(1) of the amending Act) by Finance Act 2008 (c. 9), Sch. 14 para. 2(4)
- F61** S. 437(1CA)-(1CD) inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), s. 67(2)
- F62** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F63** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F64** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F65** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3

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**F66** S. 437 repealed with effect in accordance with Subpara (5) of the repealing Act by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 2

**Modifications etc. (not altering text)**

- C5** S. 437 modified (10.8.1995) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1992 \(S.I. 1992/1655\)](#), **reg. 10A** (as inserted by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 1995 \(S.I. 1995/1916\)](#), **regs. 1, 6**)
- C6** S. 437 modified (with effect in accordance with reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), **regs. 1(1), 21** (as amended (31.12.1997) with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment No. 2\) Regulations 1997 \(S.I. 1997/2877\)](#), **regs. 1(1), 4**)
- C7** S. 437 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), **regs. 1(1), 14**

[<sup>F67</sup> **437A** **Meaning of “steep-reduction annuity” etc.** **U.K.**

- (1) For the purposes of section 437 an annuity is a steep-reduction annuity if—
- the amount of any payment in respect of the annuity (but not the term of the annuity) depends on any contingency other than the duration of a human life or lives;
  - the annuitant is entitled in respect of the annuity to payments of different amounts at different times; and
  - those payments include a payment (“a reduced payment”) of an amount which is substantially smaller than the amount of at least one of the earlier payments in respect of that annuity to which the annuitant is entitled.
- (2) Where there are different intervals between payments to which an annuitant is entitled in respect of any annuity, the question whether or not the conditions in subsection (1) (b) and (c) above are satisfied in the case of that annuity shall be determined by assuming—
- that the annuitant’s entitlement, after the first payment, to payments in respect of that annuity is an entitlement to payments at yearly intervals on the anniversary of the first payment; and
  - that the amount to which the annuitant is assumed to be entitled on each such anniversary is equal to the annuitant’s assumed entitlement for the year ending with that anniversary.
- (3) For the purposes of subsection (2) above an annuitant’s assumed entitlement for any year shall be determined as follows—
- the annuitant’s entitlement to each payment in respect of the annuity shall be taken to accrue at a constant rate during the interval between the previous payment and that payment; and
  - his assumed entitlement for any year shall be taken to be equal to the aggregate of the amounts which, in accordance with paragraph (a) above, are treated as accruing in that year.
- (4) In the case of an annuity to which subsection (2) above applies, the reference in section 437(1CB)(a) to the making of a reduced payment shall be construed as if it were a reference to the making of a payment in respect of that annuity which (applying subsection (3)(a) above) is taken to accrue at a rate that is substantially less than the

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rate at which at least one of the earlier payments in respect of that annuity is taken to accrue.

- (5) Where—
  - (a) any question arises for the purposes of this section whether the amount of any payment in respect of any annuity—
    - (i) is substantially smaller than the amount of, or
    - (ii) accrues at a rate substantially less than, an earlier payment in respect of that annuity, and
  - (b) the annuitant or, as the case may be, every annuitant is an individual who is beneficially entitled to all the rights conferred on him as such an annuitant, that question shall be determined without regard to so much of the difference between the amounts or rates as is referable to a reduction falling to be made as a result of the occurrence of a death.
- (6) Where the amount of any one or more of the payments to which an annuitant is entitled in respect of an annuity depends on any contingency, his entitlement to payments in respect of that annuity shall be determined for the purposes of section 437(1CA) to (1CC) and this section according to whatever (applying any relevant actuarial principles) is the most likely outcome in relation to that contingency.
- (7) Where any agreement or arrangement has effect for varying the rights of an annuitant in relation to a payment in respect of any annuity, that payment shall be taken, for the purposes of section 437(1CA) to (1CC) and this section, to be a payment of the amount to which the annuitant is entitled in accordance with that agreement or arrangement.
- (8) References in this section to a contingency include references to a contingency that consists wholly or partly in the exercise by any person of any option.]

**Textual Amendments**

**F67** S. 437A inserted (with effect in accordance with s. 67(8) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 67\(3\)](#)

**438 Pension business: exemption from tax. U.K.**

- (1) <sup>M2</sup>Exemption from corporation tax shall be allowed in respect of income [<sup>F68</sup>from assets solely linked to pension business.]
- (2) <sup>F69</sup>.....
- (3) <sup>F70</sup>.....
- [<sup>F71</sup>(3AA) <sup>F70</sup>.....]
- (4) <sup>F69</sup>.....
- (5) <sup>F72</sup>.....
- (6) <sup>F72</sup>.....
- [<sup>F73</sup>(6A) <sup>F74</sup>.....]
- [<sup>F75</sup>(6B) <sup>F72</sup>.....]



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(6C) <sup>F72</sup> made appear in the content and are referenced with annotations. (See end of Document for details)

(6D) <sup>F72</sup> .....

(6E) <sup>F72</sup> .....]

(7) <sup>F72</sup> .....

(8) <sup>F76</sup> .....

[<sup>F77</sup>(9) <sup>F78</sup> .....

### Textual Amendments

- F68** Words in s. 438(1) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 26(2)** (with Sch. 7 Pt. 2)
- F69** S. 438(2)(4) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 26(3), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F70** S. 438(3)(3AA) repealed (with effect in accordance with Sch. 3 para. 6(7) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 6(2), **Sch. 8 Pt. 2(6)**, Note
- F71** S. 438(3AA) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(2)**
- F72** S. 438(5)-(7) repealed (with effect in accordance with Sch. 3 para. 6(7)-(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 6(4)(5), **Sch. 8 Pt. 2(6)**, Note (with Sch. 3 para. 13(17))
- F73** 1990 s.45(9).
- F74** S. 438(5)-(7) repealed (with effect in accordance with Sch. 3 para. 6(7)(8), Sch. 8 Pt. 2(6) Note of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 6(4)(5), **Sch. 8 Pt. 2(6)**
- F75** S. 438(6B)-(6E) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(4)**
- F76** S. 438(8) repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3**, Note
- F77** S. 438(9) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(2)** (with Sch. 8 para. 55(2))
- F78** S. 438(9) repealed (with effect in accordance with Sch. 3 para. 6(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 6(6), **Sch. 8 Pt. 2(6)**, Note

### Modifications etc. (not altering text)

- C8** S. 438 amended (27.7.1993) by 1993 c. 34, **s. 78(6)(11)**
- C9** S. 438 modified (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 18 para. 1(5)**
- C10** S. 438 modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 14** (and as substituted (22.8.2000) by The Individual Savings Account (Insurance Companies) (Amendment) Regulations 2000 (S.I. 2000/2075), **regs. 1, 4**)
- C11** S. 438(1) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 12**; S.I. 2004/3369, **art. 2(1)**

### Marginal Citations

- M2** Source—1970 s.314(1); 1970(F) Sch.5 Part III 11(3), (6)(c)

[<sup>F79</sup> **438A Pension business: payments on account of tax credits and deducted tax.** **U.K.**

<sup>F80</sup> .....

### Textual Amendments

- F79** S. 438A inserted (2.10.1992) by Finance Act 1991 (c. 31, SIF 63:1), **s. 49(1)**; S.I. 1992/1746, **art.2**

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**F80** S. 438A repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2001 (c. 9), s. 87(1), **Sch. 33 Pt. 2(12)**

**[<sup>F81</sup> 438B Income or gains arising from property investment LLP U.K.]**

**F82** .....

**Textual Amendments**

- F81** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, **Sch. 25 para. 5**  
**F82** S. 438B repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 27, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

**438C Determination of policy holders' share for purposes of s.438B U.K.]**

**F83** .....

**Textual Amendments**

- F81** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, **Sch. 25 para. 5**  
**F83** S. 438C repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 28, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

**439 Restricted government securities. U.K.]**

**F84** .....

**Textual Amendments**

- F84** S. 439 repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 29, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

**[<sup>F85</sup> 439A Taxation of pure reinsurance business. U.K.]**

**F86** .....

**Textual Amendments**

- F85** S. 439A inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 26** (with Sch. 8 para. 55(2))  
**F86** S. 439A repealed (with effect in accordance with s. 39(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 8 para. 7, **Sch. 27 Pt. 2(8)**, Note (with Sch. 8 Pt. 2)

**[<sup>F87</sup> 439B Life reinsurance business: separate charge on profits. U.K.]**

**F88** .....

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**Textual Amendments**

- F87** S. 439B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 27(1) (with Sch. 8 para. 55(2))
- F88** S. 439B repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 30, Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)

[<sup>F89</sup> **440 Transfers of assets etc. U.K.**

(1) If at any time an asset (or a part of an asset) held by an insurance company ceases to be within one of the categories set out in subsection (4) below and comes within another of those categories, the company shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) for a consideration equal to its [<sup>F90</sup>fair] value at that time.

(2) Where—

- [<sup>F91</sup>(a) an asset is acquired by a company as a result of an insurance business transfer scheme which has effect to transfer long-term business from any person (“the transferor”) to the company, and]
- (b) the asset (or part of it) is within one of the categories set out in subsection (4) below immediately before the acquisition and is within another of those categories immediately afterwards,

the transferor shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) immediately before the acquisition for a consideration equal to its [<sup>F90</sup>fair] value at that time.

[<sup>F93</sup> .....]  
<sup>F92</sup>(2A)

[<sup>F93</sup> .....]  
<sup>F94</sup>(2B)

(3) Where, apart from this subsection, section [<sup>F95</sup>171 or 173 the 1992 Act] (transfers within a group) would apply to a disposal or acquisition by an insurance company of an asset (or part of an asset) which, immediately before the disposal or (as the case may be) immediately after the acquisition, is within one of the categories set out in [<sup>F96</sup>paragraphs [<sup>F97</sup>(a), (d) and (e)]] of subsection (4) below, that section shall not apply to the disposal or acquisition.

[<sup>F98</sup>(4) The categories referred to in subsections (1) to (3) above are—

- [<sup>F99</sup>(a) assets which are linked solely to gross roll-up business or are foreign [<sup>F100</sup>business] assets;]
- (d) assets linked solely to basic life assurance and general annuity business;
- (e) assets of the [<sup>F101</sup>long-term insurance fund] not within [<sup>F102</sup>either] of the preceding paragraphs;
- (f) other assets.]

(5) [<sup>F103</sup> .....]

[ In a case where the profits of a company’s life assurance business are charged to tax  
<sup>F104</sup>(6) in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3).]

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### Textual Amendments

- F89** Ss. 440, 440A substituted for s. 440 (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 8, **11(2)** (with Sch. 6 para. 12)
- F90** Words in s. 440(1)(2) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 10(2)(a)**
- F91** S. 440(2)(a) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 28(2) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 28(1)**
- F92** S. 440(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 25** (with Sch. 15)
- F93** S. 440(2A)(2B) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(b), **Sch. 27 Pt. 2(10)**, Note
- F94** S. 440(2B) inserted (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 27 para. 5** (with Sch. 28)
- F95** Words in s. 440(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(22)(a)** (with ss. 60, 101(1), 171, 201(3))
- F96** Words in s. 440(3) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 5(2)** (with Sch. 8 para. 55(2))
- F97** Words in s. 440(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(2)** (with Sch. 7 Pt. 2)
- F98** S. 440(4) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995, Sch. 8 para. 5(3), s. 55(2)
- F99** S. 440(4)(a) substituted for s. 440(4)(a)-(c) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(3)** (with Sch. 7 Pt. 2)
- F100** Word in s. 440(4)(a) substituted (with effect in accordance with Sch. 17 para. 10(6)(7) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 10(3)(d)**
- F101** Words in s. 440(4)(e) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(g)**
- F102** Word in s. 440(4)(e) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(3)** (with Sch. 7 Pt. 2)
- F103** S. 440(5) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 10(2)(b), **Sch. 27 Pt. 2(10)**, Note
- F104** S. 440(6) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(3)** (with Sch. 8 para. 55(2))

### Modifications etc. (not altering text)

- C12** S. 440 modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), **reg 10C** (as inserted (10.8.1995) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1995 (S.I. 1995/1916), **regs. 1, 6**)
- C13** S. 440 modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 22** (as amended by: S.I. 2001/3629, **arts. 1(2)(b), 158(1), 165(2)(d)**; S.I. 2004/822, **regs. 1, 18**)
- C14** S. 440 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 16** (as amended by S.I. 2007/2134, **regs. 1(1)(2), 16**)
- C15** S. 440(1) excluded (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, **Sch. 7 para. 6(4)**
- C16** S. 440(2) modified (with effect in accordance with reg. 1 of the modifying S.I.) by The Friendly Societies (Taxation of Transfers of Business) Regulations 1995 (S.I. 1995/171), **regs. 4, 5** (as amended

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	1997 (S.I. 1997/472), <b>regs. 1, 3</b>
<b>C17</b>	S. 440(2) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), <b>regs. 1(1), 23</b> (as amended by S.I. 2001/3629, <b>arts. 1(2)(b), 158(2)</b> ); and that modifying reg. 23 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, <b>reg. 19</b>
<b>C18</b>	S. 440(2) modified (with effect in accordance with reg. 4A(3) of the modifying S.I.) by The Friendly Societies (Taxation of Transfers of Business) Regulations 1995 (S.I. 1995/171), <b>reg. 4A(1)(2)(a)</b> (as inserted (19.3.1997) by The Friendly Societies (Taxation of Transfers of Business) (Amendment) Regulations 1997 (S.I. 1997/472), <b>regs. 1, 4</b> )
<b>C19</b>	S. 440(4) modified (20.3.1997 with effect in accordance with reg. 1(2) of the amending Regulations) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), <b>regs. 1(1), 24, 25</b> ; and that modifying reg. 25 is omitted (8.4.2004 with effect in accordance with regs. 1, 20(2) of the revoking S.I.) by virtue of S.I. 2004/822, <b>reg. 20(1)</b>
<b>C20</b>	S. 440(4) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), <b>regs. 1, 15</b>
<b>C21</b>	S. 440(4)(f) modified by Finance Act 1989 (c. 26), <b>s. 83XA(12)</b> (as inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), <b>Sch. 10 para. 2(1)</b> )

[<sup>F105</sup>440] **Securities.** **U.K.**

- (1) Subsection (2) below applies where the assets of an insurance company include securities of a class all of which would apart from this section be regarded for the purposes of corporation tax on chargeable gains as one holding.
- (2) Where this subsection applies—
  - [<sup>F106</sup>(a) so many of the securities as are identified in the company's records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of—
    - [<sup>F107</sup>(i) basic life assurance and general annuity business, or
    - (ii) gross roll-up business,]
 shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,]
  - (c) [<sup>F108</sup>.....]
  - (d) so many of the securities as are included in the company's [<sup>F109</sup>long-term insurance fund] but do not fall within [<sup>F110</sup>paragraph (a)] shall be treated for those purposes as a separate holding which is an asset of that fund (but not of [<sup>F111</sup>the description mentioned in that paragraph]), and
  - (e) any remaining securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.
- (3) Subsection (2) above also applies where the assets of an insurance company include securities of a class and apart from this section some of them would be regarded as a 1982 holding, and the rest as a [<sup>F112</sup>section 104 holding], for the purposes of corporation tax on chargeable gains.
- (4) In a case within subsection (3) above—
  - (a) the reference in any paragraph of subsection (2) above to a separate holding shall be construed, where necessary, as a reference to a separate 1982 holding and a separate [<sup>F112</sup>section 104 holding], and



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~~(d) the questions whether such a construction is necessary in the case of any paragraph and, if it is, how many securities falling within the paragraph constitute each of the two holdings shall be determined in accordance with paragraph 12 of Schedule 6 to the Finance Act 1990 and the identification rules applying on any subsequent acquisitions and disposals.~~

(5) Section [F113 105 of the 1992 Act] shall have effect where subsection (2) above applies as if securities regarded as included in different holdings by virtue of that subsection were securities of different kinds.

[F114F115(6) In this section—

“1982 holding” has the same meaning as in section 109 of the 1992 Act;

“[F112 section 104 holding]” has the same meaning as in section 104(3) of that Act; and

“securities” means shares, or securities of a company, and any other assets where they are of a nature to be dealt in without identifying the particular assets disposed or acquired.]

[F114(7) In a case where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(4).]

#### Textual Amendments

- F105** Ss. 440, 440A substituted for s. 440 (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 8, **11(2)** (with Sch. 6 para. 12)
- F106** S. 440A(2)(a) substituted for s. 440A(2)(a)(b) (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 6** (with Sch. 8 para. 55(2))
- F107** S. 440A(2)(a)(i)(ii) substituted for s. 440A(2)(a)(i)-(iii) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 32(a)** (with Sch. 7 Pt. 2)
- F108** S. 440A(2)(c) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 32(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F109** Words in s. 440A(2)(d) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(h)**
- F110** Words in s. 440A(2)(d) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 32(c)(i)** (with Sch. 7 Pt. 2)
- F111** Words in s. 440A(2)(d) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 32(c)(ii)** (with Sch. 7 Pt. 2)
- F112** Words in s. 440A(3)(4)(6) substituted (with effect in accordance with s. 123(6) of the amending Act) by Finance Act 1998 (c. 36), **s. 123(5)(a)**
- F113** Words in s. 440A(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(23)(a)** (with ss. 60, 101(1), 171, 201(3))
- F114** S. 440A(7) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(4)** (with Sch. 8 para. 55(2))
- F115** S. 440A(6) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(23)(b)** (with ss. 60, 101(1), 171, 201(3))

#### Modifications etc. (not altering text)

- C22** S. 440A(2) modified (31.7.1992 with effect in accordance with reg. 1 of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655),



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**regs. 1(1), 16** (as amended (31.12.1992 with effect in accordance with reg. 1(2)(3) of the amending

S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1(1), 5)**

**C23** S. 440A(2) modified (31.7.1992 with effect in accordance with reg. 1 of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), **regs. 1, 16** (as substituted (31.12.1993 with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1(1), 10)**

**C24** S. 440A(2) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 26, 27**; and that modifying reg. 27 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, **reg. 21**

**C25** S. 440A(2) modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 17** (as amended by S.I. 2007/2134, **regs. 1(1)(2), 17)**

**C26** See 1990 s.41 and Sch.6 para.12(2)—subs.(d) omitted for period 1 January 1990 to 19 March 1990 inclusive.

**C27** See 1990 s.41 and Sch.6 para.12(1), (3), (4), (6), (7) and (10)—application and commencement provisions for “1982 holdings” and “new holdings”.

**C28** See 1990 s.41 and Sch.6 para.12(1), (3), (4), (6), (7) and (10)—application and commencement provisions for “1982 holdings” and “new holdings”.

**C29** S. 440A(2)(e) modified by Finance Act 1989 (c. 26), **s. 83XA(13)** (as inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 2(1)**)

[<sup>F116</sup>440B] Modifications where tax charged under Case I of Schedule D. **U.K.**

- (1) The following provisions apply where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D [<sup>F117</sup> in accordance with section 431G(3)].

[<sup>F119</sup> .....]  
<sup>F118</sup>(1A)

(2) [<sup>F119</sup> .....]

- (3) [<sup>F120</sup> Subsection (1) of section 440 applies] as if the only categories set out in subsection (4) of that section were—

- (a) assets of the [<sup>F121</sup> long-term insurance fund], and  
 (b) other assets.

- (4) Section 440A applies as if for paragraphs [<sup>F122</sup> (a), (d) and (e)] of subsection (2) there were substituted—

[<sup>F123</sup> (“ so many of the securities as are included in the company’s long-term insurance fund shall be treated for the purposes of corporation tax as a separate holding which is an asset of that fund, and]

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(b) any remaining securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph.”.

[ Section 440(2) does not apply if either the transferor or the company by which the F124(4A) asset is acquired is a company whose profits are charged to tax in accordance with Case I of Schedule D (or if they both are).

(4B) Section 211 of the 1992 Act does not apply [ F125: in relation to assets which are referable to the life assurance business of the transferor] if the transferor is a company whose profits are charged to tax in accordance with Case I of Schedule D.]

(5) F126 .....]

#### Textual Amendments

- F116** S. 440B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(1)** (with Sch. 8 para. 55(2))
- F117** Words in s. 440B(1) inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(2)** (with Sch. 8 Pt. 2)
- F118** S. 440B(1A) inserted (with effect in accordance with Sch. 27 para. 5(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 27 para. 5(1)**
- F119** S. 440B(1A)(2) repealed (with effect in accordance with Sch. 3 para. 8(4)(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 8(2)(3), **Sch. 8 Pt. 2(6)**, Note
- F120** Words in s. 440B(3) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(3)** (with Sch. 8 Pt. 2)
- F121** Words in s. 440B(3)(a) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(i)**
- F122** Words in s. 440B(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 33(a)** (with Sch. 7 Pt. 2)
- F123** Words in s. 440B(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 33(b)** (with Sch. 7 Pt. 2)
- F124** S. 440B(4A)(4B) inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(4)** (with Sch. 8 Pt. 2)
- F125** Words in s. 440B(4B) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 7**
- F126** S. 440B(5) repealed (with effect in accordance with s. 39(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 8 para. 8(5), **Sch. 27 Pt. 2(8)**, Note (with Sch. 8 Pt. 2)

#### [ F127 440C Modifications for change of tax basis U.K.

- (1) Subsection (2) makes provision for a case where—
- (a) subsection (4) of section 431G applies in relation to the profits of the life assurance business of an insurance company for any accounting period, but
  - (b) the profits of that business for a succeeding accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of subsection (3) of that section.
- (2) The loss referred to in section 431G(4)(b) (less any loss for the same accounting period set off under section 436A for any intervening accounting period and any amount deducted for any such period in respect of the loss by virtue of section 85A(3)(b) of the

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*Finance Act 1989) may be set off under section 393 against profits of that succeeding accounting period (without being reduced in accordance with section 434A(2)(a)).*

- (3) In determining whether any loss has been set off under section 436A for any intervening accounting period, or whether any amount has been deducted for any such period in respect of the loss by virtue of section 85A(3)(b) of the Finance Act 1989, losses of earlier accounting periods are to be assumed to be set off before those of later accounting periods.
- (4) Subsection (5) makes provision for a case where—
- a loss arises to an insurance company for an accounting period for which the profits of its life assurance business fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3)(b),
  - the profits of that business for a subsequent accounting period are charged to tax under the I minus E basis, and
  - had those profits (instead) been charged to tax in accordance with Case I of Schedule D, any of that loss would have been available to be set off against them under section 393.
- (5) The loss is to be treated for the purposes of the operation of section 436A in relation to the subsequent accounting period as if it were a loss arising from its gross roll-up business in the accounting period in which it arose.
- (6) Subsections (7) and (8) make provision for a case where—
- the profits of the life assurance business of an insurance company for an accounting period are charged to tax under the I minus E basis,
  - the profits of that business for its next accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), and
  - that prevents the giving of relief in accordance with section 86(8) of the Finance Act 1989 (acquisition expenses relieved in fractions under section 76).
- (7) Any relief which would have been so given in—
- the next accounting period, or
  - any subsequent accounting period for which the profits of the company's life assurance business continue to be charged to tax in accordance with Case I of Schedule D,
- may be given by set-off against any gains treated as accruing under section 213(1) of the 1992 Act at the end of the accounting period.
- (8) But if the profits of the company's life assurance business for a subsequent accounting period are charged to tax under the I minus E basis, any relief not previously given under subsection (7) is to be treated for the purposes of the operation of section 76 in relation to the first subsequent accounting period for which profits are so charged as if it were an amount which is to be relieved under that section by virtue of section 86(8) and (9) of the Finance Act 1989.]

#### Textual Amendments

**F127** S. 440C inserted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007](#) (c. 11), [Sch. 8 para. 9](#) (with [Sch. 8 Pt. 2](#))

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**[<sup>F128</sup> 440D Modifications in relation to BLAGAB group reinsurers. U.K.]**

Schedule 19ABA (which makes modifications of this Act in relation to BLAGAB group reinsurers) shall have effect.]

**Textual Amendments**

**F128 S. 440D** inserted (27.12.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Taxation of Reinsurance Business\) \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/3430\)](#), **art. 3(2)**

**441 Overseas life assurance business. U.K.**

<sup>F129</sup> .....

**Textual Amendments**

**F129 S. 441** repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 34](#), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

**[<sup>F130</sup> 441A Section 441: distributions. U.K.]**

- (1) <sup>F131</sup> .....
- (2) <sup>F132</sup> .....
- [<sup>F133</sup> (3) <sup>F132</sup> .....
- (4) <sup>F132</sup> .....
- (5) <sup>F132</sup> .....]
- (7) <sup>F132</sup> .....
- (8) <sup>F132</sup> .....]

**Textual Amendments**

- F130 Ss. 441, 441A** substituted for s. 441 by [Finance Act 1990 \(c. 29\)](#), [Sch. 7 paras. 3, 10](#)
- F131 S. 441A(1)** repealed (with effect in accordance with Sch. 3 para. 9(4) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 3 para. 9\(2\)](#), **Sch. 8 Pt. 2(6)**, Note
- F132 S. 441A(2)-(8)** repealed (with effect in accordance with Sch. 4 para. 28(2), Sch. 8 Pt. 2(10) Note of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 4 para. 28\(1\)](#), **Sch. 8 Pt. 2(10)**
- F133 S. 441A(3)-(5)** substituted for s. 441A(3)-(6) (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 8 para. 31** (with [Sch. 8 para. 55\(2\)](#))

**[<sup>F134</sup> 441B Treatment of UK land. U.K.]**

<sup>F135</sup> .....]

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#### Textual Amendments

- F134** S. 441B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 32** (with Sch. 8 para. 55(2))
- F135** S. 441B repealed (13.8.2007 with effect in accordance with reg. 1(2) of the repealing S.I.) by The Insurance Companies (Overseas Life Assurance Business) (Excluded Business) (Amendment) Regulations 2007 (S.I. 2007/2086), **regs. 1(1), 6(2)(a)**

### 442 Overseas business of U.K. companies. **U.K.**

- (1) <sup>M3</sup>Subsections (2) and (3) below apply where a company resident in the United Kingdom carries on insurance business outside the United Kingdom through a [<sup>F136</sup>permanent establishment] and—
- (a) that business, or part of it, together with the whole assets of the company used for the purposes of that business or part (or together with the whole of those assets other than cash), is transferred to a company not resident in the United Kingdom;
  - (b) the business or part is so transferred wholly or partly in exchange for shares, or for shares and loan stock, issued by the transferee company to the transferor company; and
  - (c) the shares so issued, either alone or taken together with any other shares in the transferee company already held by the transferor company, amount in all to not less than one quarter of the ordinary share capital of the transferee company.
- (2) In making any computation in accordance with the provisions of this Act applicable to Case I of Schedule D of the profits or losses of the transferor company for the accounting period in which the transfer occurs, there shall be disregarded any profit or loss in respect of any asset transferred which, apart from this subsection, would fall to be taken into account in making that computation.
- (3) Where by virtue of subsection (2) above any profit or loss is disregarded in making any computation <sup>F137</sup> . . . the profit or loss shall be treated for the purposes of the [<sup>F138</sup>1992 Act] as a chargeable gain or allowable loss accruing to the transferor company on the transfer.
- (4) <sup>F139</sup> . . . . .

#### Textual Amendments

- F136** Words in s. 442(1) substituted (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), **s. 153(1)(a)**
- F137** Words in s. 442(3) repealed (with effect in accordance with s. 164(5) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(24)**, Note
- F138** Words in s. 442(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(24)** (with ss. 60, 101(1), 171, 201(3))
- F139** S. 442(4) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(c), **Sch. 27 Pt. 2(10)**, Note

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**Modifications etc. (not altering text)**

**C30** S. 442(3) excluded by [Income and Corporation Taxes Act 1970 \(c. 10\), s. 269C\(8\)](#) (as inserted (retrospectively) by [Finance \(No. 2\) Act 1992 \(c. 48\), s.48](#))

**Marginal Citations**

**M3** Source—1977 s.45(1)—(4); 1979(C) Sch.7

**[<sup>F140</sup>442A] Taxation of investment return where risk reinsured. U.K.**

- (1) Where an insurance company reinsures any risk in respect of a policy or contract attributable to its basic life assurance and general annuity business, the investment return on the policy or contract shall be treated as accruing to the company [<sup>F141</sup>while the risk remains reinsured by the company under] the reinsurance arrangement and shall be charged to tax under Case VI of Schedule D.
- (2) The Board may make provision by regulations as to the amount of investment return to be treated as accruing in each accounting period during which the reinsurance arrangement is in force.
- (3) The regulations may, in particular, provide that the investment return to be treated as accruing to the company in respect of a policy or contract in any accounting period shall be calculated by reference to—
  - (a) the aggregate of the sums paid by the company to the reinsurer during that accounting period and any earlier accounting periods by way of premium or otherwise;
  - (b) the aggregate of the sums paid by the reinsurer to the company during that accounting period and any earlier accounting periods by way of commission or otherwise;
  - (c) the aggregate amount of the net investment return treated as accruing to the company in any earlier accounting periods, that is to say, net of tax at such rate as may be prescribed; and
  - (d) such percentage rate of return as may be prescribed.

[ Where a transfer of the reinsurance arrangement from one insurance company (“the <sup>F142</sup>(3A) transferor”) to another (“the transferee”) is effected by novation or an insurance business transfer scheme, for the purpose of calculating the investment return to be treated as accruing to the transferee in respect of the policy or contract after the transfer, the references to the company in subsection (3)(a), (b) and (c) above include (as well as the transferee)—

- (a) the transferor, and
  - (b) any insurance company from which the reinsurance arrangement was transferred on an earlier transfer effected by novation or an insurance business transfer scheme.]
- (4) The regulations shall provide that the amount of investment return to be treated as accruing <sup>F143</sup> . . . in respect of a policy or contract in the final accounting period during which the policy or contract is in force is the amount, ascertained in accordance with regulations, by which the profit over the whole period during which the policy or contract, and the reinsurance arrangement, were in force exceeds the aggregate of the amounts treated as accruing in earlier accounting periods.



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If that profit is less than the aggregate of the amounts treated as accruing in earlier accounting periods, the difference shall go to reduce the amounts treated by virtue of this section as arising in that accounting period from other policies or contracts, and if not fully so relieved may be carried forward and set against any such amounts in subsequent accounting periods.

(5) Regulations under this section—

- (a) may exclude from the operation of this section such descriptions of insurance company, such descriptions of policies or contracts and such descriptions of reinsurance arrangements as may be prescribed;
- (b) may make such supplementary provision as to the ascertainment of the investment return to be treated as accruing to the company as appears to the Board to be appropriate, including provision requiring payments made during an accounting period to be treated as made on such date or dates as may be prescribed; and
- (c) may make different provision for different cases or descriptions of case.

(6) In this section “prescribed” means prescribed by regulations under this section.]

**Textual Amendments**

**F140** S. 442A inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 34** (with Sch. 8 paras. 55(2), 57(2))

**F141** Words in s. 442A(1) substituted (with effect in accordance with Sch. 33 para. 23(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 23(2)**

**F142** S. 442A(3A) inserted (with effect in accordance with Sch. 33 para. 23(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 23(3)**

**F143** Words in s. 442A(4) repealed (with effect in accordance with Sch. 33 para. 23(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 23(4), **Sch. 43 Pt. 3(12)**, Note 4

**Modifications etc. (not altering text)**

**C31** S. 442A restricted (28.7.1995 with effect in accordance with reg. 1 of the affecting S.I.) by The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730), **regs. 9, 10**

**C32** S. 442A(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 29**

**C33** S. 442A(1) modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 19**

**443 Life policies carrying rights not in money. U.K.**

**F144** .....

**Textual Amendments**

**F144** S. 443 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(d), **Sch. 27 Pt. 2(10)**, Note

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**444 Life policies issued before 5th August 1965. U.K.** *(end of Document for details)*

F145 .....

**Textual Amendments**  
**F145** S. 444 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(e), Sch. 27 Pt. 2(10), Note

**[F146 444A Transfers of business. U.K.]**

[<sup>F147</sup>(1) <sup>F148</sup> . . . This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).]

[<sup>F149</sup>(2) Any expenses payable which (<sup>F150</sup>making the assumptions in subsection (3B) below) would have fallen to be brought into account by the transferor in determining the deduction for expenses payable to be allowed under section 76 in computing profits for an accounting period following the period which ends with the day on which the transfer takes place shall, instead, be brought into account under and in accordance with that section by the transferee as expenses payable by him (and giving effect in the case of acquisition expenses, to section 86(6) to (9) of the Finance Act 1989).]

(3) Any loss which (<sup>F150</sup>making the assumptions in subsection (3B) below)—  
 (a) would have been available under section [<sup>F151</sup>436A(4)] to be set off against profits of the transferor for the accounting period following that which ends with the day on which transfer takes place, <sup>F152</sup> . . .

(b) <sup>F152</sup> . . . . .  
 shall, instead, be treated as a loss of the transferee (and available to be set off against profits of [<sup>F153</sup>gross roll-up business]) [<sup>F154</sup>if the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to the transfer).]

[<sup>F156</sup> . . . . .]  
<sup>F155</sup>(3ZA)

[ Any subsection (2) excess (within the meaning of section 432F(2)) which (<sup>F150</sup>making <sup>F157</sup>(3A) the assumptions in subsection (3B) below) would have been available under section 432F(3) or (4) to reduce a subsection (3) figure (within the meaning of section 432F(1)) of the transferor in an accounting period following that which ends with the day on which transfer takes place—

(a) shall, instead, be treated as a subsection (2) excess of the transferee, and  
 (b) shall be taken into account in the first accounting period of the transferee ending after the date of the transfer (to reduce the subsection (3) figure or, as the case may be, to produce or increase a subsection (2) excess for that period),  
 in relation to the revenue account of the transferee dealing with or including the business transferred.]

[ The assumptions referred to in subsections (2), (3) and (3A) above are—  
<sup>F158</sup>(3B) (a) that the transferor had continued to carry on the business transferred after the transfer, and

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date, that there was such an accounting period.]

- (4) Where acquisition expenses are treated as [<sup>F159</sup>expenses payable by the transferee] by virtue of subsection (2) above, the amount deductible for the first accounting period of the transferee ending after the transfer takes place shall be calculated as if that accounting period began with the day after the transfer.
- (5) Where the transfer is of part only of the transferor's [<sup>F160</sup>long-term] business, [<sup>F161</sup>subsection (2), (3) or (3A)] above shall apply only to such part of any amount to which it would otherwise apply as is appropriate.
- (6) Any question arising as to the operation of subsection (5) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.
- (7) <sup>F162</sup> .....
- (8) <sup>F162</sup> .....]

#### Textual Amendments

- F146** S. 444A inserted (with effect in accordance with Sch. 9 para. 7 of the amending Act) by Finance Act 1990 (c. 29), Sch. 9 para. 4
- F147** S. 444A(1) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 29(2) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 29(1)
- F148** Words in s. 444A(1) repealed (with effect in accordance with Sch. 9 para. 17(1) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 9 para. 2(2), Sch. 27 Pt. 2(9), Note
- F149** S. 444A(2) substituted (28.9.2004 with effect in accordance with art. 1 of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 19(2)
- F150** Words in s. 444A(2)(3)(3A) substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 8(2)
- F151** Words in s. 444A(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 35(a) (with Sch. 7 Pt. 2)
- F152** S. 444A(3)(b) and preceding word repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 35(b), Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)
- F153** Words in s. 444A(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 35(c) (with Sch. 7 Pt. 2)
- F154** Words in s. 444A(3) inserted (with effect in accordance with Sch. 33 para. 24(4) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 24(2)
- F155** S. 444A(3ZA) inserted (with effect in accordance with Sch. 33 para. 24(4) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 24(3)
- F156** S. 444A(3ZA) omitted (19.2.2008 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 8(4)
- F157** S. 444A(3A) inserted (with effect in accordance with Sch. 8 para. 53(1)(3) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 17(4) (with Sch. 8 para. 55(2))
- F158** S. 444A(3B) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 8(3)

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**F159** Words in s. 444A(h) substituted (28.9.2004 with effect in accordance with art. 1(2)(a) of the amending S.I.)

by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 19(3)

**F160** Words in s. 444A(5) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2000/3629), art. 52(2)(h)

**F161** Words in s. 444A(5) substituted (with effect in accordance with Sch. 8 para. 53(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 17(5) (with Sch. 8 para. 55(2))

**F162** S. 444A(7)(8) repealed (with effect in accordance with Sch. 9 para. 17(1) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 9 para. 2(3), Sch. 27 Pt. 2(9), Note

**Modifications etc. (not altering text)**

**C34** S. 444A(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), reg. 1(1), 30 (as amended (1.12.2001) by S.I. 2001/3629, arts. 1(2)(b), 159); and that modifying reg. 30 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, reg. 23

**[<sup>F163</sup> 444A] Transfers of life assurance business: Case VI losses of the transferor U.K.**

- (1) This section applies where—
  - (a) an insurance business transfer scheme has effect to transfer life assurance business from one person (“the transferor”) to another (“the transferee”),
  - (b) assuming the transferor had continued to carry on the business transferred after the transfer, the amount of any profits would have been charged to tax in respect of that business under the I minus E basis,
  - (c) the profits in respect of the business transferred for the first period of account of the transferee ending after the date on which the transfer takes effect are charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), and
  - (d) the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to a transfer).
- (2) Any loss which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to be set off against profits chargeable under section 436A (a “Case VI loss”) shall instead be treated as a loss of the transferee (a “Case I loss”) available to be set off against GRBP in relation to a period of account.
- (3) For the purposes of subsection (2) above “GRBP”, in relation to a period of account, is—

$$P \times \frac{GRBTL}{TL}$$

where—

*P* is the amount of such profits of the transferee's life assurance business for the period of account as relate to the business transferred (that amount being determined in accordance with section 343(9) and (10), where applicable),

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roll-up business for the period of account, and

$TL$  is the mean of the opening and closing liabilities of the transferred life assurance business for the period of account.

- (4) Where the transfer is of part only of the transferor's long-term business, subsection (2) above shall apply only to such part of any Case VI loss to which it would otherwise apply as is appropriate.
- (5) Any question arising as to the operation of subsection (4) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing.]

#### Textual Amendments

**F163** Ss. 444AZA, 444AZB inserted (19.2.2008 with effect in accordance with art. 1(5) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), art. 9

### [<sup>F163</sup> 444AZB] **Transfers of life assurance business: Case I losses of the transferor** **U.K.**

- (1) This section applies where—
  - (a) an insurance business transfer scheme has effect to transfer life assurance business from one person (“the transferor”) to another (“the transferee”),
  - (b) assuming the transferor had continued to carry on the business transferred after the transfer, the amount of any profits would have been charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3),
  - (c) the profits in respect of the business transferred for the first period of account of the transferee ending after the date on which the transfer takes effect are charged to tax under the I minus E basis, and
  - (d) the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to a transfer).
- (2) The relevant fraction of any loss which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to be set off against profits of that business (a “Case I loss”) shall instead be treated as a loss of the transferee (a “Case VI loss”) available to be set off against the amount of such profits chargeable under section 436A for a period of account as relate to the business transferred (that amount being determined in accordance with section 343(9) and (10), where applicable).
- (3) For the purposes of subsection (2) above “the relevant fraction”, in relation to a period of account, is—

$$\frac{GRBTL}{TL}$$

where—

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roll-up business for the period of account, and

TL is the mean of the opening and closing liabilities of the transferred life assurance business for the period of account.

- (4) Where the transfer is of part only of the transferor's long-term business, subsection (2) above shall apply only to such part of the amount of any Case I loss to which it would otherwise apply as is appropriate.
- (5) Any question arising as to the operation of subsection (4) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing.]

#### Textual Amendments

**F163** Ss. 444AZA, 444AZB inserted (19.2.2008 with effect in accordance with art. 1(5) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [art. 9](#)

#### [<sup>F164</sup>][<sup>F165</sup> **444AA Transfers of business: deemed periodical returns** **U.K.**

- (1) This section applies where the whole of the long-term business of a person (“the transferor”) is transferred from that person—
  - (a) by one insurance business transfer scheme, or
  - (b) by two or more insurance business transfer schemes which take effect on the same date.
- (2) Where (apart from this subsection) there would not be a periodical return of the transferor covering a period ending immediately before the transfer date, there is to be deemed for the purposes of corporation tax to be a periodical return of the transferor covering the period—
  - (a) beginning immediately after the last period ending before the transfer date which is covered by a periodical return of the transferor, and
  - (b) ending immediately before the transfer date.
- (3) The periodical return deemed to exist by subsection (2) above is to be deemed to contain—
  - (a) such entries as would be included in an actual periodical return of the transferor covering the period mentioned in subsection (2) above, and
  - (b) such entries as would be included in an actual periodical return of the transferor covering the period—
    - (i) beginning immediately after the end of the period mentioned in subsection (2) above, and
    - (ii) ending immediately before the transfer had effect,
 and the period mentioned in subsection (2) above is to be deemed to be a period of account (but not an accounting period) of the transferor.
- (4) There is to be deemed for the purposes of corporation tax to be a periodical return of the transferor—
  - (a) covering the transfer date, and



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- (5) In subsection (4) above “appropriate entries” means such entries as would be included in an actual periodical return covering the transfer date—
- (a) in line 32 of Form 40, and
  - (b) in line 11 of Form 14, in both columns (treating references in that form to “current year” as references to the time immediately after the transfer date and to “previous year” as references to the time immediately before the transfer date).
- (6) A transfer date covered by a periodical return deemed to exist by subsection (4) above is to be deemed to be a period of account of the transferor only for the purpose of taking into account profits under section 444ABD.
- (7) Where—
- (a) a periodical return deemed to exist by subsection (4) above is preceded by an actual periodical return of the transferor covering the period immediately before the transfer date, and
  - (b) profits are to be taken into account under section 444ABD in the period of account deemed to exist by subsection (6) above,
- those profits are to be deemed for the purposes of corporation tax to be profits arising on the last day of the period of account covered by the actual periodical return.
- (8) Any actual periodical return of the transferor covering a period which includes the transfer date is to be ignored for the purposes of corporation tax.
- (9) In this section and sections 444AB to 444AECC “the transfer date”, in relation to an insurance business transfer scheme, means the date on which it takes effect.]]

#### Textual Amendments

**F164** S. 444AA inserted (with effect in accordance with Sch. 33 para. 18(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 18(1)**

**F165** S. 444AA substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 10**

[<sup>F167</sup>[<sup>F168</sup>[<sup>F166</sup>**444AB transfer schemes: transferor**] **U.K.**

[<sup>F169</sup>(1) This section applies where—

- (a) an insurance business transfer scheme has effect to transfer long-term business of a person (“the transferor”) to another person (“the transferee”), and
  - (b) condition A or condition B is met.]
- (2) Condition A is met if any of the assets of the transferor's long-term insurance fund which are transferred <sup>F170</sup>. . . by the insurance business transfer scheme are not, immediately after their transfer—
- (a) if the transferee is an insurance company [<sup>F171</sup>or an insurance special purpose vehicle], assets of the transferee's long-term insurance fund, or
  - (b) if the transferee is not an insurance company [<sup>F172</sup>, an insurance special purpose vehicle]]<sup>F173</sup> or a friendly society, assets of a fund of the transferee

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(“relevant non-transferred assets”).

- (3) Condition B is met if, immediately after the transfer date, the transferor—
- (a) does not carry on long-term business, but
  - (b) holds any assets which, immediately before the transfer date, were assets of its long-term insurance fund (“retained assets”).
- (4) If there are relevant non-transferred assets or retained assets (or both) the relevant amount in relation to them (see subsection (5) below) is to be taken into account under section 83(2) of the Finance Act 1989 as an increase in value of the assets of the long-term insurance fund of the transferor for the relevant period of account (see subsection (6) below).
- (5) Section 444ABA makes provision for the calculation of the relevant amount in relation to relevant non-transferred assets; and section 444ABB makes provision for its calculation in relation to retained assets.
- [<sup>F174</sup>(5A) In this section references to assets held by the transferor after the transfer do not include—
- (a) assets held on trust for the transferee, or
  - (b) assets held to meet liabilities which have been wholly reinsured and which are intended to be transferred under an insurance business transfer scheme to the reinsurer.]
- [<sup>F175</sup>(6) In this section and sections 444ABA to 444AC “the relevant period of account” means [<sup>F176</sup>the period of account of the transferor ending, or treated by section 444AA(2) as ending, immediately before the transfer date.]]
- (7) See section 444AA for the meaning of “the transfer date” in this section.
- [<sup>F177</sup>(8) For the purpose of paragraph (2)(a), in relation to an insurance special purpose vehicle which is not an insurance company, “long-term insurance fund” has the meaning it has in paragraph 4(5) of Schedule 19ABA.]]]

#### Textual Amendments

- F166** S. 444AB heading substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(6)
- F167** S. 444AB inserted (with effect in accordance with [Sch. 33 para. 19\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 19(1)**
- F168** Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with [Sch. 9 para. 17\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 9 para. 4(1)**; S.I. 2008/379, **art. 2**
- F169** S. 444AB(1) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(2)
- F170** Words in s. 444AB(2) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(3)(a)
- F171** Words in s. 444AB(2)(a) inserted (12.8.2008 with effect in accordance with art. 1(2)(3) of the amending S.I.) by [The Insurance Companies \(Taxation of Insurance Special Purpose Vehicles\) Order 2008 \(S.I. 2008/1923\)](#), **arts. 1(1)**, 2(2)(a)

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<p><b>F172</b> Words in s. 444AB(2)(b) inserted (12.8.2008 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Insurance Companies (Taxation of Insurance Special Purpose Vehicles) Order 2008 (S.I. 2008/1923), <b>arts. 1(1), 2(2)(b)</b></p> <p><b>F173</b> Words in s. 444AB(2)(b) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), <b>arts. 1(1), 11(3)(b)</b></p> <p><b>F174</b> S. 444AB(5A) inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), <b>arts. 1(1), 11(4)</b></p> <p><b>F175</b> S. 444AB(6) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), <b>arts. 1(1), 11(5)</b></p> <p><b>F176</b> Words in s. 444AB(6) substituted (with effect in accordance with Sch. 17 para. 31(2) of the amending Act) by Finance Act 2008 (c. 9), <b>Sch. 17 para. 31(1)</b></p> <p><b>F177</b> S. 444AB(8) inserted (12.8.2008 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Taxation of Insurance Special Purpose Vehicles) Order 2008 (S.I. 2008/1923), <b>arts. 1(1), 2(3)</b></p>
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**[<sup>F178, F179</sup> 444AB(1) Relevant non-transferred assets **U.K.****

- (1) For the purposes of section 444AB the relevant amount in relation to assets that are relevant non-transferred assets is—

## FVA – BTO

where—

FVA is the fair value of the assets on the transfer date, and

<sup>F180</sup>BTO is the lesser of ABTO and AL13, where—

- (a) ABTO is any amount brought into account in respect of the assets as a business transfer-out and shown (or treated as shown) in line 32 of Form 40 in the periodical return of the transferor for the period of account of the transferor including the transfer date, and
- (b) AL13 is any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date.

- (2) <sup>F181</sup> .....
- (3) <sup>F181</sup> .....
- (4) <sup>F181</sup> .....
- (5) <sup>F181</sup> .....
- (6) <sup>F181</sup> .....

(7) See section 444AA for the meaning of “the transfer date”<sup>F182</sup> . . . in this section.]]]

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### Textual Amendments

- F178** S. 444ABA inserted (with effect in accordance with Sch. 7 para. 3(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 7 para. 3(1)**
- F179** Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 4(1)**; S.I. 2008/379, **art. 2**
- F180** Words in s. 444ABA(1) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 12(2)(b)**
- F181** S. 444ABA(2)-(6) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 12(3)**
- F182** Words in s. 444ABA(7) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 12(4)**

VALID FROM 16/12/2010

### <sup>F183</sup> 444ABA Profit fund transferred assets **U.K.**

- (1) For the purposes of section 444AB the relevant amount in relation to assets that are non-profit fund transferred assets is—

$$FVA - (ABTO + TL)$$

where—

FVA is the fair value of the assets on the transfer date,

ABTO is any amount brought into account in respect of the assets as a business transfer-out and shown (or treated as shown) in line 32 of Form 40 in the periodical return of the transferor for the period of account of the transferor including the transfer date, and

TL is the amount of any non-profit fund transferred liabilities which are shown (or treated as shown) in any of lines 17, 21 to 23 and 31 to 38, but not in line 61, in Form 14 in the periodical return for the period of account of the transferor ending (or treated as ending by section 444AA) immediately before the transfer date or, if there is no period of account of the transferor so ending (or treated as so ending), the amount of any liabilities which would be so shown if one did.

- (2) In subsection (1) “non-profit fund transferred liabilities” means such of the liabilities of the transferor's long-term insurance fund as are transferred from the transferor to the transferee by the insurance business transfer scheme and were, immediately before their transfer, liabilities of a non-profit fund of the transferor.
- (3) See section 444AA for the meaning of “the transfer date” in this section.]

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#### Textual Amendments

**F183** S. 444ABAA inserted (with effect in accordance with s. 15(11) of the amending Act) by Finance (No. 3) Act 2010 (c. 33), s. 15(10)

#### [<sup>F184</sup>444ABB retained assets U.K.]

(1) For the purposes of section 444AB the relevant amount in relation to assets that are retained assets [<sup>F185</sup>is—

### *FVA – ABDP – RL13 – RRL*

where—

FVA is the fair value of the assets on the transfer date,

ABDP is the amount of the profits to be taken into account as profits under section 444ABD,

RL13 is the amount by which AL13 exceeds VE, and

RRL is the value of any relevant retained liabilities immediately after the transfer date.

But the relevant amount is nil if it would otherwise be below nil.]

[ For the purposes of subsection (1) above—

- <sup>F186</sup>(1A) (a) AL13 is any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date;
- (b) VE is the amount (if any) by which VL32 exceeds VTL where—
- (i) VL32 is the value of the assets shown (or treated as shown) in line 32 of Form 40 in the periodical return of the transferor covering (or treated as covering) the transfer date, and
- (ii) VTL means the amount of the [<sup>F187</sup>mathematical reserves (as determined in accordance with section 1.2 of the Insurance Prudential Sourcebook)] transferred by the insurance business transfer scheme; and
- (c) relevant retained liabilities are any liabilities of the company's long-term business which are owed by the company immediately after the transfer date and are shown (or treated as shown) in any of lines 17, 21 to 23 and 31 to 38 in Form 14 in a periodical return for the period of account ending (or treated as ending by section 444AA) immediately before the transfer date.]

(2) See section 444AA for the meaning of “the transfer date” in this section.]

#### Textual Amendments

**F184** Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 4(1); S.I. 2008/379, art. 2

**F185** Words in s. 444ABB(1) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 13(2)

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- F186** S. 444ABBA inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 13(3)
- F187** Words in s. 444ABB(1A)(b)(ii) substituted (with effect in accordance with Sch. 17 para. 32(2) of the amending Act) by Finance Act 2008 (c. 9), Sch. 17 para. 32(1)

**[<sup>F188</sup> 444ABBA transfers of business: election for transferee to pay tax of transferor U.K.]**

- (1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2) If the transferor and the transferee jointly elect, the transferee (and not the transferor) is chargeable to any amount of additional corporation tax to which the transferor would otherwise be chargeable by virtue of section 444AB(4) in relation to relevant non-transferred assets.
- (3) An election under subsection (2) above—
  - (a) is to be irrevocable, and
  - (b) is to be made by notice to an officer of Revenue and Customs no later than the end of the period of 90 days beginning with the day following the transfer date, and a copy of the notice containing the election must accompany the tax return of the transferee for the first accounting period ending after the transfer. Paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.
- (4) Where an election under subsection (2) above has been made, the transferor must inform the transferee of—
  - (a) the amount of any additional corporation tax to which the transferor considers the election to apply, and
  - (b) the day on which that tax is due and payable,
 no later than the end of the period of 8 months beginning with the day following the transfer date.
- (5) Tax chargeable on the transferee by virtue of an election under subsection (2) above—
  - (a) is due in accordance with section 59D of the Management Act<sup>M4</sup> on the day on which it would have been due if no election had been made, and
  - (b) for the purposes of that section, is to be treated as tax payable by the transferor (and not as tax payable by the transferee).
- (6) See section 444AA for the meaning of “the transfer date” in this section.]

**Textual Amendments**

- F188** S. 444ABBA inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), art. 14

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- M4** 1970 c. 9



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**[<sup>F189</sup> 444AB** Transfer scheme transferring part of business: transferor **U.K.** details)

**[<sup>F190</sup> .....]**

#### Textual Amendments

**F189** Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 4(1); S.I. 2008/379, art. 2

**F190** S. 444ABC omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 15

**[<sup>F191</sup> 444ABD** Transferor's period of account including transfer **U.K.**

- (1) Any profits representing the amount by which—
- (a) the [<sup>F192</sup>amount] of the [<sup>F193</sup>mathematical reserves (as determined in accordance with section 1.2 of the Insurance Prudential Sourcebook)] transferred by an insurance business transfer scheme, exceeds
  - (b) the value of the assets transferred by the insurance business transfer scheme shown (or treated as shown) in line 32 [<sup>F194</sup>of Form 40] of the periodical return of the transferor for the period of account of the transferor including the transfer date,

are to be taken into account as profits of that period of account [<sup>F195</sup>in accordance with subsections (1A) and (1C) below].

[ Where the profits of the life assurance business of the transferor for a period of <sup>F196</sup>(1A) account are charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), the appropriate fraction of the amount of the profits to which subsection (1) above applies is to be taken into account as profits of that period of account chargeable to tax in accordance with Case I of Schedule D (and not otherwise).

(1B) For the purposes of subsection (1A) above “the appropriate fraction” is the appropriate fraction for the purposes of section 432G(1).

(1C) Where the profits of the life assurance business of the transferor for a period of account are charged to tax under the I minus E basis, the relevant fraction of the amount of the profits to which subsection (1) above applies is to be taken into account as profits of that period of account chargeable to tax under section 436A (and not otherwise).

(1D) For the purposes of subsection (1C) above “the relevant fraction” is the relevant fraction for the purposes of section 432G(4).

(1E) Where the value mentioned in paragraph (b) of subsection (1) above exceeds the amount mentioned in paragraph (a) of that subsection, the amount of the excess is not to be taken into account as a loss of the transferor.]

- (2) See section 444AA for the meaning of “the transfer date” in this section.]

#### Textual Amendments

**F191** S. 444ABD inserted (with effect in accordance with Sch. 9 para. 17(4) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 5

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- F192** Words in s. 444ABD(1) substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 16(2)(a)**
- F193** Words in s. 444ABD(1) substituted (with effect in accordance with Sch. 17 para. 33(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 33(1)**
- F194** Words in s. 444ABD(1)(b) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 16(2)(b)**
- F195** Words in s. 444ABD(1) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 16(2)(c)**
- F196** S. 444ABD(1A)-(1E) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 16(3)**

**[<sup>F198</sup> 444AC Transfer schemes: reduction of income of transferee] U.K.**

- (1) This section applies where an insurance business transfer scheme has effect to transfer <sup>F199</sup> . . . long-term business of a person (“the transferor”) to another person (“the transferee”) and [<sup>F200</sup> the condition in subsection (2) below is] met.
- (2) [<sup>F201</sup> The condition] is that the transferor did not carry on life assurance business that is mutual business during the relevant period of account.
- (3) <sup>F202</sup> . . . . .
- (4) The amount which (apart from this section) would be regarded as other income of the transferee for the purposes of section 83(2)(e) of the Finance Act 1989 for the period of account of the transferee which includes the transfer date is to be reduced by an amount equal to the [<sup>F203</sup> lesser of the transferred surplus and any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date].
- (5) In subsection (4) above “the transferred surplus” [<sup>F204</sup> is VE – RBTO where—
- (a) VE has the same meaning as in section 444ABB, and
  - (b) RBTO means so much of BTO as relates to relevant non-transferred assets transferred to the transferee where—
    - (i) BTO has the same meaning as in section 444ABA, and
    - (ii) “relevant non-transferred assets” has the same meaning as in section 444AB.]
- [<sup>F205</sup> (5A) Where the transfer is to more than one transferee, the amount of any reduction to be made in accordance with subsection (4) above is to be apportioned to each transferee on a just and reasonable basis.]
- (6) See section 444AA for the meaning of “the transfer date”, and section 444AB for the meaning of “the relevant period of account”, in this section.]

**Textual Amendments**

- F197** S. 444AC heading substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 17(8)**

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- F198** Ss. 444AC, 444ACZA substituted for s. 444AC (with effect in accordance with s. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 6(1)**; S.I. 2008/379, **art. 2**
- F199** Words in s. 444AC(1) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of **The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 17(2)(a)**
- F200** Words in s. 444AC(1) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by **The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 17(2)(b)**
- F201** Words in s. 444AC(2) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by **The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 17(3)**
- F202** S. 444AC(3) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of **The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 17(4)**
- F203** Words in s. 444AC(4) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of **The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 17(5)**
- F204** Words in s. 444AC(5) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by **The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 17(6)**
- F205** S. 444AC(5A) inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by **The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 17(7)**

**[ F206 ] Transfer schemes transferring part of business: reduction in income of**  
**[ F207 ] 444ACZA transferee U.K.**

**F208** ..... ]

**Textual Amendments**

- F206** Ss. 444AC-444AE inserted (with effect in accordance with **Sch. 33 para. 20(3)(4)** of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 20(1)**
- F207** Ss. 444AC, 444ACZA substituted for s. 444AC (with effect in accordance with **Sch. 9 para. 17(2)** of the amending Act) by **Finance Act 2007 (c. 11), Sch. 9 para. 6(1)**; S.I. 2008/379, **art. 2**
- F208** S. 444ACZA omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of **The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 18**

**[ F209 ] Transfers of business: transferor shares are assets of transferee's long-term**  
**[ F209 ] 444ACA insurance fund etc U.K.**

**F210** ..... ]

**Textual Amendments**

- F206** Ss. 444AC-444AE inserted (with effect in accordance with **Sch. 33 para. 20(3)(4)** of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 20(1)**
- F209** S. 444ACA inserted (with effect in accordance with **Sch. 9 para. 8(2)** of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 8(1)**

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**F210** S. 444AD repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 2(2), **Sch. 27 Pt. 2(10)**, Note

#### 444AD Transfers of business: modification of s.83(2B) FA 1989 **U.K.**

**F211** .....]

##### Textual Amendments

**F206** Ss. 444AC-444AE inserted (with effect in accordance with Sch. 33 para. 20(3)(4) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 20(1)**

**F211** S. 444AD repealed (with effect in accordance with Sch. 9 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 9 para. 7(1), **Sch. 27 Pt. 2(9)**, Note; S.I. 2008/379, **art. 2**

#### **F212** 444AE Transfers of business: FAFTS **U.K.**

- (1) Where an insurance business transfer scheme has effect to transfer the relevant financing arrangements entered into in relation to a non-profit fund of an insurance company (“the transferor”) to another person (“the transferee”), after the transfer—
  - (a) they are to be treated for the purposes of sections 83YC and 83YD of the Finance Act 1989 as having been entered into by the transferee, but
  - (b) the references in those sections to earlier periods of account of the transferee include earlier periods of account of the transferor.
- (2) But if the insurance business transfer scheme has effect—
  - (a) to transfer some but not all of the relevant financing arrangements entered into in relation to the non-profit fund of the transferor, or
  - (b) to transfer all of those relevant financing arrangements but not all to one person,
 any calculation required by virtue of section 83YC or 83YD in relation to a period of account of the transferor, or of the transferee or any of the transferees, ending after the transfer is to be made on a just and reasonable basis.
- (3) Subsection (4) below applies where—
  - (a) relevant financing arrangements have been entered into in relation to a non-profit fund of an insurance company (“the old company”), and
  - (b) as a result of any transaction other than an insurance business transfer scheme, another insurance company (“the new company”) becomes the debtor in respect of the money debt, or the cedant, under the financial reinsurance arrangements.
- (4) Where this subsection applies, after the transaction—
  - (a) the relevant financing arrangements are to be treated for the purposes of sections 83YC and 83YD as having been entered into by the new company, but
  - (b) the references in those sections to earlier periods of account of the new company include earlier periods of account of the old company, and
  - (c) the transaction is not to be regarded as causing the condition in section 83YD(3) to be met in relation to the old company.
- (5) But if the transaction has effect—

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in relation to the non-profit fund of the old company, or

- (b) to transfer all of those relevant financing arrangements but not all to one person,

any calculation required by virtue of section 83YC or 83YD in relation to a period of account of the old company, or of the new company or any of the new companies, ending after the transaction is to be made on a just and reasonable basis.

- (6) Expressions used in this section and section 83YC or 83YD have the same meanings here as there.]

#### Textual Amendments

**F212** S. 444AE substituted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by Finance Act 2008 (c. 9), Sch. 17 para. 2

#### 444AE Transfer schemes: anti-avoidance rule **U.K.**

- (1) This section applies where—
- (a) as a result of the whole <sup>F213</sup> . . . of transfer scheme arrangements involving the transfer of long-term business from one person (“the transferor”) to another (“the transferee”) a Case I advantage is obtained by the transferor or the transferee (or by both), and
  - (b) the sole or main purpose, or one of the main purposes, of the whole <sup>F213</sup> . . . of the transfer scheme arrangements is the obtaining of that Case I advantage.
- (2) In subsection (1) above “transfer scheme arrangements” means an insurance business transfer scheme (“the relevant transfer scheme”) together with any relevant associated operations.
- (3) If a Case I advantage is obtained by the transferor (see subsection (1) of section 444AEB), the amount of the transferor's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the [<sup>F214</sup>long-term insurance fund of the transferor—
- (a) to the extent that the advantage is obtained by the transferor in the period of account covering the transfer date or any earlier period of account—
    - (i) for the period of account of the transferor ending (or treated as ending) immediately before the transfer date, or
    - (ii) where there is no such period, for the period of account of the transferor including the transfer date, and
  - (b) to the extent that the advantage is obtained by the transferor in any later period of account of the transferor in which any relevant associated operations are effected, for that later period of account.]
- (4) If a Case I advantage is obtained by the transferee (see subsection (1) of section 444AEC), the amount of the transferee's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferee for the [<sup>F215</sup>period of account of the transferee in which the advantage is obtained by the transferee].
- (5) In this section and sections 444AEB [<sup>F216</sup>to 444AEC] “relevant associated operations”, in relation to the relevant transfer scheme, means—

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- (b) any contract of reinsurance,
  - (c) any reconstruction or amalgamation involving the transferor, a dependant of the transferor which is an insurance undertaking or the transferee, or
  - (d) any surplus-increasing transfer of assets,
- which is effected in connection with the relevant transfer scheme.

(6) In subsection (5) above—

“dependant” and “insurance undertaking” have the same meaning as in the Insurance Prudential Sourcebook, and

“surplus-increasing transfer of assets” means a transfer of assets of the transferor's long-term insurance fund to the transferee which is not brought into account for any period of account of the transferee but increases the amount of total surplus shown in line 39 of Form 58 in any periodical return of the transferee.

(7) See section 444AA for the meaning of “the transfer date” in this section.

#### Textual Amendments

- F213** Words in s. 444AEA(1)(a)(b) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), 19(2)
- F214** Words in s. 444AEA(3) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), 19(3)
- F215** Words in s. 444AEA(4) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), 19(4)
- F216** Words in s. 444AEA(5) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), 19(5)

#### 444AEB Case I advantage: transferor U.K.

- (1) A Case I advantage is obtained by the transferor if—
- (a) Case I profits of its life assurance business for a period of account to which this section applies [<sup>F217</sup>are, or at the relevant time are expected to be, less than they would be but for the whole] of the transfer scheme arrangements, or
  - (b) Case I losses of its life assurance business for such a period of account [<sup>F218</sup>are, or at the relevant time are expected to be, greater than they would be but for the whole] of the transfer scheme arrangements.
- (2) If a Case I advantage is obtained by the transferor, the amount of the Case I advantage is the aggregate of—
- (a) the amounts (if any) by which Case I profits for each period of account to which this section applies [<sup>F219</sup>are, or at the relevant time are expected to be, less than they would be but for the whole of the transfer scheme arrangements], and



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*(a) are, or at the relevant time are expected to be, greater than they would be but for the whole of the transfer scheme arrangements].*

- (3) This section applies to a period of account if it is—
- the period of account of the transferor covering the transfer date,
  - any earlier period of account of the transferor, or
  - where any relevant associated operations are effected in any later period of account, that period of account.

<sup>F221</sup>(4) In this section and sections 444AEC, 444AECB and 444AECC—

“Case I profits” and “Case I losses” means profits and losses computed in accordance with the provisions of Case I of Schedule D, and

“the relevant time” is the time at which any application under section 444AED is made, or, if no such application is made, the transfer date.]

- (5) See section 444AA for the meaning of “the transfer date”, and section 444AEA for the meaning of “relevant associated operations”, in this section.

#### Textual Amendments

- F217** Words in s. 444AEB(1)(a) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 20(2)(a)
- F218** Words in s. 444AEB(1)(b) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 20(2)(b)
- F219** Words in s. 444AEB(2)(a) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 20(3)(a)
- F220** Words in s. 444AEB(2)(b) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 20(3)(b)
- F221** S. 444AEB(4) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 20(4)

#### 444AECCase I advantage: transferee **U.K.**

- (1) A Case I advantage is obtained by the transferee if—
- Case I profits of its life assurance business for a period of account to which this section applies [<sup>F222</sup>are, or at the relevant time are expected to be, less than they would be but for the whole] of the transfer scheme arrangements, or
  - Case I losses of its life assurance business for such a period of account [<sup>F223</sup>are, or at the relevant time are expected to be, greater than they would be but for the whole] of the transfer scheme arrangements.
- (2) If a Case I advantage is obtained by the transferee, the amount of the Case I advantage is—
- the amount by which Case I profits for each period of account to which this section applies [<sup>F224</sup>are, or at the relevant time are expected to be, less than they would be but for the whole of the transfer scheme arrangements], or

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- (3) This section applies to a period of account if it is—
- (a) the first period of account of the transferee ending after the transfer date or after the effecting of the first of any relevant associated operations (if that occurs before the transfer date),
  - (b) the second period of account of the transferee ending after the transfer date or after the effecting of the last of any relevant associated operations (if that occurs after the transfer date), or
  - (c) any intervening period of account.
- (4) See section 444AA for the meaning of “the transfer date”, section 444AEA for the meaning of “relevant associated operations” and section 444AEB for the meaning of “Case I profits” and “Case I losses” [F226 and “the relevant time”], in this section.

#### Textual Amendments

- F222** Words in s. 444AEC(1)(a) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\), 21\(2\)\(a\)](#)
- F223** Words in s. 444AEC(1)(b) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\), 21\(2\)\(b\)](#)
- F224** Words in s. 444AEC(2)(a) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\), 21\(3\)\(a\)](#)
- F225** Words in s. 444AEC(2)(b) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\), 21\(3\)\(b\)](#)
- F226** Words in s. 444AEC(4) inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\), 21\(4\)](#)

#### [F227] **444AECB of transfer scheme arrangements: anti-avoidance rule** **U.K.**

- (1) This section applies where—
- (a) as a result of any part of transfer scheme arrangements involving the transfer of long-term business from one person (“the transferor”) to another (“the transferee”) a Case I advantage is obtained by the transferor or the transferee (or by both), and
  - (b) the sole or main purpose, or one of the main purposes, of that part of the transfer scheme arrangements is the obtaining of that Case I advantage.
- (2) In subsection (1) above “transfer scheme arrangements” has the same meaning as in section 444AEA.
- (3) If a Case I advantage is obtained by the transferor (see subsection (1) of section 444AECB), the amount of the transferor's Case I advantage (see subsection (3) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferor—

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*(a) applied to the extent that the advantage is obtained by the transferor in the period of*

account covering the transfer date or any earlier period of account—

- (i) for the period of account of the transferor ending (or treated as ending) immediately before the transfer date, or
  - (ii) where there is no such period, for the period of account of the transferor including the transfer date, and
- (b) to the extent that the advantage is obtained by the transferor in any later period of account of the transferor in which any relevant associated operations are effected, for that later period of account.
- (4) If a Case I advantage is obtained by the transferee (see subsection (1) of section 444AECC), the amount of the transferee's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferee for the period of account of the transferee in which the advantage is obtained by the transferee.
- (5) See section 444AA for the meaning of “the transfer date”, and section 444AEA for the meaning of “relevant associated operations”, in this section.]

#### Textual Amendments

**F227** Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 22**

#### [<sup>F227</sup> 444AECC of transfer scheme arrangements: Case I advantage transferor **U.K.**

- (1) A Case I advantage is obtained by the transferor if—
  - (a) Case I profits of its life assurance business for a period of account to which this section applies are, or at the relevant time are expected to be, less than they would be but for any part of the transfer scheme arrangements, or
  - (b) Case I losses of its life assurance business for such a period of account are, or at the relevant time are expected to be, greater than they would be but for any part of the transfer scheme arrangements.
- (2) But if any of the relevant associated operations would, by itself, cause the Case I profits to be greater or the Case I losses to be less than they would be but for that operation, the amount by which those profits would be greater or those losses would be less shall be taken into account in determining whether a Case I advantage is obtained by the transferor.
- (3) If a Case I advantage is obtained by the transferor, the amount of the Case I advantage is the aggregate of—
  - (a) the amounts (if any) by which Case I profits for each period of account to which this section applies are, or at the relevant time are expected to be, less than they would be but for the relevant part of the arrangements, and
  - (b) the amounts (if any) by which Case I losses for each such period of account are, or at the relevant time are expected to be, greater than they would be but for the relevant part of the arrangements.
- (4) This section applies to a period of account if it is—
  - (a) the period of account of the transferor covering the transfer date,



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- (5) See section 444A for the meaning of “the transfer date”, section 444A for the meaning of “relevant associated operations”, section 444AEB for the meaning of “Case I profits” and “Case I losses” and “the relevant time” and section 444AECB for the meaning of “the relevant part of the arrangements”, in this section.]

#### Textual Amendments

**F227** Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), art. 22

#### 444AED Clearance: no avoidance or group advantage **U.K.**

- (1) [F<sup>228</sup>Sections 444AEA and 444AECA do] not apply in relation to the transferor or the transferee if, on an application under this section, the Commissioners for Her Majesty's Revenue and Customs (“the HMRC Commissioners”) have given a notice under subsection (2) below.
- (2) A notice under this subsection is a notice stating that the HMRC Commissioners are satisfied—
  - (a) that the obtaining of a Case I advantage by the applicant is not the sole or main purpose of the whole or any part of the transfer scheme arrangements, or
  - (b) that the transferor and the transferee are members of the same group of companies and that there is no advantage to the group arising from any Case I advantage obtained by the transferor or by the transferee.
- (3) For the purposes of this section there is no advantage to a group arising from any Case I advantage obtained by the transferor or by the transferee if—
  - (a) as a result of transfer scheme arrangements, there is an increase in the liability to corporation tax of one or more companies which are members of the group of companies, and
  - (b) the amount (or aggregate amount) of that increase is not less than the reduction in the liability to corporation tax of the transferor or the transferee (or both) arising from the obtaining of the Case I advantage.
- (4) An application under this section must be in writing and contain particulars of the transfer scheme arrangements.
- (5) The HMRC Commissioners may by notice require the applicant to provide further particulars in order to enable them to determine the application.
- (6) A requirement may be imposed under subsection (5) above within 30 days of the receipt of the application or of any further particulars required under that subsection.
- (7) If a notice under subsection (5) above is not complied with within 30 days or such longer period as the HMRC Commissioners may allow, they need not proceed further on the application.
- (8) The HMRC Commissioners must give notice of their decision on an application under this section to the applicant within 30 days of receiving the application or, if they give a notice under subsection (5) above, within 30 days of that notice being complied with.
- (9) If the HMRC Commissioners—

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(a) give notice to the applicant under subsection (8) above that they are not satisfied as mentioned in subsection (2) above, or

(b) do not comply with subsection (8) above,

the applicant may require them to transmit the application to the Special Commissioners.

- (10) A requirement under subsection (9) above must be imposed within 30 days of the giving of the notice or the failure to comply and must be accompanied by any notice given under subsection (5) above and further particulars provided pursuant to any such notice.
- (11) Any notice given by the Special Commissioners has effect for the purposes of subsection (1) above as if it were given by the HMRC Commissioners.
- (12) If any particulars provided under this section do not fully and accurately disclose all facts and considerations material for the decision of the HMRC Commissioners or the Special Commissioners, any resulting notice that they are satisfied as mentioned in subsection (2) above is void.
- (13) For the purposes of this section two companies are members of the same group of companies if they are for the purposes of Chapter 4 of Part 10.

#### **Textual Amendments**

**F228** Words in s. 444AED(1) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 23



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