



# 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]*

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

- (1) [<sup>F1</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 [<sup>F2</sup>life assurance trade profits] 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 [<sup>F2</sup>life assurance trade profits] 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 [<sup>F3</sup>life assurance trade profits] advantage obtained by the transferor or by the transferee if—

*Status: Point in time view as at 01/04/2010. This version of this provision has been superseded.*

*Changes to legislation: Income and Corporation Taxes Act 1988, Section 444AED is up to date with all changes known to be in force on or before 16 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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 [F<sup>3</sup>life assurance trade profits] 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—
- (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 [F<sup>4</sup>the tribunal].
- (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 [F<sup>4</sup>the tribunal] 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 [F<sup>4</sup>the tribunal], 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 [F<sup>5</sup>Part 5 of CTA 2010].

#### Textual Amendments

- F1** 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**
- F2** Words in s. 444AED(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 151(2)** (with Sch. 2 Pts. 1, 2)
- F3** Words in s. 444AED(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 151(3)** (with Sch. 2 Pts. 1, 2)

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- F4** Words in s. 444AED(9)(11)(12) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 143**
- F5** Words in s. 444AED(13) substituted (1.4.2010 with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), **Sch. 1 para. 51** (with Sch. 2)

**Status:**

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