

Status: Point in time view as at 07/04/2005.

Changes to legislation: Finance Act 2003, SCHEDULE 33 is up to date with all changes known to be in force on or before 09 July 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)

SCHEDULES

SCHEDULE 33

Section 170

INSURANCE COMPANIES

Case I profits

- 1 (1) For section 82 of the Finance Act 1989 (c. 26) (calculation of profits of insurance company in respect of life assurance business when computed in accordance with provisions applicable to Case I of Schedule D) substitute—

“82 Calculation of profits: bonuses etc

- (1) This section and sections 82A and 82B below have effect where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D.
- (2) Any amounts which are allocated to policy holders or annuitants in respect of a period of account are allowed as a deduction in calculating the profits for the period of account.
- (3) For the purposes of subsection (2) above, an amount is allocated to policy holders or annuitants if (but only if)—
 - (a) bonus payments are made to them,
 - (b) reversionary bonuses are declared in their favour, or
 - (c) a reduction is made in the premiums payable by them.
- (4) Where an amount is allocated to policy holders or annuitants for the purposes of subsection (2) above, the amount of the allocation is—
 - (a) in the case of bonus payments, the amount of the payments,
 - (b) in the case of declared reversionary bonuses, the amount of the liabilities assumed by the company in consequence of the declaration, and
 - (c) in the case of a reduction in premiums, the amount of the liabilities assumed by the company in consequence of the reduction.

82A Calculation of profits: policy holders' tax

- (1) Tax expended on behalf of policy holders or annuitants is allowed as a deduction in calculating the profits to the extent (but only to the extent) that regulations made by the Treasury so provide.
- (2) The regulations may include provision for tax so expended to be so allowed even if it is not brought into account.
- (3) The regulations—

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- (a) may make different provision for different cases, and
- (b) may include provision having effect in relation to periods of account during which they are made.

82B Unappropriated surplus on valuation

- (1) This section applies in relation to a period of account of the insurance company (“the period of account in question”) where—
 - (a) at the end of the period of account in question the company has an unappropriated surplus on valuation as shown in the return deposited with the Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers) (an “unappropriated surplus”), and
 - (b) the company has not made an election in accordance with Rule 4.1(6) of the Prudential Sourcebook (Insurers) covering the period of account in question.
- (2) Where the company did not have an unappropriated surplus at the end of the period of account immediately preceding the period of account in question, so much of the unappropriated surplus at the end of the period of account in question as is required to meet the duty of fairness is allowed as a deduction in calculating the profits for the period of account in question.
- (3) Where the company did have an unappropriated surplus at the end of that immediately preceding period of account—
 - (a) if so much of the unappropriated surplus at the end of the period of account in question as is required to meet the duty of fairness exceeds so much of the unappropriated surplus at the end of that immediately preceding period of account as was required to meet that duty, the excess is allowed as a deduction in calculating the profits for the period of account in question, but
 - (b) if so much of the unappropriated surplus at the end of that immediately preceding period of account as was required to meet the duty of fairness exceeds so much of the unappropriated surplus at the end of the period of account in question as is required to meet that duty, the excess is to be taken into account as a receipt of the period of account in question.
- (4) In arriving for the purposes of this section at the amount of the unappropriated surplus which is or was required to meet the duty of fairness there is to be deducted the aggregate of amounts which—
 - (a) for periods of account ending before 14th March 1989 (and the first notional period of account, within the meaning of section 82 above as originally enacted) have been excluded, by virtue of section 433 of the Taxes Act 1988, as being reserved for policy holders or annuitants, and
 - (b) have not before that date either been allocated to or expended on behalf of policy holders or annuitants or been treated as profits of an accounting period on ceasing to be so reserved.
- (5) References in this section to the company’s duty of fairness are to the company’s duty to treat its policy holders and annuitants fairly with regard to terminal bonuses.”.

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- (2) In section 83A(1) of the Finance Act 1989 (c. 26) (meaning of “brought into account”), for “83” substitute “ 82A ”.
 - (3) In section 436(3)(a) of the Taxes Act 1988 (pension business: separate charge on profits)—
 - (a) for “82 and 83” substitute “ 82 and 82B to 83AB ”, and
 - (b) omit the words after “modifications”.
 - (4) In sections 439B(3)(a) and 441(4)(a) of the Taxes Act 1988 (life reinsurance business and overseas life insurance business: separate charge on profits)—
 - (a) for “82(1), (2) and (4) and 83” substitute “ 82 and 82B to 83AB ”, and
 - (b) omit “and in particular with the omission of the words “and any amounts of tax which are expended on behalf of” in section 82(1)(a)”.
 - (5) This paragraph has effect for periods of account beginning on or after 1st January 2003.
 - (6) In relation to the first period of account of an insurance company beginning on or after that date, section 82B of the Finance Act 1989 (c. 26) (inserted by subparagraph (1)) applies as if the references in it to so much of the unappropriated surplus at the end of the immediately preceding period of account as was required to meet the company’s duty of fairness were to any amount included in the closing liabilities of the period of account by virtue of section 82(1)(b) of that Act as originally enacted.
- 2 (1) Section 83 of the Finance Act 1989 (receipts etc to be taken into account in Case I computations) is amended as follows.
- (2) For subsection (2) substitute—

“(2) There shall be taken into account as receipts of a period of account amounts (so far as referable to that business) brought into account for the period of account as—

 - (a) investment income receivable before deduction of tax,
 - (b) an increase in the value of non-linked assets,
 - (c) an increase in the value of linked assets, or
 - (d) other income;

and if amounts (so far as so referable) are brought into account for a period of account as a decrease in the value of non-linked assets or a decrease in the value of linked assets they shall be taken into account as an expense of the period of account.
 - (2A) But subsection (2) above does not require to be taken into account as receipts of a period of account so much of the amounts brought into account as mentioned in paragraphs (a) to (d) of that subsection for the period of account as—
- (a) is entirely notional because an amount corresponding to it would fall to be brought into account as an expense (for that or any other period of account),
 - (b) is exempted by section 444AC(2) of the Taxes Act 1988 (transfers of business), or
 - (c) consists of interest paid under section 826 of the Taxes Act 1988 (interest on tax overpaid) in respect of a repayment or payment

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relating to an accounting period of the company ending before 1st July 1999;

but, subject to that, the whole of the amounts so brought into account for a period of account shall be taken into account as receipts of the period of account.

(2B) If any assets of the company's long-term insurance fund are transferred by the company so that they cease to be assets of that fund, but the transfer is not brought into account as part of total expenditure for the period of account in which the transfer takes place or any earlier period of account, the fair value of the assets at the time of the transfer shall be deemed to be brought into account for the period of account in which the transfer takes place as an increase in the value of the assets of that fund unless the assets are excluded from this subsection by—

- (a) subsection (2C) or (2D) below, or
- (b) section 444AD of the Taxes Act 1988 (transfers of business).

(2C) Assets transferred to discharge liabilities in respect of deposits received from reinsurers or arising out of insurance operations, debenture loans or amounts borrowed from credit institutions are included in subsection (2B) above only if the deposits, loans or amounts borrowed—

- (a) were brought into account for any period of account, but
- (b) were not taken into account as receipts of the period of account under subsection (2) above.

(2D) Assets are excluded from subsection (2B) above if they are transferred for at least their fair value and the consideration for their transfer, when received, forms part of the company's long-term insurance fund.

(2E) If subsection (2B) above applies in relation to the transfer of all the assets of the company's long term insurance fund in accordance with—

- (a) an insurance business transfer scheme, or
- (b) a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State),

the reference in that subsection to an amount being deemed to be brought into account for the period of account in which the transfer takes place is to its being so deemed for the period of account ending immediately before the transfer takes place.”.

(3) In subsection (3)—

- (a) for “that business in a case where an amount is” substitute “ its life assurance business in a case where assets are ”,
- (b) after “taken into account” insert “ under subsection (2) above ”, and
- (c) for “that fund within subsection (2)(b) above” substitute “ the long-term insurance fund ”.

(4) In subsection (4), for paragraph (c) substitute—

- “(c) represents so much of the proceeds of the disposal of an asset of the long-term insurance fund as does not exceed its fair value or an asset acquired for at least its fair value which is added to that fund.”.

(5) In subsection (5), omit paragraph (b) and the word “but” before it.

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(6) After subsection (6A) insert—

“(6B) A contract which reinsures risk in respect of insurances to be made only after the making of the contract of reinsurance can constitute a transfer of business by virtue of subsection (6)(c) above only if a potential advantage is conferred on the reinsurer by the contract.

(6C) For the purposes of subsection (6B) above a potential advantage is conferred on the reinsurer by the contract if, taking the contract as “the actual provision” for the purposes of Schedule 28AA to the Taxes Act 1988, the effect of making the actual provision instead of the arm’s length provision (within the meaning of that Schedule) would have in relation to the reinsurer the effect specified in paragraph 5(1)(b) of that Schedule.”.

(7) Subsection (8) is amended as follows.

(8) After the definition of “demutualisation” insert—

““fair value”, in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount;”.

(9) In the definition of “total reinsurance”, omit “before the making of the contract of reinsurance (or, in a case where there are two or more contracts of reinsurance, the last of them)”.

(10) In the sidenote, for “brought” substitute “ taken ”.

(11) Sub-paragraph (6) has effect in relation to contracts of reinsurance made on or after 9th April 2003; and sub-paragraph (9) has effect in relation to reinsurance effected by a single contract made on or after that date or by two or more contracts each of which is made on or after that day.

(12) But, subject to that, this paragraph has effect for periods of account beginning on or after 1st January 2003.

3 (1) In the Finance Act 1989 (c. 26), after section 83 insert—

“83ZA Contingent loans

(1) For the purposes of this section a contingent loan is made to an insurance company if—

- (a) a deposit is received by the company from a reinsurer or arises out of insurance operations of the company,
- (b) a debenture loan is made to the company, or
- (c) an amount is borrowed by the company from a credit institution,

and the deposit, debenture loan or amount borrowed is taken into account as a receipt of the company under section 83(2) above.

(2) For the purposes of this section the time when a contingent loan is made to an insurance company is the time when the assets constituting the deposit, debenture loan or amount borrowed are received by the company.

(3) For the purposes of this section an insurance company has unrepaid contingent loan liabilities at any time if—

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- (a) one or more contingent loans have been made to the company at or before that time, and
 - (b) amounts will or may at some later time become repayable by the company in respect of the contingent loan or contingent loans.
- (4) Where, at the end of the period of account of an insurance company (“the period of account in question”), the company has unrepaid contingent loan liabilities—
- (a) subsection (5) below applies if the company did not have unrepaid contingent loan liabilities at the end of the period of account immediately preceding the period of account in question, and
 - (b) subsection (6) below applies if it did.
- (5) Where this subsection applies, the appropriate amount for the period of account in question is allowed as a deduction in calculating the profits of the company for the period of account in question.
- (6) Where this subsection applies—
- (a) if the appropriate amount for the period of account in question exceeds the appropriate amount for the immediately preceding period of account, the excess is allowed as a deduction in calculating the profits for the period of account in question, but
 - (b) if the appropriate amount for the immediately preceding period of account exceeds the appropriate amount for the period of account in question, the excess is to be taken into account as a receipt of the period of account in question.
- (7) For the purposes of subsections (5) and (6) above the appropriate amount for a period of account is the amount of the unrepaid contingent loan liabilities at the end of the period of account reduced (but not below nil) by the aggregate of—
- (a) any relevant net transfers to shareholders, and
 - (b) any deficiencies of assets over liabilities received on relevant transferred business.
- (8) In subsection (7)(a) above “relevant net transfers to shareholders” means the aggregate of the positive amounts brought into account as transfers to non-technical account for—
- (a) the period of account,
 - (b) the period of account in which the relevant contingent loan was made to the company, and
 - (c) any period of account falling between the periods of account mentioned in paragraphs (a) and (b) above,
- as reduced in accordance with subsection (9) below.
- (9) The reduction to be made from the positive amount brought into account as a transfer to non-technical account for any of the periods of account mentioned in subsection (8) above is so much of the positive amount as does not exceed 12% of the amount allocated to policy holders as bonuses in relation to the period of account.
- (10) In subsection (7)(b) above “deficiencies of assets over liabilities received on relevant transferred business” means any amount by which, on an insurance

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business transfer scheme having effect to transfer long-term business from a person (“the transferor”) to the company which has taken place since the time when the relevant contingent loan was made to the company—

- (a) the amount of the liabilities to policy holders and annuitants transferred to the company, exceeded
 - (b) the element of the company’s line 15 figure representing the transferor’s long-term insurance fund.
- (11) In subsections (8) and (10) above “the relevant contingent loan” means—
- (a) if amounts will or may at some later time become repayable by the company in respect of only one contingent loan, that contingent loan, and
 - (b) if amounts will or may at some later time become repayable by the company in respect of more than one contingent loan, whichever of those contingent loans was made to the company first.
- (12) In subsection (10)(b) above “the element of the company’s line 15 figure representing the transferor’s long-term insurance fund” means so much of the amount brought into account by the company as other income in the period of account in which the transfer took place as represents the assets transferred to the company.
- (13) Where in a period of account of an insurance company—
- (a) an amount becomes repayable under a contingent loan made to the company, and
 - (b) the amount repayable is brought into account as other expenses for the period of account,
- so much of the amount repayable as does not exceed the amount specified in subsection (14) below is allowed as a deduction in calculating the profits of the company for the period of account.
- (14) The amount referred to in subsection (13) above is the amount arrived at by deducting from the amount taken into account as a receipt of the company under section 83(2) above in relation to the contingent loan the aggregate of any amounts which—
- (a) have become repayable in respect of the contingent loan in any earlier period of account, and
 - (b) have been allowed as a deduction in calculating the profits of the company for any such period.
- (15) The references in subsections (8), (12) and (13) above to an amount being brought into account—
- (a) in a case where the amount taken into account as a receipt of the company under section 83(2) above in relation to the contingent loan or loans in question is an amount brought into account in an account concerned wholly with non-participating business, are to its being brought into account in that account or in any other account concerned wholly with non-participating business, and
 - (b) in a case where the amount so taken into account is an amount brought into account in an account concerned wholly or partly with participating business, are to its being brought into account in that account or in any other account concerned wholly or partly with participating business.

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(16) Where—

- (a) a transfer to another fund brought into account for a period of account as other expenditure in any account concerned wholly with non-participating business is brought into account as other income in an account concerned wholly or partly with participating business, or
- (b) a transfer to another fund brought into account for a period of account as other expenditure in any account concerned wholly or partly with participating business is brought into account as other income in an account concerned wholly with non-participating business,

subsection (8) above has effect as if it were a positive amount brought into account as transfers to non-technical account for that period of account in the account in which it is brought into account as other expenditure.

(17) For the purposes of subsections (15) and (16) above—

- (a) an account is concerned wholly with non-participating business if it relates exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus, and
- (b) an account is concerned wholly or partly with participating business if it relates wholly or partly to other policies or contracts.”.

(2) In paragraph 2 of Schedule 11 to the Finance Act 1996 (c. 8) (loan relationships: special provisions for insurers), after sub-paragraph (2) insert—

“(2A) Where an insurance company stands in the position of a debtor as respects a debt under a contingent loan made to the company (within the meaning of section 83ZA(1) of the Finance Act 1989), the debt is to be regarded for the purposes of this Chapter as not arising from a transaction for the lending of money.”.

(3) This paragraph has effect in relation to contingent loans made to an insurance company in a period of account beginning on or after 1st January 2003.

4 (1) In section 83AA of the Finance Act 1989 (c. 26) (amounts added to long-term insurance fund of a company in excess of company’s loss), omit—

- (a) subsections (3) to (5),
- (b) subsection (6)(a),
- (c) subsection (7)(b) and the word “and” before it, and
- (d) in subsection (10), the definitions of “the relevant accounting period” and “the transferor company”.

(2) Sub-paragraph (1) has effect for periods of account beginning on or after 1st January 2003.

5 (1) In section 83AB(1)(c) of the Finance Act 1989 (treatment of surplus where there is a subsequent transfer of business from company etc)—

- (a) omit sub-paragraph (i), and
- (b) in sub-paragraph (ii), for “that section” substitute “ section 83AA above ”.

(2) Sub-paragraph (1) has effect for periods of account beginning on or after 1st January 2003.

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- 6 (1) In section 88 of the Finance Act 1989 (c. 26) (corporation tax: policy holders' share of profits), after subsection (3) insert—
- “(3A) In subsection (3) above “income and gains of the company’s life assurance business” means the aggregate of—
- (a) income and chargeable gains referable to the company’s basic life assurance and general annuity business, and
 - (b) profits of the company chargeable under Case VI of Schedule D under sections 436, 439B and 441 of the Taxes Act 1988 (pension business, life reinsurance business and overseas life assurance business).
- (3B) In subsection (3A)(a) above (and section 89(1B) below) “chargeable gains referable to the company’s basic life assurance and general annuity business”, in relation to an accounting period, means the chargeable gains so far as referable to that business accruing to the company in the accounting period after deducting—
- (a) any allowable losses so referable accruing to the company in the accounting period, and
 - (b) so far as they have not been allowed as a deduction from chargeable gains in any previous accounting period, any allowable losses so referable previously accruing to the company.”.

(2) Section 89 of that Act (meaning of policy holders' share of profits) is amended as follows.

(3) In subsection (1), for the words after “references to” substitute—

 - “(a) in a case where there are no Case I profits of the company for the period in respect of its life assurance business, the amount of the relevant profits, and
 - (b) in any other case, the amount arrived at in accordance with subsection (1A) below.”.

(4) After that subsection insert—

“(1A) An amount is arrived at in accordance with this subsection by—

 - (a) deducting from any profits of the company for the period chargeable under Case VI of Schedule D under sections 436, 439B and 441 of the Taxes Act 1988 (as reduced by any losses under those sections and any charges on income referable to any category of business other than basic life assurance and general annuity business) so much of the Case I profits of the company for the period in respect of its life assurance business as does not exceed the amount of any profits of the company for the period so chargeable, and
 - (b) deducting any remaining Case I profits of the company for the period in respect of its life assurance business from any BLAGAB profits of the company for the period.

(1B) For the purposes of this section, the BLAGAB profits of a company for an accounting period are the income and chargeable gains referable to the company’s basic life assurance and general annuity business reduced by the aggregate amount of—

 - (a) any non-trading deficit on the company’s loan relationships,

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- (b) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and
 - (c) charges on income,
- so far as referable to the company’s basic life assurance and general annuity business.”.
- (5) In subsection (2), for “subsection (1)” substitute “ subsections (1) and (1A) ”.
- ^{F1}(6)
- (7) In—
- (a) section 434(6A)(b) of the Taxes Act 1988 (franked investment income), and
 - (b) the second sentence of section 434A(3) of that Act (computation of losses and limitation on relief),
- for “88” substitute “ 89 ”.
- (8) In section 434A(2)(a)(i) of the Taxes Act 1988 (computation of losses and limitation on relief), for “for the period, otherwise than in accordance with those provisions, the profits or losses of the company’s life assurance business” substitute “ , otherwise than in accordance with those provisions, the relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of the company for the period ”.
- (9) In section 437(1A) of the Taxes Act 1988 (general annuity business), for “profits for any accounting period of a company’s life assurance business” substitute “ relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period ”.
- (10) In paragraph 16(1) of Schedule 7 to the Finance Act 1991 (c. 31) (transitional relief for old general annuity contracts), for “profits for any accounting period of an insurance company’s life assurance business” substitute “ relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period ”.
- (11) Section 89(1B) of the Finance Act 1989 (c. 26) (inserted by sub-paragraph (4)) has effect for the purposes of section 210A of the Taxation of Chargeable Gains Act 1992 (c. 12) (inserted by paragraph 14(1)) in relation to any accounting period of a company if it is necessary under that section to determine the company’s BLAGAB profits for the period.
- (12) But, subject to that, this paragraph has effect for accounting periods ending on or after 9th April 2003.

Textual Amendments

- F1** Sch. 33 para. 6(6) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)

- 7 (1) In section 89(7) of the Finance Act 1989 (which defines Case I profits for the purposes of determining the policy holders' share of relevant profits and the shareholders' share of income), in the definition of “Case I profits”, insert at the end “ and adjusted in respect of losses in accordance with section 76(2C) and (2D) of the Taxes Act 1988; ”.

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(2) Sub-paragraph (1) has effect for accounting periods beginning on or after 1st January 2003.

(3) But section 76(2C) of the Taxes Act 1988, as it applies by virtue of sub-paragraph (1), has effect as if the reference in it to the amount which would fall, in the case of a company, to be set off under section 393 of that Act were to only so much of that amount as is attributable to losses incurred in the accounting period of the company in which 31st December 2002 is included or any later accounting period.

8 ^{F2}(1)

(2) In section 87(6)(b) of the Finance Act 1989 (c. 26) (management expenses), omit “, disregarding section 76(1)(e) of that Act (as set out in subsection (2) above),”.

(3) In paragraph 4 of Schedule 11 to the Finance Act 1996 (c. 8) (non-trading deficits on loan relationships)—

(a) in sub-paragraph (2), omit “net” (in both places), and

(b) in sub-paragraph (16), omit the definition of “net income and gains”.

(4) This paragraph has effect for accounting periods beginning on or after 1st January 2003 except those ending before 9th April 2003.

Textual Amendments

F2 Sch. 33 para. 8(1) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)

9 (1) In section 432D of the Taxes Act 1988 (section 432B apportionment: value of non-participating funds), after “value of assets” (in each place) insert “ or as other income ”.

(2) Sub-paragraph (1) has effect for periods of account beginning on or after 1st January 2003.

10 (1) Section 432E of the Taxes Act 1988 (apportionment of receipts brought into account: participating funds) is amended as follows.

(2) In subsection (1), for “subsection (2)” substitute “ subsections (2) and (2A) ”.

(3) In subsection (2), omit—

(a) paragraph (a), and

(b) in paragraph (b), the words “in any other case,”.

(4) After subsection (2) insert—

“(2A) In a case where an amount is taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of subsection (2B) of that section, the amount determined under subsection (2) above is increased by—

$$\frac{\text{CAS}}{\text{AS}} \times \text{RP}$$

where—

CAS and AS have the same meanings as in subsection (2) above; and

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RP is the amount taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of subsection (2B) of that section.”.

- (5) This paragraph has effect for periods of account beginning on or after 1st January 2003; but sub-paragraph (3) does not have effect in relation to any periods of account ending before 9th April 2003.
- 11 (1) In section 804B(7) of the Taxes Act 1988 (double taxation relief: insurance companies carrying on more than one category of business)—
- (a) in paragraph (a), for “that net amount which is referable by virtue of section 432E to that category” substitute “ the investment income taken into account in that determination which would be referable to that category by virtue of section 432E if the investment income were the only amount included in the net amount ”, and
- (b) in paragraph (b), for “net amount” substitute “ investment income ”.
- (2) Section 804C of the Taxes Act 1988 (insurance companies: allocation of expenses etc in computations under Case I of Schedule D) is amended as follows.
- (3) In subsections (4) and (5), for “relevant amount” substitute “ relevant income ”.
- (4) For subsection (13) substitute—
- “(13) For the purposes of the operation of this section in relation to any income or gain in respect of which credit falls to be allowed under any arrangements, the amount of the income or gain that is referable to a category of insurance business is the same fraction of the income and gain as the fraction of the foreign tax that is attributable to that category of business in accordance with section 804B.”.
- (5) This paragraph has effect for accounting periods beginning on or after 1st January 2003 except those ending before 9th April 2003.
- 12 ^{F3}(1)
- (2) In section 434(3A) of the Taxes Act 1988 (franked investment income etc), for “The policy holders' share of the franked investment income from investments held in connection with a company's” substitute “ 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 ”.
- (3) In section 441(1) and (2) of the Taxes Act 1988 (overseas life assurance business), omit “and section 441A”.
- (4) In section 89(2)(b) of the Finance Act 1989 (c. 26) (policy holders' share of profits), for “franked investment income arising in the period which is” substitute “ distributions received from companies resident in the United Kingdom in the period which are ”.
- (5) Apart from sub-paragraph (3), this paragraph has effect in relation to distributions on or after 9th April 2003.

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Textual Amendments

- F3** Sch. 33 para. 12(1) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)

Rate of tax on policy holders' share of life assurance profits

- 13 (1) The Finance Act 1989 is amended as follows.
- (2) In section 88(1) (corporation tax rate on policy holders' share of relevant profits of companies carrying on life assurance business to be basic rate of income tax)—
- (a) omit “and section 88A”, and
 - (b) for “basic” substitute “ lower ”.
- (3) Omit section 88A (cases where tax rate already is lower rate).
- (4) In section 89(1) (meaning of “policy holders' share of profits”)—
- (a) for “sections 88 and 88A” substitute “ section 88 ”, and
 - (b) omit “or, as the case may be, basic life assurance and general annuity business”.
- (5) The Taxes Act 1988 is amended as follows.
- (6) In section 438B(5) (income or gains arising from property investment LLP)—
- (a) omit paragraph (b) and the word “and” before it, and
 - (b) for “section 88 of that Act” substitute “ that section ”.
- (7) Section 755A (controlled foreign companies: chargeable profits and creditable tax apportioned to company carrying on life assurance business) is amended as follows.
- (8) In subsection (3), for “88A(1)” substitute “ 88(1) ”.
- (9) For subsection (11) substitute—
- “(11) For the purposes of this section the policy holders' part of any BLAGAB apportioned profit is—
- (a) where subsection (11A) below applies, the whole of that profit, and
 - (b) in any other case, the relevant fraction (within the meaning of subsection (11B) below) of that profit.
- (11A) This subsection applies if—
- (a) the UK company’s life assurance business is mutual business,
 - (b) the policy holders' share of the UK company’s relevant profits for the relevant accounting period is equal to all those profits, or
 - (c) the policy holders' share of the UK company’s relevant profits for the relevant accounting period is more than its BLAGAB profits for that period.
- (11B) The relevant fraction for the purposes of subsection (11)(b) above is the fraction arrived at by dividing—
- (a) the policy holders' share of the UK company’s relevant profits for the relevant accounting period, by
 - (b) the UK company’s BLAGAB profits for that period.

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(11C) In subsections (11A) and (11B) above—

- (a) references to the policy holders' share of the UK company's share of the relevant profits are to be construed in accordance with sections 88(3) and 89 of the Finance Act 1989, and
- (b) references to the UK company's BLAGAB profits are to be construed in accordance with section 89(1B) of that Act.”.

^{F4}(10)

(11) This paragraph has effect for the financial year 2003 and subsequent financial years.

Textual Amendments

F4 Sch. 33 para. 13(10) repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(1\)](#)

Chargeable gains

14 (1) In the Taxation of Chargeable Gains Act 1992 (c. 12), after section 210 insert—

“210A Ring-fencing of losses

- (1) Section 8(1) has effect in relation to insurance companies subject to the provisions of this section.
- (2) Non-BLAGAB allowable losses accruing to an insurance company are not allowable as a deduction from the policy holders' share of the BLAGAB chargeable gains accruing to the company.
- (3) BLAGAB allowable losses accruing to an insurance company are allowable as a deduction from non-BLAGAB chargeable gains accruing to the company as permitted by the following provisions of this section (and not otherwise).
- (4) They are allowable as a deduction from only so much of non-BLAGAB chargeable gains accruing to the company in an accounting period as exceeds the aggregate of—
 - (a) non-BLAGAB allowable losses accruing to the company in the accounting period, and
 - (b) non-BLAGAB allowable losses previously accruing to the company which have not been allowed as a deduction from chargeable gains accruing in any previous accounting period.
- (5) And they are allowable as a deduction from non-BLAGAB chargeable gains accruing to the company in an accounting period only to the extent that they do not exceed the permitted amount for the accounting period.
- (6) The permitted amount for the first accounting period of an insurance company in relation to which this section has effect is the aggregate of—
 - (a) the amount by which shareholders' share for that accounting period of BLAGAB allowable losses accruing to the company in the accounting period exceeds the shareholders' share of BLAGAB chargeable gains so accruing, and

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- (b) the shareholder's share for the immediately preceding accounting period of BLAGAB allowable losses previously accruing to the company which have not been allowed as a deduction from chargeable gains accruing in that immediately preceding accounting period or any earlier accounting period.
- (7) The permitted amount for any subsequent accounting period of the company is arrived at by—
 - (a) deducting from the permitted amount for the immediately preceding accounting period the amount of any BLAGAB allowable losses allowed as a deduction from non-BLAGAB chargeable gains accruing to the company in the immediately preceding accounting period, and
 - (b) adjusting the result in accordance with subsection (8) or (9) below.
- (8) If the BLAGAB chargeable gains accruing to the company in the subsequent accounting period exceed the BLAGAB allowable losses so accruing, the amount arrived at under subsection (7)(a) above is reduced by a fraction of which—
 - (a) the denominator is the BLAGAB allowable losses accruing to the company in any previous accounting period which have not been allowed as a deduction from chargeable gains accruing to the company in any previous accounting period, and
 - (b) the numerator is so many of those allowable losses as are allowed as a deduction from BLAGAB chargeable gains accruing to the company in the accounting period.
- (9) If the BLAGAB allowable losses accruing to the company in the subsequent accounting period exceed the BLAGAB chargeable gains so accruing, the amount arrived at under subsection (7)(a) above is increased by the shareholders' share of the amount by which those allowable losses exceed those chargeable gains.
- (10) For the purposes of this section the policy holders' share of chargeable gains or allowable losses accruing to an insurance company in an accounting period—
 - (a) if the policy holders' share of the relevant profits for the accounting period exceeds the BLAGAB profits of the company for the period (within the meaning of section 89(1B) of the Finance Act 1989), is the whole amount of the chargeable gains or allowable losses, and
 - (b) otherwise, is the same proportion of that whole amount as the policy holders' share of the relevant profits of the company for the accounting period bears to those relevant profits.
- (11) In arriving at the policy holders' share of chargeable gains accruing to an insurance company under subsection (10) above there is to be ignored—
 - (a) any deduction under section 202(9) (mineral leases: capital losses),
 - (b) any reduction under section 213(3) (spreading of losses from deemed disposal of holdings of unit trust etc), and
 - (c) any amount carried back under paragraph 4(3) of Schedule 11 to the Finance Act 1996 (non-trading deficit on loan relationships).

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(12) For the purposes of this section the shareholders' share of chargeable gains or allowable losses in relation to an accounting period of an insurance company is the proportion of the whole which is not represented by the policy holders' share of them in relation to the accounting period.

(13) In this section—

“BLAGAB allowable losses”, in relation to an insurance company, means allowable losses referable to the company's basic life assurance and general annuity business,

“BLAGAB chargeable gains”, in relation to an insurance company, means chargeable gains referable to the company's basic life assurance and general annuity business,

“non-BLAGAB allowable losses”, in relation to an insurance company, means allowable losses of the company which are not BLAGAB allowable losses,

“non-BLAGAB chargeable gains”, in relation to an insurance company, means chargeable gains of the company which are not BLAGAB chargeable gains, and

“the relevant profits” and “the policy holders' share of the relevant profits” have the same meaning as they have for the purposes of subsection (1) of section 88 of the Finance Act 1989 by virtue of subsection (3) of that section and section 89 of that Act.”.

(2) Sub-paragraph (1) has effect to limit the deductions which may be made from chargeable gains accruing in—

- (a) any accounting period of an insurance company beginning on or after 23rd December 2002, and
- (b) any accounting period of an insurance company beginning before that date but ending on or after it,

in respect of allowable losses accruing in any accounting period (whenever beginning or ending).

(3) In relation to an accounting period within sub-paragraph (2)(b) the limitations imposed by virtue of sub-paragraph (1) apply only as respects chargeable gains accruing on or after 23rd December 2002.

15 (1) In the Taxation of Chargeable Gains Act 1992 (c. 12), after section 210A (inserted by paragraph 14(1)) insert—

“210B Disposal and acquisition of section 440A securities

(1) Subsections (2) to (4) below apply in a case where, within a period of 10 days, an insurance company disposes of a number of section 440A securities and (whether subsequently or previously) acquires a number of section 440A securities if—

- (a) the securities disposed of decrease the size of a chargeable section 440A holding,
- (b) the securities acquired increase the size of the same chargeable section 440A holding, and
- (c) (apart from this section) an allowable loss would accrue on the disposal.

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- (2) The securities disposed of shall be identified with the securities acquired.
 - (3) The securities disposed of shall be identified with securities acquired before the disposal rather than securities acquired after the disposal and—
 - (a) in the case of securities acquired before the disposal, with those acquired later rather than those acquired earlier, and
 - (b) in the case of securities acquired after the disposal, with those acquired earlier rather than those acquired later.
 - (4) Where securities acquired could be identified with securities disposed of either at an earlier or at a later date, they shall be identified with the former rather than the latter; and the identification of securities acquired with securities disposed of on any occasion shall preclude their identification with securities comprised in a later disposal.
 - (5) Subsections (2) to (4) above have effect subject to section 105(1).
 - (6) Subsections (2) to (4) above do not apply to—
 - (a) securities which are section 212 assets within the meaning of section 214(1) (rights under authorised unit trusts and interests in offshore funds), or
 - (b) securities deemed by section 440 of the Taxes Act to be disposed of and immediately re-acquired by virtue of paragraph 3 of Schedule 19AA to the Taxes Act (assets becoming or ceasing to be assets of overseas life assurance fund).
 - (7) Subsections (2) to (4) above do not apply if—
 - (a) the securities disposed of are linked assets appropriated to a BLAGAB internal linked fund,
 - (b) the securities acquired are, on acquisition, appropriated to that or another internal linked fund, and
 - (c) the disposal and acquisition are made with a view to adjusting the value of the assets of that fund, or of those funds, in order to match its or their liabilities.
 - (8) In this section—

“BLAGAB internal linked fund” means an internal linked fund all the assets appropriated to which are linked solely to basic life assurance and general annuity business,

“chargeable section 440A holding” means a holding which is a separate holding by virtue of subsection (2)(a)(iii) or (d) of section 440A of the Taxes Act (and subsections (3) and (4) of that section),

“internal linked fund” has the same meaning as in section 432ZA of the Taxes Act, and

“section 440A securities” means securities within the meaning of section 440A of the Taxes Act.”.
- (2) Sub-paragraph (1) has effect in relation to disposals on or after 23rd December 2002.
 - (3) But sub-paragraph (1) has effect in relation to disposals made by an insurance company during the period—
 - (a) beginning with 23rd December 2002, and

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- (b) ending with 31st December 2002,
only if the amount of the allowable losses referable to the company's life assurance business which would have accrued to the company on the disposals (but for that sub-paragraph) would have been at least £10 million.
- 16 (1) Section 213 of the Taxation of Chargeable Gains Act 1992 (c. 12) (spreading of gains and losses under section 212) is amended as follows.
- (2) In subsection (3)—
- (a) for “subsection (3A)” substitute “ subsection (8H) ”,
 - (b) in paragraph (b), for “one of the next 6” substitute “ either of the next 2 ” and for “subsection” substitute “ section ”,
 - (c) in paragraph (c), for “any intervening accounting period” substitute “ the intervening accounting period (if there is one) ”, and
 - (d) in paragraph (ca), for “none of the intervening accounting periods is” substitute “ the intervening accounting period (if there is one) is not ”.
- (3) Omit subsections (3A) and (3B).
- (4) For subsection (5) substitute—
- “(4A) The following provisions apply where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”).
- (5) Subject to subsections (5A) to (7) below, any chargeable gain or allowable loss which (assuming that the transferor had continued to carry on the business transferred) would have accrued to the transferor by virtue of subsection (1) above after the transfer shall instead be deemed to accrue to the transferee.”.
- (5) After subsection (8) insert—
- “(8A) Subsection (8B) below applies where—
- (a) immediately before the transfer the transferee did not carry on business consisting of the effecting or carrying out of contracts of long-term insurance,
 - (b) the transferor and the transferee are, at the time of the transfer, members of the same group,
 - (c) the net amount for the accounting period of the transferor ending with the day of the transfer, or for the immediately preceding accounting period of the transferor, (“the relevant pre-transfer period of the transferor”) represents an excess of gains over losses,
 - (d) the net amount for the accounting period of the transferee in which the transfer takes place, or for the immediately following accounting period of the transferee, (“the relevant post-transfer period of the transferee”) represents an excess of losses over gains (after taking account of any reductions made by virtue of this section), and
 - (e) within 2 years after the end of the relevant post-transfer period of the transferee, the transferor and the transferee make a joint election in respect of the whole or part of the net amount for that period by notice to an officer of the Board.

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(8B) Subject to subsections (8C) to (8E) and (8H) below, the net amounts for both the relevant pre-transfer period of the transferor and the relevant post-transfer period of the transferee shall be reduced by the amount in respect of which the election is made.

(8C) Subsection (8B) above does not apply if—

- (a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and
- (b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer.

(8D) If—

- (a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and
- (b) the relevant pre-transfer period of the transferor is the accounting period ending with the day of the transfer,

subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferee in which the transfer takes place.

(8E) If—

- (a) the relevant post-transfer period of the transferee is the accounting period in which the transfer takes place, and
- (b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer,

subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferor ending with the day of the transfer.

(8F) The conditions referred to in subsections (8D) and (8E) above are that—

- (a) there is (after taking account of any reductions made by virtue of this section) no net amount for the accounting period, and
- (b) the company whose accounting period it is did not join a group of companies in the accounting period.

(8G) A copy of the notice containing an election under subsection (8A)(e) above must accompany the tax return for the relevant post-transfer period of the transferee; and 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.

(8H) Subsections (3) and (8A) and (8B) above have effect where the company, or the transferee, in question joins a group of companies in the accounting period for which the net amount represents an excess of losses over gains as if a claim or election could not be made in respect of that net amount except to the extent (if any) that the net amount is an amount which, assuming there to be gains accruing to the company or transferee immediately after

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the beginning of that period, would fall to be treated under paragraph 4 of Schedule 7AA as a qualifying loss in relation to those gains.

(8I) References in this section to a company joining a group of companies are to be construed in accordance with paragraph 1 of Schedule 7AA as if those references were contained in that Schedule; and in subsection (8A)(b) above “group” has the same meaning as in that Schedule.”

- (6) This paragraph has effect where the accounting period for which the net amount represents an excess of losses over gains is an accounting period beginning on or after 1st January 2003.
- 17 (1) Section 171A of the Taxation of Chargeable Gains Act 1992 (c. 12) (notional transfers within group) is amended as follows.

(2) After subsection (3) insert—

“(3A) Section 440(3) of the Taxes Act does not cause subsection (3) above to prevent the making of an election in a case where B is an insurance company; and in such a case the asset or part deemed to be transferred to B by A, and by B to C, is to be treated for the purposes of subsections (2)(c) and (3) above as not being part of B’s long-term insurance fund.

“Insurance company” and “long-term insurance fund” have the same meaning as in Chapter 1 of Part 12 of the Taxes Act (see section 431(2) of that Act).”

- (3) In subsection (4), for “that subsection” substitute “ subsection (2) above ”.
- (4) This paragraph has effect in relation to disposals on or after 23rd December 2002.

Transfers of business

- 18 (1) In the Taxes Act 1988, after section 444A insert—

“444AA Transfers of business: deemed periodical return

- (1) This section applies where an insurance business transfer scheme has effect to transfer the whole of the long-term business of one person (“the transferor”).
- (2) Where the last period covered by a periodical return of the transferor ends otherwise than immediately before the transfer, 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 which is covered by an actual periodical return of the transferor, and
 - (b) ending immediately before the transfer,
- containing such entries as would have been included in an actual periodical return of the transferor covering that period (and so making that period a period of account of the transferor).
- (3) Where the last period covered by a periodical return of the transferor (whether or not by virtue of subsection (2) above) ends immediately before

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- the transfer, there is to be deemed for the relevant purpose to be a periodical return of the transferor—
- (a) covering the time of the transfer, and
 - (b) containing such entries as would have been included in an actual periodical return covering the time of the transfer,
- (and so making the time of the transfer a period of account of the transferor for the relevant purpose).
- (4) Where the last period covered by a periodical return of the transferor ends after the transfer, the periodical return covering that period is to be ignored for all purposes of corporation tax other than the relevant purpose.
 - (5) In this section “the relevant purpose” means determining for the purposes of section 83(2B) of the Finance Act 1989 whether a transfer is brought into account as part of total expenditure.
 - (6) For the purposes of this section “insurance business transfer scheme” includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).”
- (2) Sub-paragraph (1) has effect in relation to insurance business transfer schemes (within the meaning of section 444AA of the Taxes Act 1988) taking place on or after 1st January 2003 unless the accounting period of the transferor which ends with the day of the transfer began before that date.
- 19 (1) In the Taxes Act 1988, after section 444AA (inserted by paragraph 18(1)) insert—

“444AB Transfers of business: charge on transferor retaining assets

- (1) This section applies where, immediately after an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to one or more others (“the transferee” or “the transferees”), the transferor—
 - (a) does not carry on long-term business, but
 - (b) holds assets which, immediately before the transfer, were assets of its long-term insurance fund.
- (2) The transferor shall be charged to tax under Case VI of Schedule D in respect of the taxable amount as if it had been received by the transferor during the accounting period beginning immediately after the day of the transfer.
- (3) If the transferor was charged to tax on the profits of its life assurance business under Case I of Schedule D for the accounting period ending with the day of the transfer, the taxable amount is the whole of the previously untaxed amount.
- (4) Otherwise, the taxable amount is the non-BLAGAB fraction of the previously untaxed amount.
- (5) The previously untaxed amount is the lesser of—
 - (a) the fair value of such of the assets held by the transferor immediately after the transfer as were assets of its long-term insurance fund immediately before the transfer, and

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- (b) the amount by which the fair value of the assets of the transferor’s long-term insurance fund immediately before the transfer exceeds the amount of the relevant pre-transfer liabilities.
- (6) In subsection (5) above “fair value”, in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.
- (7) Subject to subsection (8) below, the amount of the relevant pre-transfer liabilities is the aggregate of the amounts shown in column 1 of lines 14 and 49 of Form 14 in the periodical return of the transferor covering the period of account ending immediately before the transfer.
- (8) If the amount of the liabilities transferred exceeds the value of the assets so transferred, as brought into account for the first period of account of the transferee (or any of the transferees) ending after the transfer, the amount of the relevant pre-transfer liabilities is the amount arrived at by deducting the excess from the aggregate of the amounts shown as mentioned in subsection (7) above.
- (9) For the purposes of subsection (4) above the non-BLAGAB fraction of the previously untaxed amount is the fraction of which—
- (a) the numerator is the amount of the liabilities transferred, apart from those which are liabilities of basic life assurance and general annuity business, and
 - (b) the denominator is the amount of the liabilities transferred.
- (10) References in this section to assets held by the transferor after the transfer do not include any held on trust for the transferee or any of the transferees.
- (11) For the purposes of this section “insurance business transfer scheme” includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).”
- (2) Sub-paragraph (1) has effect in relation to insurance business transfer schemes (within the meaning of section 444AB of the Taxes Act 1988) taking place in a period of account of the transferor beginning on or after 1st January 2003.
- 20 (1) In the Taxes Act 1988, after section 444AB (inserted by paragraph 19(1)) insert—

“444AC Transfers of business: modification of s.83(2) FA 1989

- (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—
- (a) the element of the transferee’s line 15 figure representing the transferor’s long-term insurance fund, exceeds
 - (b) the amount of the liabilities to policy holders and annuitants transferred to the transferee,
- the excess is not to be regarded as other income of the transferee for the purposes of section 83(2)(d) of the Finance Act 1989.

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- (3) In this section and section 444AD “the element of the transferee’s line 15 figure representing the transferor’s long-term insurance fund” means so much of—
- (a) the amount which is brought into account by the transferee as other income in the period of account of the transferee in which the transfer takes place, as represents
 - (b) the assets transferred to the transferee.

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

- (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, section 83(2B) of the Finance Act 1989 does not apply to the transferor by reason of the transfer as respects so much of the value of the assets to which it would otherwise so apply as does not exceed the amount specified in subsection (4) below.
- (3) An election under subsection (2) above—
 - (a) is irrevocable, and
 - (b) is to be made by notice to an officer of the Board no later than the end of the period of 28 days beginning with the day following that on which the transfer takes place;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) The amount referred to in subsection (2) above is the amount by which—
 - (a) the fair value of the assets of the long-term insurance fund of the transferee immediately after the transfer, is greater than
 - (b) the element of the transferee’s line 15 figure representing the transferor’s long-term insurance fund.
- (5) In subsection (4) above “fair value”, in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.

444AE Transfers of business: modification of s.83ZA FA 1989

- (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 a contingent loan made to the transferor (within the meaning of subsection (1) of section 83ZA of the Finance Act 1989) is transferred to the transferee, that section has effect as if—
 - (a) the contingent loan had become repayable by the transferor immediately before the transfer, and

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- (b) the contingent loan were made to the transferee immediately after the transfer.”.
- (2) In section 431(2) of the Taxes Act 1988, after the definition of “basic life assurance and general annuity business” insert—
 - ““brought into account” has the meaning given by section 83A of the Finance Act 1989;”.
- (3) This paragraph has effect in relation to insurance business transfer schemes taking place on or after 1st January 2003.
- (4) If 30th September 2003 is later than the end of the period specified in subsection (3) (b) of section 444AD of the Taxes Act 1988 (inserted by sub-paragraph (1)), an election under subsection (2) of that section may be made no later than that date.
- 21 (1) In the Taxation of Chargeable Gains Act 1992 (c. 12), after section 211 insert—

“211ZA Transfers of business: transfer of unused losses

- (1) This section applies where—
 - (a) an insurance business transfer scheme has effect to transfer business consisting of or including basic life assurance and general annuity business from one person (“the transferor”) to another (“the transferee”) or more than one others (“the transferees”), and
 - (b) the transferor has relevant unused losses.
- (2) For the purposes of subsection (1)(b) above the transferor has relevant unused losses if—
 - (a) BLAGAB allowable losses accrue to the transferor in the accounting period ending with the day of the transfer or have so accrued in any earlier accounting period, and
 - (b) they are not deducted from chargeable gains accruing to the transferor in that accounting period and have not been deducted from chargeable gains so accruing in any previous accounting period.
- (3) Subject as follows—
 - (a) for the purposes of ascertaining the transferor’s total profits for any accounting period after that in which the transfer takes place, the relevant unused losses are deemed not to have accrued to the transferor, but
 - (b) (instead) they are treated as accruing to the transferee (in accordance with subsection (4) below).
- (4) The losses treated as accruing to the transferee under subsection (3)(b) above shall be deemed to be BLAGAB allowable losses accruing to the transferee in the accounting period of the transferee in which the transfer takes place.
- (5) But those losses are not allowable as a deduction from chargeable gains accruing before the transfer takes place.
- (6) For the purposes of section 210A (ring-fencing of losses), the shareholders' share of those losses is to be taken to be the same proportion as would be the shareholders' share of them if they had remained losses of the transferor.

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- (7) If only part of the transferor's basic life assurance and general annuity business is transferred, subsection (3) above applies as if the references to the relevant unused losses were to such part of the relevant unused losses as is appropriate.
- (8) If the transfer is to more than one others, subsection (3)(b) above applies as if the reference to the relevant unused losses being treated as accruing to the transferee were to such part of the relevant unused losses as is appropriate being treated as accruing to each of the transferees.
- (9) Any question arising as to the operation of subsection (7) or (8) 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 (or the one of the transferees concerned) shall be entitled to appear and be heard or to make representations in writing.
- (10) In this section "BLAGAB allowable losses" means allowable losses referable to the transferor's basic life assurance and general annuity business."
- (2) Sub-paragraph (1) has effect in relation to insurance business transfer schemes taking place on or after 1st January 2003.
- 22 (1) In section 431 of the Taxes Act 1988 (interpretative provisions relating to insurance companies), after subsection (2) insert—
- “(2ZA) Subsections (2ZB) and (2ZC) below apply where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2ZB) If the transfer takes place otherwise than on the last day of a period of account of the transferor, references to—
- (a) opening liabilities of the transferor,
 - (b) opening values or net values of assets of the transferor, or
 - (c) the opening amount of the investment reserve of the transferor,
- for the period of account, so far as relating to the business transferred, are to the part of those liabilities or values, or that reserve, which bears to the whole the proportion A/C.
- (2ZC) If the transfer takes place otherwise than on the first day of a period of account of the transferee, references to—
- (a) closing liabilities of the transferee,
 - (b) closing values or net values of assets of the transferee, or
 - (c) the closing amount of the investment reserve of the transferee,
- for the period of account, so far as relating to the business transferred, are to the part of those liabilities or values, or that reserve, which bears to the whole the proportion B/C.
- (>) For the purposes of subsection (2ZC) above—
- (a) closing liabilities of the transferee are to be taken not to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferor with the transferee, but

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- (b) closing liabilities of the transferee are to be taken to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferee with the transferor if the business transferred consists of or includes that reinsurance business.

(2ZE) In subsections (2ZB) and (2ZC) above—

A is the number of days in the period beginning with the period of account and ending with the day of the transfer,

B is the number of days in the period beginning with the day of the transfer and ending with the period of account, and

C is one-half of the number of days in the period of account.”.

- (2) Sub-paragraph (1) has effect in relation to insurance business transfer schemes taking place on or after 1st January 2003 unless the accounting period of the transferor which ends with the day of the transfer began before that date.
- 23 (1) Section 442A of the Taxes Act 1988 (investment return treated as accruing in respect of reinsured risk) is amended as follows.
- (2) In subsection (1), for “over the period of” substitute “ while the risk remains reinsured by the company under ”.
- (3) After subsection (3) insert—
- “(3A) Where a transfer of the reinsurance arrangement from one insurance company (“the 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) In subsection (4), omit “to the company”.
- (5) This paragraph has effect in relation to transfers of reinsurance arrangements taking place on or after 1st January 2003.
- 24 (1) Section 444A of the Taxes Act 1988 (transfers of business: losses etc) is amended as follows.
- (2) In subsection (3), insert at the end “ 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). ”.
- (3) After that subsection insert—
- “(3ZA) Where subsection (3) above has effect, sections 343(2), (4), (5) and (7) to (12) and 344 apply in relation to the business in which the loss arose construing—

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- (a) references to the predecessor and the successor as to (respectively) the transferor and the transferee, and
 - (b) references to section 343(3) as to subsection (3) of this section, except that nothing in section 343(8) to (10) and (12) applies in relation to the transferee.”.
- (4) This paragraph has effect in relation to insurance business transfer schemes taking place on or after 1st January 2003 unless the accounting period of the transferor which ends with the day of the transfer, or the accounting period of the transferee during which the transfer takes place, began before that date.

Meaning of “investment reserve” etc

25 In section 431(2) of the Taxes Act 1988 (interpretative provisions relating to insurance companies), after the definition of “insurance company” insert—

““investment reserve”, in relation to an insurance company, means the excess of the value of the assets of the company’s long-term business over the aggregate of—

- (a) the value of the liabilities of that business, and
- (b) any money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) of the company not within paragraph (a) above which are owed in respect of that business;”.

26 In section 432A(9A) of the Taxes Act 1988 (apportionment of income and gains: meaning of “net value”), for the words after “assets over” substitute “ the value of money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) attributable to an internal linked fund which are not owed in respect of long-term liabilities. ”.

27 In paragraph 4(5) of Schedule 19AA to the Taxes Act 1988 (overseas life assurance fund), in the definition of “investment reserve”, for paragraphs (a) and (b) substitute—

- “(a) the value of the liabilities of that business, and
- (b) any money debts of the company not within paragraph (a) above which are owed in respect of that business;”.

28 Paragraphs 25 to 27 have effect in relation to periods of account beginning on or after 1st January 2003.

Meaning of “period of account”

29 In section 431(2) of the Taxes Act 1988 (interpretative provisions relating to insurance companies), after the definition of “periodical return” insert—

““period of account” means the period covered by a periodical return;”.

Rationalisation of interpretation provisions

30 In section 84(2) and (3) of the Finance Act 1989 (c. 26) (interpretation of sections 85 to 89 and further provisions about insurance companies), for “the sections referred to in subsection (1) above” substitute “ sections 85 to 89 below ”.

31 In the Finance Act 1989, after section 90 insert—

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“90A Interpretation

Expressions used in any of sections 82 to 90 above (or Schedule 8A to this Act) and in Chapter 1 of Part 12 of the Taxes Act 1988 have the same meaning in those sections (or that Schedule) as in that Chapter.”.

32 In the Taxation of Chargeable Gains Act 1992 (c. 12), after section 214B insert—

“214BA Interpretation

Expressions used in this Chapter and in Chapter 1 of Part 12 of the Taxes Act have the same meaning in this Chapter as in that Chapter.”.

Status:

Point in time view as at 07/04/2005.

Changes to legislation:

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