

## SCHEDULES

### SCHEDULE 10

Section 41

#### INSURANCE COMPANIES: MISCELLANEOUS

##### *Contingent loans*

- 1 In section 83ZA(4) of FA 1989 (contingent loans), for “the end of the” substitute “any time during a”.

##### *“Structural” assets*

- 2 (1) In FA 1989, after section 83 insert—

##### **“83XA Structural assets**

- (1) Section 83(2) does not require to be taken into account as receipts or expenses of a period of account income from, or an increase or a decrease in the value of, structural assets held by an insurance company in a non-profit fund.
- (2) For the purposes of subsection (1) above—
- (a) an increase in the value of structural assets includes any amount by which their fair value when they cease to be structural assets, or come to be held otherwise than in any of the company’s non-profit funds, exceeds their admissible value at the end of the preceding period of account, and
  - (b) a decrease in the value of structural assets includes any amount by which the admissible value of the assets at the end of the period of account in which they become structural assets, or come to be held in any of the company’s non-profit funds, is less than their historic cost.
- (3) In this section “structural assets” means—
- (a) shares, debts and loans the value of which is required to be entered in lines 21 to 24 of Form 13 in the periodical return (UK insurance dependants and other insurance dependants), and
  - (b) assets of such other descriptions as are specified by regulations made by the Treasury.
- (4) Where a structural asset held by an insurance company in a non-profit fund ceases to be a structural asset or comes to be held otherwise than in any of the company’s non-profit funds and, immediately before it came to be a structural asset held in any of the company’s non-profit funds it (or any part of it) was an asset of the company’s long-term insurance fund, the relevant value difference is to be taken into account under section 83(2)—
- (a) as a receipt (if it is a positive amount), or

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(b) as an expense (if it is a negative amount),  
of the relevant period of account.

(5) For the purposes of subsection (4) above “the relevant value difference”, in relation to an asset, is—

$$HC - AV$$

where—

HC is its historic cost, and

AV is its admissible value at the relevant time.

(6) In subsection (4) above “the relevant period of account” means—

- (a) in a case within paragraph (a) of that subsection, the period of account in which the asset ceases to be a structural asset or comes to be held otherwise than in any of the company’s non-profit funds, and
- (b) in a case within paragraph (b) of that subsection, the period of account in which the asset first comes to be held otherwise than by the company or (where the company is a member of a group) otherwise than by a company which is a member of the group;

and section 170 of the Taxation of Chargeable Gains Act 1992 (meaning of “group” etc) has effect for the interpretation of this subsection.

(7) In subsection (5) above “the relevant time” means—

- (a) in a case where assets become structural assets held in any of the company’s non-profit funds by virtue of the commencement of this section, the end of the last period of account of the company beginning before 1st January 2007, and
- (b) otherwise, the time when the assets become structural assets held in any of the company’s non-profit funds.

(8) In this section “historic cost”, in relation to an asset which is or has been held in any of the company’s non-profit funds, means—

- (a) where the asset came to be held in any of the company’s non-profit funds on acquisition from another person, the consideration given by the company for the acquisition of the asset, and
- (b) otherwise, its fair value when it came to be held in any of the company’s non-profit funds.

(9) In this section “admissible value”, in relation to an asset and a time, means the value of the asset as shown in column 1 of Form 13 of the periodical return for the period ending with that time (or as would be so shown if there were a periodical return covering a period ending with that time).

(10) Regulations made by the Treasury may make provision for computing for the purposes of the Taxation of Chargeable Gains Act 1992 any gain or loss arising on a disposal by an insurance company of a structural asset held in a non-profit fund in any case where the condition in subsection (11) is met.

(11) The condition in this subsection is met if, in any period of account of the company in which the asset was held by it—

- (a) income arising from the asset was (or, had there been any, would have been) referable to any category of long-term business the profits of which fell for that period of account to be computed in

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accordance with the provisions applicable to Case I of Schedule D,  
or

(b) the company was charged to tax on the profits of its life assurance business under Case I of Schedule D.

(12) Structural assets held by an insurance company in a non-profit fund are to be treated as being within paragraph (f) of subsection (4) of section 440 of the Taxes Act 1988; but no disposal or re-acquisition is to be deemed to occur by virtue of an asset ceasing to be within any other paragraph of that subsection and coming within that paragraph on becoming such a structural asset.

(13) Structural assets held by an insurance company in a non-profit fund are to be treated as being “remaining” securities within section 440A(2)(e) of the Taxes Act 1988.

(14) Section 432A of the Taxes Act 1988 does not have effect in relation to income arising from, or gains and losses accruing on the disposal of, structural assets held by an insurance company in a non-profit fund.

(15) Regulations under subsection (3) or (10) above may be made so as to have effect in relation to periods of account current when they are made (as well as periods of account beginning later).”

(2) In ICTA, omit section 444ACA (transfers of business).

(3) In section 432E(2A) of that Act, omit “444ACA(2),” and paragraph (b).

(4) In section 211 of TCGA 1992 (transfers of business: application of section 139 of that Act), as amended by paragraph 14 of Schedule 9 to this Act, after subsection (2) insert—

“(2A) The reference in subsection (2) above to assets included in the transfer does not include structural assets within the meaning of section 83XA of the Finance Act 1989.”

(5) In paragraph 17 of Schedule 7AC to TCGA 1992 (substantial shareholdings exemption: special rules for assets of insurance company’s long-term insurance fund), after sub-paragraph (4) insert—

“(4A) The reference in sub-paragraph (2) to an asset of the investing company’s long-term insurance fund, and the references in sub-paragraphs (3) and (4) to shares or an interest in shares held as assets of its long-term insurance fund, do not include a structural asset, or structural assets, within the meaning of section 83XA of the Finance Act 1989.”

#### *Losses on disposal of authorised investment fund assets to connected manager*

3 In TCGA 1992, after section 210B insert—

#### **“210C Losses on disposal of authorised investment fund assets to connected manager**

(1) Section 18(3) does not apply in relation to a loss accruing on the disposal by an insurance company of authorised investment fund assets to the manager of the authorised investment fund.

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(2) In this section—

“authorised investment fund assets” means assets of the company’s long-term insurance fund consisting of rights under an authorised unit trust or shares in an open-ended investment company,

“the manager of the authorised investment fund” means—

- (a) in the case of an authorised unit trust, the person who is the manager of the unit trust scheme for the purposes of Chapter 3 of Part 17 of the Financial Services and Markets Act 2000, and
- (b) in the case of an open-ended investment company, a director or other person having responsibility for the management of its scheme property, and

“open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of the Financial Services and Markets Act 2000 applies.”

*Priority of section 83(2) of FA 1989 etc*

4 (1) Section 83 of FA 1989 (receipts to be taken into account) is amended as follows.

(2) After subsection (2) insert—

“(2ZA) Amounts brought into account as mentioned in subsection (2) above are not to be taken into account in any other way; and this subsection applies in spite of—

- (a) section 80(5) of the Finance Act 1996 (taxation of loan relationships),
- (b) paragraph 1(2) of Schedule 26 to the Finance Act 2002 (taxation of profits from derivative contracts), and
- (c) paragraph 1(3) of Schedule 29 to that Act (gains and losses in respect of intangible fixed assets).”

(3) In subsection (2A), after paragraph (aa) insert—

“(ab) comprises a business transfer-in that is not brought into account in a revenue account prepared for the purposes of Chapter 9 of the Prudential Sourcebook (Insurers) in respect of the whole of the company’s long-term business.”.

(4) Omit—

- (a) in section 502H of ICTA, in subsection (2), paragraph (b) and the word “and” before it and subsections (8) to (10),
- (b) paragraph 2(2) and (3) to (5) of Schedule 11 to FA 1996,
- (c) paragraph 19(1) to (3) of Schedule 12 to FA 1997, and
- (d) paragraph 36(4) and (5) of Schedule 29 to FA 2002.

*Tidying up of TCGA 1992*

5 (1) TCGA 1992 is amended as follows.

(2) In section 210B(6)(a) (disposal and acquisition of section 440A securities), for the words after “are” substitute “assets within section 212(1).”

- (3) Omit—
- (a) section 212(2A) (disapplication of section 212(1) to assets treated as representing rights under a creditor relationship),
  - (b) section 214 (rights under authorised unit trusts etc: transitional provisions), and
  - (c) section 214A (further transitional provisions).

*Tidying up of Chapter 2 of Part 4 of FA 1996*

- 6 (1) Chapter 2 of Part 4 of FA 1996 (loan relationships) is amended as follows.
- (2) In section 103(3) (loan relationships: interpretation), omit “or” at the end of paragraph (a) and after paragraph (b) insert “or
- (c) any basic life assurance and general annuity business.”.
- (3) In sub-paragraph (1) of paragraph 1A of Schedule 9 (life assurance policies), for the words after “relating to” substitute “liabilities of an insurance company within paragraph (a) of the definition of “liabilities” in section 431(2) of the Taxes Act 1988.”; and the italic heading before that paragraph accordingly becomes “*Insurance company liabilities*”.
- (4) In Schedule 11, omit paragraph 1(1A) to (1C).

*Correction of erroneous repeal*

- 7 The repeals made by Schedule 3 to ITA 2007 in paragraph 11 of Schedule 6 to FA 1990 are deemed never to have had effect; but Schedule 3 to ITA 2007 is deemed to have included the repeal of the words before the paragraphs in sub-paragraph (1) of that paragraph.

*Non-profit companies, non-profit funds and with-profits funds*

- 8 (1) In section 431(2) of ICTA (interpretative provisions relating to insurance companies) insert at the appropriate place—
- ““non-profit company”, in relation to a period of account, means a company carrying on long-term business where, at the end of the period—
- (a) none of the liabilities of that business, or
  - (b) none but an insignificant proportion of those liabilities,
- are with-profits liabilities;”.
- ““non-profit fund” means a fund that is not a with-profits fund;”, and
- ““with-profits fund” has the meaning given by the Prudential Sourcebook (Insurers);”.
- (2) Omit—
- (a) in section 432YA(5) of ICTA, the definitions of “non-profit company” and “non-profit fund”,
  - (b) section 82D(5) of FA 1989,
  - (c) in section 83YA of that Act, subsection (8) and, in subsection (11), the definition of “with-profits fund”, and

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- (d) in section 83A of that Act, in subsections (2)(b) and (3D)(b) “(see subsection (6))” and subsection (6).

*Internal linked funds and net value*

- 9 (1) In section 431(2) of ICTA (interpretative provisions relating to insurance companies) insert at the appropriate place—

““internal linked fund”, in relation to an insurance company, means an account—

- (a) to which linked assets are appropriated by the company, and
- (b) which may be divided into units the value of which is determined by the company by reference to the value of those assets;”, and

““net value”, in relation to any assets, means the excess of the value of the assets over 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 liabilities;”.

- (2) Omit—

- (a) in section 432ZA(6) of ICTA, the definition of “internal linked fund”,
- (b) section 432A(9A) of that Act,
- (c) the definition of “internal linked fund” in section 210B(8) of TCGA 1992, and
- (d) paragraph 3A(6) of Schedule 11 to FA 1996.

*Fair value*

- 10 (1) In section 431(2) of ICTA (interpretative provisions relating to insurance companies) insert at the appropriate place—

““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;”.

- (2) In section 440 of ICTA (transfer of assets etc)—

- (a) in subsections (1) and (2), for “market” substitute “fair”, and
- (b) omit subsection (5).

- (3) Omit—

- (a) section 444AB(6) of ICTA (as originally enacted),
- (b) in section 444AC(11) of that Act (as originally enacted), the words from the beginning to the end of the definition of “fair value”,
- (c) section 444AD(5) of that Act,
- (d) in section 83(8) of FA 1989, in the definition of “fair value”, paragraph (a), and
- (e) section 83YB(5) of that Act.

*Generalisation of definitions*

- 11 (1) Section 431 of ICTA (interpretative provisions relating to insurance companies) is amended as follows.

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- (2) For subsection (1) substitute—
- “(1) This section has effect for the interpretation of the life assurance provisions of the Corporation Tax Acts.”
- (3) In subsection (2), insert at the appropriate place—
- ““the life assurance provisions of the Corporation Tax Acts” means—
- (a) the provisions of this Chapter so far as relating to life assurance business, companies carrying on such business and friendly societies, and
- (b) any other provisions of the Corporation Tax Acts making separate provision by reference to whether or not the business of a company is or includes life assurance business or any category of business that includes life assurance business;”.
- 12 (1) Section 431A (power to amend) is amended as follows.
- (2) In subsection (1), for “insurance company taxation provision” substitute “of the life assurance provisions of the Corporation Tax Acts”.
- (3) Omit subsection (7).
- 13 In section 83A(1) of FA 1989 (“brought into account”)—
- (a) omit “In sections 82A to 83B”, and
- (b) for “those sections” substitute “sections 82A to 83ZA”.
- 14 (1) Omit the following provisions.
- (2) In ICTA—
- (a) in section 12(7B), the words from the beginning to the end of the definition of “contracts of long-term insurance”,
- (b) in section 76(15), “and other expressions have the same meaning as in Chapter 1 of Part 12”,
- (c) in section 587B(9), ““life assurance business” and related expressions have the same meaning as Chapter 1 of Part 12;”,
- (d) in section 755A(12), the definition of “long-term insurance fund”,
- (e) section 804F, and
- (f) in paragraph 14(1) of Schedule 28AA, the definition of “insurance company”.
- (3) In FA 1989—
- (a) in section 85(2A), the second sentence,
- (b) in section 89(6), the words from the beginning to “; and”, and
- (c) section 90A.
- (4) In paragraph 16(7) of Schedule 7 to FA 1991, the words from “and, subject to that,” to the end.
- (5) In TCGA 1992—
- (a) section 214BA, and
- (b) paragraph 17(5) of Schedule 7AC.
- (6) In FA 1996—

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- (a) in section 87A(2), “, within the meaning of Chapter 1 of Part 12 of the Taxes Act 1988,” and “(see section 431(2) of that Act)”,
  - (b) section 88(7),
  - (c) in paragraph 12(9) of Schedule 9, the definitions of “contracts of long-term insurance” and “overseas life insurance company”,
  - (d) in paragraph 20(3)(b) of that Schedule, “, within the meaning of Chapter 1 of Part 12 of the Taxes Act 1988,” and “(see section 431(2) of that Act)”, and
  - (e) in Schedule 11, paragraph 6.
- (7) In paragraph 13(3) of Schedule 18 to FA 1998, the words after “1988”.
- (8) In CAA 2001—
- (a) section 257(3),
  - (b) section 544(5), and
  - (c) section 560(5)(a) and (c).
- (9) In paragraph 31(1) of Schedule 22 to FA 2001, the definitions of “insurance company” and “life assurance business”.
- (10) In FA 2002—
- (a) in section 66(5), the words from the beginning to the end of the definition of “long-term insurance fund”,
  - (b) in paragraph 19(1) of Schedule 12, the definition of “life assurance business”,
  - (c) in paragraph 10(4) of Schedule 22, the words before the definition of “transfer scheme”,
  - (d) in Schedule 26—
    - (i) in sub-paragraph (1) of paragraph 12, the references to the expressions “Integrated Prudential Sourcebook” and “long-term insurance fund”,
    - (ii) sub-paragraphs (15) and (16) of that paragraph, and
    - (iii) in paragraph 54(1), the definitions of “insurance company”, “life assurance business”, “long-term insurance business” and “contract of long-term insurance”, and
  - (e) in Schedule 29, in paragraph 89(3), the definition of “contracts of long-term insurance” and paragraph 138(1).
- (11) In Schedule 23 to FA 2003—
- (a) in paragraph 30, the definitions of “insurance company” and “life assurance business”, and
  - (b) in paragraph 31, the entries relating to those definitions.
- (12) Section 134(4)(c) of FA 2006.

*Minor changes*

- 15 (1) In section 432ZA(5) of ICTA (linked assets), for “432F” substitute “432E”.
- (2) In section 434A(2A) of that Act (computation of losses and limitation on relief), for “paragraph 2” substitute “paragraph 2(1)”.
- (3) In the heading of section 88 of FA 1989, for “fraction” substitute “share”.



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- (4) In paragraph 17 of Schedule 7 to FA 1991 (transitional provisions for chargeable gains and unrelieved general annuity business)—
- (a) in sub-paragraph (4), for the words after “in an accounting period” substitute “is so much of the chargeable gains arising to the company in the accounting period as are referable to its basic life assurance and general annuity business.”, and
  - (b) omit sub-paragraphs (4A) and (5).

*Obsolete etc provisions*

- 16 (1) Omit the following provisions (which are obsolete or of limited value).
- (2) In the Table in section 98 of TMA 1970, the words “or 441A(3)” in both columns.
- (3) In ICTA—
- (a) in section 76(7), in Step 3, the entries relating to section 587B(8)(b)(i) of ICTA and paragraph 23(2) of Schedule 13 to FA 2002,
  - (b) section 440(2A) and (2B) (transfer of assets: loan relationships and derivative contracts),
  - (c) section 442(4) (special rule for insurance companies ceasing to be resident in United Kingdom),
  - (d) section 443 (life policies carrying rights not in money),
  - (e) section 444 (life policies issued before 5th August 1965),
  - (f) section 587B(8) (gifts to charities etc: modifications for insurance companies), and
  - (g) in section 807A (disposals and acquisitions of company loan relationships with or without interest), subsections (4) and (5)(b) and, in subsection (6) (a), “or an insurance credit”.
- (4) In FA 1989—
- (a) section 84(2), (3), (5) and (6) (transitional provisions etc),
  - (b) in section 85(3) (commencement of provisions for charge of certain BLAGAB receipts), “(including the 1990 component period)”,
  - (c) in section 86 (spreading of relief for acquisition expenses), subsections (3) and (3A) and, in subsection (10), “(including the 1990 component period)”, and
  - (d) section 87 (management expenses).
- (5) In FA 1996—
- (a) paragraph 1(1) and (2) of Schedule 11 (loan relationships: I minus E basis),
  - (b) paragraph 4(6) of that Schedule (non-trading deficits: transitional provision),
  - (c) paragraph 5 of that Schedule (elections for accrual basis), and
  - (d) paragraph 1(3) of Schedule 15 (apportionment of loan relationship credits and debits: transitional provision).
- (6) Paragraph 18 of Schedule 12 to FA 1997 (leasing arrangements: meaning of “accounting purposes” for insurance companies).
- (7) Paragraph 86 of Schedule 18 to FA 1998 (non-annual actuarial investigations).
- (8) Paragraph 4 of Schedule 6 to FA 1999 (reverse premiums etc).

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- (9) Section 87(3) and (4) of FA 2001 (tax credits etc).
- (10) In Schedule 13 to FA 2002 (vaccine research), paragraphs 22, 23 and 25(3), and, in paragraph 27, the definition of “life assurance business”.

*Commencement*

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- (1) The amendment made by paragraph 1 has effect on and after 10th May 2007.
  - (2) The amendments made by paragraphs 2, 4(2) and (4), 5, 6 and 8 to 15 have effect in relation to periods of account beginning on or after 1st January 2007.
  - (3) But the amendment made by paragraph 2(4) does not apply where the transfer of business concerned took place before 10th May 2007.
  - (4) The amendment made by paragraph 3 has effect in relation to losses accruing in a period of account beginning on or after 1st January 2007.
  - (5) The amendment made by paragraph 4(3) has effect in relation to periods of account beginning on or after 1st January 2005.