

Status: Point in time view as at 01/04/2009.

Changes to legislation: Finance Act 2007, SCHEDULE 7 is up to date with all changes known to be in force on or before 30 June 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 7

Section 38

INSURANCE BUSINESS: GROSS ROLL-UP BUSINESS ETC

PART 1

AMENDMENTS

Taxes Management Act 1970 (c. 9)

- 1 In section 98 of TMA 1970 (special returns etc), in the Table, omit the entries relating to section 333B of ICTA.

Income and Corporation Taxes Act 1988 (c. 1)

- 2 ICTA is amended as follows.
- 3 (1) Section 76 (expenses of insurance companies) is amended as follows.
- (2) In subsection (1), omit the second sentence.
- (3) In subsection (7), in Step 5—
- (a) for “sum (“amount S”) of the amounts” substitute “ amount (“amount S”)”, and
- (b) for “436 or 439B” substitute “ 436A ”.
- (4) Omit subsection (14).
- (5) In subsection (15), omit the definition of “capital redemption business”.
- 4 Omit section 333B (involvement of insurance companies with plans and accounts).
- 5 In section 403E (relief for overseas losses of UK resident companies), omit subsection (3).
- 6 (1) Section 431 (interpretative provisions relating to insurance companies) is amended as follows.
- (2) In subsection (2), insert at the appropriate places—
- ““child trust fund business” has the meaning given by section 431BA;”,
- ““foreign currency assets”, in relation to an insurance company and any time during a period of account, means assets, other than assets linked to gross roll-up business, which—
- (a) are at that time managed under the control of a person whose normal place of work is at a permanent establishment outside the United Kingdom at or through which the company carries on gross roll-up business; or

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(b) are denominated in a foreign currency and specified in a certificate given by a director of the company no later than three months after the end of the period of account as being all of the assets of the company's long-term insurance fund which are held at that time during the period of account to enable the company to meet liabilities of its gross roll-up business which are denominated in that currency;”,

““gross roll-up business” has the meaning given by section 431EA;”,

““immediate needs annuities business” means business which consists of the effecting or carrying out of immediate needs annuities (within the meaning of section 725 of ITTOIA 2005);”,

““individual savings account business” has the meaning given by section 431BB;”, and

““PHI business” means long-term business other than life assurance business (including the reinsurance of such long-term business);”.

(3) In subsection (2), omit the definitions of—

- (a) “annuity business”, and
- (b) “overseas life assurance fund”.

(4) In subsection (2), for the definition of “life assurance business” substitute—

““life assurance business” means business which—

(a) consists of the effecting or carrying out of contracts of insurance which fall within paragraph I, II, III or VII(b) of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, or

(b) is capital redemption business,

other than immediate needs annuities business;”.

(5) In subsection (2), for the definition of “reinsurance business” substitute—

““reinsurance” includes retrocession;”.

(6) After subsection (2ZE) insert—

“(2ZF) In this Chapter “capital redemption business” means any business of a company carrying on insurance business in so far as it consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period.”

7 In section 431A(3)(a) (power to amend), omit “and Schedule 19AA”.

8 After section 431B insert—

“431BA Meaning of “child trust fund business”

(1) In this Chapter “child trust fund business” means so much of a company's life assurance business as is referable to child trust fund policies (but not including the reinsurance of such business).

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- (2) In this section “child trust fund policy” means a policy of life insurance which is an investment under a child trust fund (within the meaning of the Child Trust Funds Act 2004).

431BB Meaning of “individual savings account business”

- (1) In this Chapter “individual savings account business” means so much of a company's life assurance business as is referable to individual savings account policies (but not including the reinsurance of such business).

- (2) In this section “individual savings account policy” means a policy of life insurance which is an investment of a kind specified in regulations made by virtue of section 695(1) of ITTOIA 2005.”

- 9 (1) Section 431D (meaning of “overseas life assurance business”) is amended as follows.

- (2) For subsection (1) substitute—

“(1) In this Chapter “overseas life assurance business” means so much of a company's relevant life assurance business as is with a policy holder or annuitant not residing in the United Kingdom (but not including the reinsurance of such business).

- (1A) In subsection (1) above “relevant life assurance business” means life assurance business other than—

- (a) pension business
- (b) individual savings account business,
- (c) child trust fund business, and
- (d) business of any description prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.”

- (3) In subsections (2) and (4), for “(1)” substitute “ (1A) ”.

- (4) In subsection (4), insert at the end “ (including provision amending any enactment or any instrument made under an enactment) ”.

- 10 After section 431E insert—

“431EA Meaning of “gross roll-up business”

In this Chapter “gross roll-up business” means business of any of the following kinds—

- (a) pension business;
- (b) child trust fund business;
- (c) individual savings account business;
- (d) life reinsurance business; and
- (e) overseas life assurance business.”

- 11 In section 431F (meaning of “basic life assurance and general annuity business”), for the words from “(including” to the end substitute “ other than gross roll-up business ”.

- 12 In section 432ZA(7) (linked assets), for “long-term business other than life assurance” (in both places) substitute “ PHI ”.

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- 13 (1) Section 432A (apportionment of income and gains) is amended as follows.
- ^{F1}(2)
- (3) In subsection (2), for paragraphs (a) to (f) substitute—
- “(a) basic life assurance and general annuity business,
 (b) gross roll-up business, and
 (c) PHI business.”
- (4) In subsection (3), for “(apart from overseas life assurance business) shall be” substitute “is”.
- (5) Omit subsection (4).
- (6) Before subsection (5) insert—
- “(4A) Income arising from, and gains or losses accruing on the disposal of, foreign currency assets is referable to gross roll-up business.”
- (7) In subsection (5)—
- (a) for “shall be” substitute “is”, and
 (b) omit “(apart from overseas life assurance business)”.
- (8) For subsections (6) to (6AA) substitute—
- “(6) For the purposes of subsection (5) above “the relevant fraction”, in relation to basic life assurance and general annuity business, is—

$$\frac{A}{A + B + C}$$

where—

A is the aggregate of—

- (a) the mean of the opening and closing liabilities of the basic life assurance and general annuity business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category of business,
 (b) if there has been a relevant reattribution, the mean of the opening and closing amounts of the shareholders' excess assets, and
 (c) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts;

B is the aggregate of—

- (a) the mean of the opening and closing liabilities of the gross roll-up business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category of business, and

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(b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts; and

C is the aggregate of—

(a) the mean of the opening and closing liabilities of the PHI business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category of business, and
(b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts.

(6A) For the purposes of subsection (5) above “the relevant fraction”, in relation to gross roll-up business, is—

$$\frac{B}{A + B + C}$$

where A, B and C have the same meaning as in subsection (6) above.

(6B) For the purposes of subsection (5) above “the relevant fraction”, in relation to PHI business, is—

$$\frac{C}{A + B + C}$$

where A, B and C have the same meaning as in subsection (6) above.

(6C) But if the denominator found in accordance with subsection (6), (6A) or (6B) above is nil, the relevant fraction for the purposes of subsection (5) above in relation to the category of business in question is such fraction as is just and reasonable.”

(9) In subsection (7)—

- (a) for “and (6A)” substitute “, (6A) and (6B)”,
- (b) in paragraph (a), for “(4)” substitute “ (4A) ”,
- (c) in paragraph (b), after “(3)” insert “ or (4A) ”, and
- (d) in paragraph (c), omit “438B.”.

(10) In subsection (8), for “subsections (6) and (6A)” substitute “ subsection (6) ”.

(11) In subsection (8ZA), for “subsections (6) and (6A)” substitute “ paragraph (c) of the definition of A and paragraph (b) of the definitions of B and C in subsection (6) ”.

(12) Omit subsection (9).

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Textual Amendments

F1 Sch. 7 para. 13(2) omitted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 17 para. 17(11)(g)

- 14 (1) Section 432AA (Schedule A business or overseas property business) is amended as follows.
- (2) Omit subsection (3).
- (3) In subsection (4), for paragraphs (a) to (d) substitute—
- “(a) basic life assurance and general annuity business;
 - (b) gross roll-up business; and
 - (c) PHI business.”
- (4) In subsection (5), omit “(3) or”.
- 15 In section 432AB (losses from Schedule A business or overseas property business), omit subsection (6).
- 16 (1) Section 432B (apportionment of receipts brought into account) is amended as follows.
- (2) In subsection (1)—
- (a) for “432F” substitute “ 432G ”, and
 - (b) for “any category of life assurance business” substitute “ gross roll-up business ”.
- (3) In subsection (2), for “432F” substitute “ 432G ”.
- (4) In subsection (3)—
- (a) for “Sections 432C and 432D apply” substitute “ Section 432C applies ”, and
 - (b) insert at the end “ (and section 432G applies in either case) ”.
- (5) In subsection (4)—
- (a) for “sections 432C and 432D” substitute “ section 432C ”,
 - (b) in paragraph (a), for “apply” substitute “ applies ”, and
 - (c) omit paragraph (b) and the word “and” before it.
- (6) In subsection (5)—
- (a) for the words from “any category” to the end of paragraph (b) substitute “ gross roll-up business ”, and
 - (b) omit “the relevant fraction of”.
- (7) In subsection (6), for the words from “432D” to “annuity business” substitute “ 432C to gross roll-up business ”.
- (8) In subsection (7), omit “the relevant fraction of” (in both places).
- (9) In subsection (8A), omit “the relevant fraction of”.
- (10) In subsection (8C), omit “the relevant fraction of”.
- (11) In subsection (9), omit the definitions of—
- (a) “the relevant fraction”, and

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(b) “the section 83 net amount”.

(12) In subsection (10)—

- (a) in paragraphs (a) and (b), for “paragraph (a)(ii)” substitute “ the definition of A, in paragraph (b) ”, and
- (b) for paragraph (c) substitute—
 - “(c) the substitution for the definitions of B and C of— “ B is the amount that would be given by A if A applied in relation to gross roll-up business; and C is the amount that would be given by A if A applied in relation to PHI business. ”.”

17 For section 432C substitute—

“432C Section 432B apportionment: non-participating funds

- (1) This section specifies the extent to which the net amount is referable to life assurance business or to gross roll-up business.
- (2) In this section “the net amount” means the aggregate of the amounts brought into account—
 - (a) as investment income,
 - (b) as an increase in the value of assets, or
 - (c) as other income,less the aggregate of the amounts brought into account as a decrease in the value of assets.
- (3) To the extent that the net amount is attributable to—
 - (a) assets linked to life assurance business, or
 - (b) foreign currency assets,it is referable to life assurance business.
- (4) There is also referable to life assurance business the appropriate fraction of so much of the net amount as is not attributable to linked assets or foreign currency assets.
- (5) For the purposes of subsection (4) above “the appropriate fraction” is—

$$\frac{A}{A + B}$$

where—

A is the mean of the opening and closing liabilities of the relevant business so far as referable to life assurance business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the aggregate of the mean of the opening and closing net values of assets linked to the relevant business so far as so referable and foreign currency assets; and

B is the mean of the opening and closing liabilities of the relevant business so far as referable to PHI business, reduced (but not below nil) by the mean of the opening and closing net values of any assets linked to PHI business.

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- (6) But if the denominator found in accordance with subsection (5) above is nil, the appropriate fraction for the purposes of subsection (4) above is such fraction as is just and reasonable.
- (7) To the extent that the net amount is attributable to—
- (a) assets linked to gross roll-up business, or
 - (b) foreign currency assets,
- it is referable to gross roll-up business.
- (8) There is also referable to gross roll-up business the relevant fraction of so much of the net amount as is not attributable to linked assets or foreign currency assets.
- (9) For the purposes of subsection (8) above “the relevant fraction” is—

$$\frac{C}{C + D}$$

where—

C is the mean of the opening and closing liabilities of the relevant business so far as referable to gross roll-up business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the aggregate of the mean of the opening and closing net values of any assets linked to gross roll-up business and foreign currency assets; and

D is the mean of the opening and closing liabilities of the relevant business so far as referable to basic life assurance and general annuity business or PHI business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets linked to either of those categories of business.

- (10) But if the denominator found in accordance with subsection (9) above is nil, the relevant fraction for the purposes of subsection (8) above is such fraction as is just and reasonable.
- (11) For the purposes of this section, so much of the net amount—
- (a) as is brought into account as other income in an internal linked fund of the company, and
 - (b) as is not attributable to assets of that fund,
- is to be treated as linked to a category of business to the same extent as income attributable to an asset of the fund would, by virtue of section 432ZA, be referable to that category of business.”

- 18 Omit section 432D (section 432B apportionment: value of non-participating funds).
- 19 (1) Section 432E (section 432B apportionment: participating funds) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The part of the net amount which is referable to life assurance business or to gross roll-up business is—

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- (a) the amount determined in accordance with subsections (2) and (2A) below, or
- (b) if greater, the amount determined in accordance with subsection (3) below.

(1A) In this section “the net amount” means the aggregate of the amounts brought into account—

- (a) as investment income,
- (b) as an increase in the value of assets, or
- (c) as other income,

less the aggregate of the amounts brought into account as a decrease in the value of assets.”

(3) In subsection (2)—

- (a) in the definition of CAS, for “the category of business concerned” substitute “life assurance business or of gross roll-up business”, and
- (b) in the definition of CS, for “business of the category concerned” substitute “life assurance business or to gross roll-up business”.

(4) In subsection (3)—

- (a) in paragraph (a), after “that category of business” insert “and foreign currency assets”, and
- (b) in paragraph (b)—
 - (i) omit “mentioned in subsection (1) above”,^{F2}...
 - ^{F2}(ii)

(5) In subsection (4), for the words following “case,” substitute “is—

$$\frac{A}{B} \times 100$$

where—

A is so much of the net amount as is brought into account in respect of the relevant business less such part of it as is attributable to linked assets and foreign currency assets; and

B is the mean of the opening and closing liabilities of the relevant business reduced by the mean of the opening and closing values of any assets of the relevant business which are linked assets and foreign currency assets.”

- (6) In subsection (4A), after “linked assets” insert “or foreign currency assets”.
- (7) Omit subsections (5) and (6).

Textual Amendments

- F2** Sch. 7 para. 19(4)(b)(ii) and word omitted (with effect in accordance with [Sch. 17 para. 10\(6\)\(7\)](#) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 10\(5\)](#)

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(a) omit “For each category of business in relation to which section 432E falls to be applied”, and

(b) omit “, after making any reduction required by section 432E(5)”,.

21 For section 432G substitute—

“432G Section 432B apportionment: business transfers-in

(1) There is referable to the life assurance business of the transferee the appropriate fraction of the amount brought into account as a business transfer-in and of any amount taken into account as profits under section 444ABD(1).

(2) For the purposes of subsection (1) above “the appropriate fraction” is—

$$\frac{\text{LABL}}{\text{TL}}$$

where—

LABL is the amount of the liabilities transferred that are referable to the life assurance business (but is nil if it would otherwise be below nil); and

TL is the whole of the liabilities transferred.

(3) But if the amount of the liabilities transferred is nil, the appropriate fraction for the purposes of subsection (1) above is such fraction as is just and reasonable.

(4) There is referable to the gross roll-up business of the transferee the relevant fraction of the amount brought into account as a business transfer-in and of any amount taken into account as profits under section 444ABD(1).

(5) For the purposes of subsection (4) above “the relevant fraction” is—

$$\frac{\text{GRBL}}{\text{TL}}$$

where—

GRBL is the amount of the liabilities transferred that are referable to the gross roll-up business (but is nil if it would otherwise be below nil); and

TL has the same meaning as in subsection (2) above.

(6) But if the amount of the liabilities transferred is nil, the relevant fraction for the purposes of subsection (4) above is such fraction as is just and reasonable.”

22 (1) Section 434 (franked investment income etc) is amended as follows.

(2) For subsections (1) and (1B) substitute—

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- “(1) Where an insurance company makes a payment representative of a distribution made by a company resident in the United Kingdom in respect of an asset of its long-term insurance fund, the payment is to be taken into account in computing its profits in accordance with the provisions applicable to Case I of Schedule D unless the amount taken into account in accordance with section 83(2)(a) of the Finance Act 1989 includes the amount of the payment.”
- (3) Omit subsection (6A)(b).
- 23 (1) Section 434A (computation of losses and limitation on relief) is amended as follows.
- (2) In subsection (2)(a)—
- (a) omit “the aggregate of”, and
- (b) omit sub-paragraph (iii).
- (3) In subsection (2)(b), for the words following sub-paragraph (ii) substitute— “ any loss for that period under section 436A shall be reduced (but not below nil) by the total of the amounts set off as mentioned in sub-paragraphs (i) and (ii) above. ”
- 24 Omit section 436 (pension business: separate charge on profits).
- 25 Before section 437 insert—

Gross roll-up business: separate charge on profits

- “436A) Profits arising to an insurance company from gross roll-up business—
- (a) are to be treated as income within Schedule D, and
- (b) are chargeable under Case VI of that Schedule.
- (2) For that purpose—
- (a) the gross roll-up business is to be treated separately, and
- (b) the profits from it are to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) In making that computation, sections 82 and 82B to 83AB of the Finance Act 1989 apply with the necessary modifications.
- (4) If in any accounting period an insurance company incurs a loss, to be computed on the same basis as the profits, arising from its gross roll-up business—
- (a) the loss must be set off against the amount of any profits chargeable under this section for any subsequent accounting period, and
- (b) accordingly, the amount of the company's profits so charged in any such accounting period is to be treated as reduced by the amount of the loss or so much of that amount as cannot be relieved under this section against profits of an earlier accounting period.
- (5) Section 396 does not apply to a loss incurred by an insurance company on its gross roll-up business.
- (6) No loss to which section 396 applies may be set off under subsection (4) above against the amount of any profits chargeable under this section.

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- (7) This section does not apply in relation to an insurance company for an accounting period if the profits of its long-term business for the accounting period are charged to tax under Case I of Schedule D.

Gains referable to gross roll-up business not to be chargeable gains

436B) Gains referable to gross roll-up business are not chargeable gains.

- (2) For the purposes of this section “gains referable to gross roll-up business” means gains which—

- (a) accrue to an insurance company on the disposal by it of assets of its long-term insurance fund, and
- (b) are referable (in accordance with section 432A) to gross roll-up business.”

- 26 (1) Section 438 (pension business: exemption from tax) is amended as follows.
- (2) In subsection (1), for the words after “income” substitute “ from assets solely linked to pension business. ”
- (3) Omit subsections (2) and (4).
- 27 Omit section 438B (income or gains arising from property investment LLP).
- 28 Omit section 438C (determination of policy holders' share for purposes of s.438B).
- 29 Omit section 439 (restricted government securities).
- 30 Omit section 439B (life reinsurance business: separate charge on profits).
- 31 (1) Section 440 (transfers of assets etc) is amended as follows.
- (2) In subsection (3), for “(a) to (e)” substitute “ (a), (d) and (e) ”.
- (3) In subsection (4), for paragraphs (a) to (c) substitute—
- “(a) assets which are linked solely to gross roll-up business or are foreign currency assets;”,
- and, in paragraph (e), for “any” substitute “ either ”.
- 32 In section 440A(2) (securities)—
- (a) in paragraph (a), for sub-paragraphs (i) to (iii) substitute—
 - “(i) basic life assurance and general annuity business,
 - or
 - (ii) gross roll-up business,”,
 - (b) omit paragraph (c), and
 - (c) in paragraph (d)—
 - (i) for “any of the preceding paragraphs” substitute “ paragraph (a) ”, and
 - (ii) for “any of the descriptions mentioned in those paragraphs” substitute “ the description mentioned in that paragraph ”.
- 33 In section 440B(4) (modifications where tax charged under Case I of Schedule D)—
- (a) for “(a) to (e)” substitute “ (a), (d) and (e) ”, and
 - (b) for the notionally substituted paragraph (a) substitute—

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- “(a) so many of the securities as are included in the company's long-term insurance fund shall be treated for the purposes of corporation tax as a separate holding which is an asset of that fund, and”.
- 34 Omit section 441 (overseas life assurance business).
- 35 In section 444A(3) (transfers of business)—
- (a) for “436(3)(c) or 439B(3)(c)” substitute “ 436A(4) ”,
 - (b) omit paragraph (b) and the word “or” before it, and
 - (c) for “the same category of business as that in which it arose)” substitute “ gross roll-up business) ”.
- 36 (1) Section 444AC (transfers of business: excess of assets or liabilities) is amended as follows.
- (2) In subsection (2B)—
- (a) for “each category of its life assurance business” substitute “ its gross roll-up business ”,
 - (b) for “a category of the transferee's life assurance business” substitute “ the transferee's gross roll-up business ”, and
 - (c) for “that category” substitute “ gross roll-up business ”.
- (3) In subsection (2D), for “a category of its life assurance business” substitute “ its gross roll-up business ”.
- (4) In subsection (10), in the definition of “the transferor's business”, for paragraph (b) substitute—
- “(b) its gross roll-up business.”
- 37 (1) Section 444AF (demutualisation surplus: life assurance business) is amended as follows.
- (2) In subsection (4)(b), for “sections 432C and 432D apply” substitute “ section 432C applies ”.
- (3) In subsection (5)(b), for “the profits of any category of the company's life assurance business chargeable to tax under Case VI of Schedule D” substitute “ profits of the company chargeable under Case VI of Schedule D under section 436A (gross roll-up business) ”.
- 38 (1) Section 444AK (mutual surplus: Case VI categories of life assurance business) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute—
- “(b) the company carries on gross roll-up business.”
- (3) In subsection (3), for “any category of the company's life assurance business chargeable to tax under Case VI of Schedule D” substitute “ the company's gross roll-up business ”.
- (4) In subsection (5)(b), for “sections 432C and 432D apply” substitute “ section 432C applies ”.
- (5) The heading accordingly becomes “ Mutual surplus: gross roll-up business ”.
- 39 Omit sections 458 and 458A (capital redemption business).

Status: Point in time view as at 01/04/2009.

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- 40 In section 460(2) (registered friendly societies: exemption from tax in respect of life or endowment business)—
 - (a) for “pension business” substitute “ gross roll-up business ”,
 - (b) at the end of paragraph (ca), insert “ and ”, and
 - (c) omit paragraph (cb).
- 41 In section 461 (registered friendly societies: other business), omit subsection (3A).
- 42 In section 461B (incorporated friendly societies), omit subsection (2A).
- 43 (1) Section 466 (interpretation of Chapter 2 of Part 12) is amended as follows.
 - (2) For subsection (1) substitute—
 - “(1) In this Chapter “life or endowment business” means, subject to subsections (1A) and (1B) below—
 - (a) any life assurance business, and
 - (b) any PHI business.”
 - (3) In subsection (2)—
 - (a) omit the definition of “life assurance business”, and
 - (b) insert the following definition at the appropriate place—
 - ““gross roll-up business” shall be construed in accordance with section 431;”.
 - (4) Omit subsections (2ZA), (2A) and (2B).

F³44

Textual Amendments

F3 Sch. 7 para. 44 omitted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 17(11)(g)**

F⁴45

Textual Amendments

F4 Sch. 7 para. 45 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(p)**

F⁵46

Textual Amendments

F5 Sch. 7 para. 46 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(p)**

- 47 (1) Section 755A (treatment of chargeable profits and creditable tax apportioned to company carrying on life assurance business) is amended as follows.
 - (2) In subsection (4), for the words after “referable to” substitute “ gross roll-up business carried on by the UK company. ”

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- (3) In subsection (6)(c), for “a category of business specified in paragraphs (a) to (c) of subsection (4) above” substitute “ gross roll-up business ”.
- (4) In subsection (13), for paragraphs (a) to (d) substitute—
 “(a) basic life assurance and general annuity business, or
 (ba) gross roll-up business.”.
- 48 In section 804A(1) (life assurance companies with overseas branches etc: restriction of credit), for “any category of life assurance business” substitute “ gross roll-up business ”.
- 49 (1) Section 804B (insurance companies carrying on more than one category of business: restriction of credit) is amended as follows.
- (2) In subsection (1)(a), after “category of” insert “ long-term ”.
- (3) In subsection (2), omit “or section 438B”.
- (4) For subsection (3) substitute—
 “(3) Where the relevant income arises from an asset which is linked solely to a category of business, the whole of the foreign tax is attributable to that category of business, unless the case is one where subsection (7) below applies.

 (3A) Where the relevant income arises from foreign currency assets, the whole of the foreign tax is attributable to gross roll-up business, unless the case is one where subsection (7) below applies.”
- (5) In subsection (4)—
 (a) for “long-term business which is not life assurance” substitute “ PHI ”, and
 (b) omit “or 438B”.
- (6) In subsection (5), for the words following “is” substitute “ gross roll-up business. ”
- (7) In subsection (6)—
 (a) omit “or 432D” (in both places), and
 (b) for “the category of business in question” and “that category” substitute “ gross roll-up business ”.
- (8) In subsection (7), for—
 (a) “the category of business in question”, and
 (b) “that category”,
substitute “ gross roll-up business ”.
- (9) For subsection (9) substitute—
 “(9) Where for the purposes of this section an amount of foreign tax is attributable to gross roll-up business, credit in respect of the foreign tax so attributable shall be allowed only against corporation tax in respect of profits chargeable under section 436A.”
- 50 In section 804C(14) (insurance companies: allocation of expenses etc in computations under Case I of Schedule D), for—
 (a) “a category of life assurance business”, and
 (b) “any category of life assurance business”,

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- substitute “ gross roll-up business ”.
- 51 (1) Section 804D (interpretation of section 804C in relation to life assurance business etc) is amended as follows.
- (2) In subsection (1), for “a category of life assurance business” substitute “ gross roll-up business ”.
- (3) In subsection (3), for “432F” substitute “ 432G ”.
- 52 In section 804E (interpretation of section 804C in relation to other insurance business), for “any category of life assurance business” substitute “ gross roll-up business ”.
- 53 In section 806L(5) (carry forward or carry back of unrelieved foreign tax), for paragraph (b) substitute—
- “(b) included in the profits of gross roll-up business chargeable under Case VI of Schedule D by virtue of section 436A.”
- 54 In section 808 (restriction on deduction of interest or dividends from trading income), for “436” substitute “ 436A ”.
- 55 Omit Schedule 19AA (overseas life assurance fund).
- F⁶56

Textual Amendments

- F6** Sch. 7 para. 56 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

Finance Act 1989 (c. 26)

- 57 FA 1989 is amended as follows.
- F⁷58

Textual Amendments

- F7** [Sch. 7 para. 58](#) omitted (with effect in accordance with [Sch. 17 para. 18\(6\)](#) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 18\(5\)\(g\)](#)

- 59 In section 89(1A) (policy holders' share of profits), for paragraph (a) substitute—
- “(a) deducting from any profits of the company for the period chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 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”.

Taxation of Chargeable Gains Act 1992 (c. 12)

- 60 TCGA 1992 is amended as follows.
- 61 In section 204(10) (policies of insurance and non-deferred annuities)—

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- (a) for “as defined in section 458(3)” substitute “ within the meaning of Chapter 1 of Part 12 ”, and
 - (b) omit “other”.
- 62 In section 210B—
- (a) omit paragraph (b) of subsection (6) and the word “or” before it, and
 - (b) in subsection (8) (disposal and acquisition of section 440A securities), in the definition of “chargeable section 440A holding”, for “(2)(a)(iii)” substitute “ (2)(a)(i) ”.
- 63 In section 212(2) (annual deemed disposal of holdings of certain assets), for the words from “pension business” to the end substitute “ gross roll-up business ”.
- 64 In section 213(1A) (spreading of gains and losses under section 212), omit the words following “general annuity business”.

Finance Act 1996 (c. 8)

^{F8}65

Textual Amendments

F8 Sch. 7 paras. 65-67 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

^{F8}66

Textual Amendments

F8 Sch. 7 paras. 65-67 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

^{F8}67

Textual Amendments

F8 Sch. 7 paras. 65-67 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Capital Allowances Act 2001 (c. 2)

- 68 CAA 2001 is amended as follows.
- 69 (1) Section 255 (apportionment of allowances and charges) is amended as follows.
- (2) For subsections (1) and (1A) substitute—
- “(1) Except where subsection (3) applies, any allowance to which the company is entitled, and any charge to which it is liable, for a chargeable period in respect of a management asset must be apportioned between basic life assurance and general annuity business, gross roll-up business and PHI business in accordance with subsections (1A) and (1B).

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(1A) The allowance or charge is to be apportioned to a category of business using the formula—

$$A \times \frac{B}{C}$$

where—

A is the amount of the allowance or charge,

B is the mean of the opening and closing liabilities of that category of business, and

C is the mean of the opening and closing liabilities of all the categories of business mentioned in subsection (1) which are carried on by the company.

(1B) If C is nil or below nil, the allowance or charge to be apportioned to a category of business is such as is just and reasonable.”

(3) Omit subsection (2).

(4) In subsection (3)—

- (a) in paragraph (a), for “section 441 of ICTA in respect of its overseas life assurance business” substitute “ section 436A of ICTA (gross roll-up business) ”, and
- (b) in paragraph (b), for “provided outside the United Kingdom for use for the management of that business” substitute “ held for the purposes of a permanent establishment outside the United Kingdom at or through which the company carries on gross roll-up business ”.

70 (1) Section 256 (different giving effect rules for different categories of business) is amended as follows.

(2) In subsection (3), for paragraphs (a) to (c) substitute “ section 436A of ICTA (gross roll-up business) ”.

(3) In subsection (4)—

- (a) for “profit” substitute “ profits ”,
- (b) in paragraph (a), for “any particular category of business” substitute “ gross roll-up business ” and for “that category of business” substitute “ its gross roll-up business ”, and
- (c) in paragraph (b), for “any particular category of business” substitute “ gross roll-up business ” and for “that category of business” substitute “ its gross roll-up business ”.

71 (1) Section 545 (investment assets) is amended as follows.

(2) In subsection (3), in the second sentence, for “sections 432ZA to 432E, or section 438B,” substitute “ section 432A ”.

(3) In subsection (5)—

- (a) for the words from “under—” to “no allowance” substitute “ under section 436A of ICTA (gross roll-up business), no allowance ”, and

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- (b) for “the category of life assurance business in question” substitute “ gross roll-up business ”.

Finance Act 2001 (c. 9)

F972

Textual Amendments

- F9** Sch. 7 para. 72 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Finance Act 2002 (c. 23)

73 FA 2002 is amended as follows.

F1074

Textual Amendments

- F10** Sch. 7 para. 74 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F1175

Textual Amendments

- F11** Sch. 7 para. 75 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Income Tax (Trading and Other Income) Act 2005 (c. 5)

76 ITTOIA 2005 is amended as follows.

77 In section 473(2) (policies and contracts to which Chapter 9 applies), in the definition of “capital redemption policy”, for “as defined in section 458(3)” substitute “ within the meaning of Chapter 1 of Part 12 ”.

F1278

Textual Amendments

- F12** Sch. 7 para. 78 omitted (with effect in accordance with Sch. 17 para. 27(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 27(2)**

79 In Schedule 2 (transitionals and savings etc), in paragraph 118(2), for “from “other than” onwards in the definition of “annuity business”” substitute “ following paragraph (b) in the definition of “life assurance business” ”.

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PART 2

TRANSITIONAL PROVISIONS

Introduction

- 80 (1) A loss incurred by an insurance company in a pre-commencement period may not be set off against profits of the company chargeable under section 436A of ICTA in a post-commencement period, except in accordance with this Part of this Schedule.
- (2) In this Part of this Schedule—
- “the commencement period”, in relation to an insurance company, means the first period of account of the company to begin on or after 1st January 2007,
- “pre-commencement period”, in relation to an insurance company, means a period of account of the company beginning before 1st January 2007, and
- “post-commencement period”, in relation to an insurance company, means a period of account of the company beginning on or after 1st January 2007.
- (3) Expressions which are—
- (a) used in this Part of this Schedule in relation to a period of account, and
- (b) used in Chapter 1 of Part 12 of ICTA,
- have the same meaning in this Part of this Schedule in relation to that accounting period as they have in that Chapter (as that Chapter has effect in relation to that period of account).

Carry forward of unused pension business losses

- 81 (1) An unused pension business loss of an insurance company (see sub-paragraph (4)) is to be treated as if it were a loss incurred by the company on its gross roll-up business in the period of account immediately preceding the commencement period.
- (2) Subsections (4) and (5) of section 436A of ICTA accordingly apply to the loss, but subject to sub-paragraph (3) (and to subsection (7) of that section).
- (3) The amount by which the company's profits charged under that section in a period of account is to be treated as reduced under subsection (4)(b) of that section by virtue of this paragraph must not exceed—

$$CP \times \frac{PBL}{GRBL}$$

where—

“CP” is the amount of the company's profits chargeable under that section in the period of account,

“PBL” is the mean of the opening and closing liabilities of the company's pension business for the period of account, and

“GRBL” is the mean of the opening and closing liabilities of the company's gross roll-up business for the period of account.

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- (4) In this paragraph “unused pension business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its pension business in any pre-commencement period as were not set off under section 436(3)(c) of ICTA against profits in any such period.

Carry forward of unused non-pension business losses

- 82 (1) An unused non-pension business loss of an insurance company (see paragraph 83) is to be treated as if it were a loss incurred by the company on its gross roll-up business in the period of account immediately preceding the commencement period.
- (2) Subsections (4) and (5) of section 436A of ICTA accordingly apply to the loss, but subject to sub-paragraph (3) (and to subsection (7) of that section).
- (3) The amount by which an insurance company's profits charged under that section in a period of account are to be treated as reduced under subsection (4)(b) of that section is to be determined—
- (a) first by giving effect to subsection (4)(b) in respect of a loss treated as incurred by the company on its gross roll-up business by virtue of paragraph 81, and
- (b) then by giving effect to subsection (4)(b) in respect of a loss treated as incurred by the company on its gross roll-up business by virtue of this paragraph,
- (before giving effect to subsection (4)(b) in respect of losses incurred by the company on its gross roll-up business in post-commencement periods).
- 83 (1) In paragraph 82 “unused non-pension business loss”, in relation to an insurance company, means the aggregate of the following amounts—
- (a) any unexhausted individual savings account business loss (see sub-paragraph (2)),
- (b) any unexhausted child trust fund business loss (see sub-paragraph (3)),
- (c) any unexhausted life reinsurance business loss (see sub-paragraph (4)), and
- (d) any unexhausted overseas life assurance business loss (see sub-paragraph (5)).
- (2) In this paragraph “unexhausted individual savings account business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its individual savings account business in any pre-commencement period as were not set off by virtue of a relevant provision (see sub-paragraph (6)) against profits in any such period.
- (3) In this paragraph “unexhausted child trust fund business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its child trust fund business in any pre-commencement period as were not set off by virtue of a relevant provision against profits in any such period.
- (4) In this paragraph “unexhausted life reinsurance business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its life reinsurance business in any pre-commencement period as were not set off under section 439B(3)(c) of ICTA against profits in any such period.
- (5) In this paragraph “unexhausted overseas life assurance business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its

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overseas life assurance business in any pre-commencement period as were not set off under section 441(4)(b) of ICTA against profits in any such period.

- (6) In this paragraph “relevant provision” means—
- (a) regulation 13 of the Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), or
 - (b) regulation 11 of the Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680).

“Section 432F(2) excesses”

- 84 Where there is a subsection (2) excess (within the meaning of section 432F of ICTA) for any category of business of an insurance company in the period of account immediately preceding the commencement period it shall be taken to be, or form part of, the subsection (2) excess falling to be carried forward under subsection (3) of that section (as amended by this Schedule) and used in a post-commencement period.

^{F13}^{F14} *Losses transferred under section 444AZA*

Textual Amendments

- F13** Sch. 7 paras 85, 86 and cross-headings added (with effect in accordance with art. 1(5) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), **30**
- F14** Sch. 7 para. 85 cross-heading substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 725(3)** (with Sch. 2 Pts. 1, 2)

85. (1) This paragraph applies where a loss ^{F15}... is treated by virtue of section 444AZA of ICTA as a loss of the transferee ^{F15}....
- (2) Where any [^{F16} losses so treated] would (assuming the transferor had continued to carry on the business transferred after the transfer) have been losses to which paragraph 81(1) would have applied, the amount of such losses to be treated as [^{F17} losses of the transferee] in any period of account must not exceed—

$$GRBP \times PBT LGRBTL$$

where—

- “GRBP” has the same meaning as in section 444AZA(2) of ICTA,
 “PBT L” is the mean of the opening and closing liabilities of the transferred pension business for the period of account, and
 “GRBTL” is the mean of the opening and closing liabilities of the transferred gross roll-up business for the period of account.

Textual Amendments

- F15** Words in Sch. 7 para. 85(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 725(2)(a)**, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F16** Words in Sch. 7 para. 85(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 725(2)(b)(i)** (with Sch. 2 Pts. 1, 2)

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F17 Words in Sch. 7 para. 85(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 725(2)(b)(ii)** (with Sch. 2 Pts. 1, 2)

[^{F18}Losses transferred under section 444AZB]

Textual Amendments

F18 Sch. 7 para. 86 cross-heading substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 725(5)** (with Sch. 2 Pts. 1, 2)

86 (1) This paragraph applies where section 444AZB of ICTA has effect in relation to a transferee and the circumstances specified in sub-paragraph (2) or (3) below apply.

(2) The circumstances are that—

- (a) the profits of the life assurance business of the transferee for the period of account immediately preceding the first period of account beginning on or after 1st January 2007 were chargeable to tax in accordance with Case I of Schedule D by virtue of section 439A of ICTA, and
- (b) in that period, the transferee carried on pension business.

(3) The circumstances are that—

- (a) paragraph 29 of Schedule 8 applies in relation to the transferee, and
- (b) the transferee has an unused pension business loss within the meaning given by paragraph 81(4).

(4) The appropriate fraction of any amount treated by virtue of section 444AZB(2) of ICTA as a loss of the transferee (a “[^{F19}gross roll-up business] loss”) available to be set off against profits chargeable under section 436A of ICTA is to be treated for the purposes of paragraph 81 as an unused pension business loss.

(5) The relevant fraction of any [^{F20}gross roll-up business] loss is to be treated for the purposes of paragraph 82 as an unused non-pension business loss.

(6) In this paragraph “the appropriate fraction”, in relation to a period of account, is—

PBTLTL

where—

“*PBTL*” is the mean of the opening and closing liabilities of the transferred pension business for the period of account, and

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

(7) In this paragraph the “the relevant fraction”, in relation to a period of account, is—

NPBTLTL

where—

“*NPBTL*” is the mean of the opening and closing liabilities of the transferred gross roll-up business which is not pension business for the period of account, and

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

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Textual Amendments

- F19** Words in Sch. 7 para. 86(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 725\(4\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F20** Words in Sch. 7 para. 86(5) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 725\(4\)](#) (with [Sch. 2 Pts. 1, 2](#))

Status:

Point in time view as at 01/04/2009.

Changes to legislation:

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