

Status: Point in time view as at 19/07/2007.

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SCHEDULES

SCHEDULE 9 U.K.

Section 40

INSURANCE COMPANIES: TRANSFERS ETC

Definition of “insurance business transfer scheme”

- 1 (1) In section 431(2) of ICTA (interpretative provisions for purposes of Corporation Tax Acts), for the definition of “insurance business transfer scheme” substitute—
- ““insurance business transfer scheme” means—
- (a) a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section, or
 - (b) a scheme which would fall within that section but for subsection (1)(b) of that section;”.
- (2) In consequence of sub-paragraph (1), omit—
- (a) the definition of “insurance business transfer scheme” in section 12(7B) of ICTA,
 - (b) section 444AB(11) of that Act (as originally enacted),
 - (c) in section 444AC(11) of that Act (as originally enacted), the definition of “insurance business transfer scheme”,
 - (d) section 460(10B) of that Act,
 - (e) the definition of “insurance business transfer scheme” in paragraph 12(9) of Schedule 9 to FA 1996,
 - (f) section 560(5)(b) of CAA 2001,
 - (g) paragraph 28(5) of Schedule 26 to FA 2002, and
 - (h) the definition of “insurance business transfer scheme” in paragraph 89(3) of Schedule 29 to that Act.
- (3) In section 431 of ICTA, insert at the end—
- “(2ZG) The Treasury may by order amend the definition of “insurance business transfer scheme” given by subsection (2) above where it is expedient to do so in consequence of any amendment of section 105 of the Financial Services and Markets Act 2000.
- (2ZH) The power conferred by subsection (2ZG) above includes power to make incidental, supplementary, consequential or transitional provisions and savings (including provision amending any provision of the Corporation Tax Acts relating to insurance companies).”
- (4) In section 66 of FA 2002 (election to continue postponement of mark to market)—
- (a) in subsection (4)(a), for “a transfer” substitute “ an insurance business transfer ”,
 - (b) in subsection (5), omit the definition of “transfer scheme”, and

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(c) omit subsections (6) and (7).

(5) In paragraph 10 of Schedule 22 to that Act—

- (a) in sub-paragraph (1)(a), for “a transfer” substitute “an insurance business transfer”,
- (b) in sub-paragraph (4), omit the definition of “transfer scheme”, and
- (c) omit sub-paragraphs (5) and (6).

Transfer schemes: expenses, losses etc

- 2 (1) Section 444A of ICTA (transfers of business: expenses, losses and section 432F(2) excesses) is amended as follows.
- (2) In subsection (1), omit “Subject to subsection (7) below,”.
- (3) Omit—
- (a) subsection (7) (section not to apply if transfer is not for bona fide commercial reasons or forms part of avoidance scheme), and
 - (b) subsection (8) (clearance procedure as to non-application of subsection (7)).

Transfer schemes: deemed periodical returns

- 3 (1) In ICTA, for section 444AA substitute—

“444AA Transfers of business: deemed periodical return

- (1) This section applies where the whole, or substantially the whole, of the long-term business of a person (“the transferor”) is transferred from that person—
 - (a) by one insurance business transfer scheme, or
 - (b) by two or more insurance business transfer schemes which are associated.
- (2) For the purposes of subsection (1) above two or more insurance business transfer schemes are associated if they form part of an arrangement for the transfer of the whole, or substantially the whole, of the transferor's long-term business.
- (3) Where (apart from this subsection) there would not be a periodical return of the transferor covering a period ending immediately before a relevant transfer date, there is to be deemed for the purposes of corporation tax to be a periodical return of the transferor covering the period—
 - (a) beginning immediately after the last period ending before the relevant transfer date which is covered by a periodical return of the transferor, and
 - (b) ending immediately before the relevant transfer date,
 containing such entries as would be included in an actual periodical return of the transferor covering that period (and so making that period a period of account of the transferor).
- (4) There is to be deemed for the purposes of corporation tax to be a periodical return of the transferor—
 - (a) covering a relevant transfer date, and

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- (b) containing such entries as would be included in an actual periodical return covering the relevant transfer date,
(and so making the relevant transfer date a period of account of the transferor).
- (5) Any actual periodical return covering a period which includes a relevant transfer date is to be ignored for the purposes of corporation tax.
- (6) Where the transferor continues to carry on long-term business after a relevant transfer date, there is to be deemed for the purposes of corporation tax to be a periodical return of the transferor covering the immediate post-RTD period containing such entries as would be included in an actual periodical return covering that period (and so making that period a period of account of the transferor).
- (7) In this section “relevant transfer date” means—
 - (a) in relation to a case within paragraph (a) of subsection (1) above, the date that is the transfer date in relation to the insurance business transfer scheme, and
 - (b) in relation to a case within paragraph (b) of that subsection—
 - (i) the earliest date that is the transfer date in relation to any of the insurance business transfer schemes, other than one that is a preliminary non-EEA transfer scheme, and
 - (ii) (where there are two or more insurance business transfer schemes that are not preliminary non-EEA transfer schemes) the latest date that is the transfer date in relation to any of them.
- (8) In subsection (6) above “the immediate post-RTD period” means the period beginning immediately after the relevant transfer date mentioned in that subsection and (subject to subsection (9) below) ending with—
 - (a) the end of the period covered by the periodical return covering a period which includes a relevant transfer date (if there is one), or
 - (b) (if there is not) the period covered by the accounts of the company prepared in accordance with generally accepted accounting practice which includes the relevant transfer date.
- (9) If the case is within subsection (1)(b) above and two or more of the insurance business transfer schemes are not preliminary non-EEA transfer schemes, the period ends with the latest date that is the transfer date in relation to any of them if that is before the end of the period mentioned in paragraph (a) or (b) of subsection (8) above.
- (10) In this section and sections 444AB to 444AEC “the transfer date”, in relation to an insurance business transfer scheme, means the date on which it takes effect.
- (11) For the purposes of this section an insurance business transfer scheme is a preliminary non-EEA transfer scheme if—
 - (a) it is an insurance business transfer scheme by virtue of paragraph (b) of the definition of “insurance business transfer scheme” in section 431(2), and

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- (b) the transfer date in relation to it is earlier than the transfer date in relation to an associated insurance business transfer scheme which is an insurance business transfer scheme by virtue of paragraph (a) of that definition.”
- (2) In section 12 of ICTA (accounting periods), for subsection (7C) substitute—
 - “(7C) Where section 444AA applies, an accounting period of the transferor (within the meaning of that section) shall end for the purposes of corporation tax with the end of any period covered by a periodical return deemed by that section.”
- (3) In—
 - (a) section 432YA(2A) of ICTA, and
 - (b) section 82D(2A) of FA 1989,
 for “444AA(3)” substitute “ 444AA(4) ”.
- (4) In section 213(10) of TCGA 1992, for “before the transfer” substitute “ before the relevant transfer date (within the meaning of that section) ”.

Transfer schemes: taxing the transferor

- 4 (1) In ICTA, for sections 444AB and 444ABA substitute—

“444AB Transfer schemes transferring whole of business: transferor

- (1) This section applies where an insurance business transfer scheme has effect to transfer the whole, or substantially the whole, of the long-term business of a person (“the transferor”) to another person (“the transferee”) and either or both of conditions A and B are met.
- (2) Condition A is met if any of the assets of the transferor's long-term insurance fund which are transferred from the transferor to the transferee by the insurance business transfer scheme are not, immediately after their transfer—
 - (a) if the transferee is an insurance company, assets of the transferee's long-term insurance fund, or
 - (b) if the transferee is not an insurance company, assets of a with-profits fund of the transferee,
 (“relevant non-transferred assets”).
- (3) Condition B is met if, immediately after the transfer date, the transferor—
 - (a) does not carry on long-term business, but
 - (b) holds any assets which, immediately before the transfer date, were assets of its long-term insurance fund (“retained assets”).
- (4) If there are relevant non-transferred assets or retained assets (or both) the relevant amount in relation to them (see subsection (5) below) is to be taken into account under section 83(2) of the Finance Act 1989 as an increase in value of the assets of the long-term insurance fund of the transferor for the relevant period of account (see subsection (6) below).

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- (5) Section 444ABA makes provision for the calculation of the relevant amount in relation to relevant non-transferred assets; and section 444ABB makes provision for its calculation in relation to retained assets.
- (6) In this section and sections 444ABA to 444AC “the relevant period of account” means the period of account of the transferor ending (or treated by section 444AA as ending) immediately before the transfer date.
- (7) See section 444AA for the meaning of “the transfer date” in this section.

444ABA Relevant non-transferred assets

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

$$FVA - RVA$$

where—

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

RVA is the recognised value of the assets.

- (2) For the purposes of this section and section 444ABB—
 - (a) the recognised value of any assets which, immediately before the transfer date, are held by the transferor in a non-profit fund which is not a Form 14 line 51 fund is the relevant Form 13 value of those assets, and
 - (b) the recognised value of any other assets is the appropriate fraction of the relevant Form 13 value of those assets.
- (3) For the purposes of subsection (2) above a non-profit fund is a Form 14 line 51 fund if an amount in respect of the fund is shown (or treated as shown) in line 51 of Form 14 in the periodical return of the transferor covering the relevant period of account.
- (4) For the purposes of subsection (2) above the relevant Form 13 value of any assets is the value which is shown (or treated as shown) in respect of the assets in Form 13 in the periodical return of the transferor covering the relevant period of account (ignoring lines 91 to 99 of that Form).
- (5) For the purposes of subsection (2)(b) above the appropriate fraction is—

$$1 - \frac{A}{B}$$

where—

A is the amount shown (or treated as shown) in line 51 of Form 14 in the periodical return of the transferor covering the relevant period of account in respect of the fund in which, immediately before the transfer date, the

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assets are held by the transferor, increased or reduced as mentioned in subsection (6) below, and

B is the amount shown (or treated as shown) in line 89 of Form 13 in that periodical return in respect of that fund.

- (6) The increase or reduction referred to in the definition of A in subsection (5) above is any increase or decrease deemed to be brought into account by section 83YA(3) or (4) of the Finance Act 1989 in respect of the fund for the relevant period of account.
- (7) See section 444AA for the meaning of “the transfer date”, and section 444AB for the meaning of “the relevant period of account”, in this section.

444ABB Retained assets

- (1) For the purposes of section 444AB the relevant amount in relation to assets that are retained assets is the lesser of FVA and UTA, where—
 - (a) FVA is the fair value of the assets on the transfer date, and
 - (b) UTA is the amount by which the fair value of the assets of the long-term insurance fund of the transferor immediately before the transfer date exceeds the amount shown (or treated as shown) in line 32 of Form 40 in the periodical return of the transferor covering the transfer date.
- (2) See section 444AA for the meaning of “the transfer date” in this section.

444ABC Transfer scheme transferring part of business: transferor

- (1) This section applies where an insurance business transfer scheme has effect to transfer part (but not the whole or substantially the whole) of the long-term business of a person (“the transferor”) to another person (“the transferee”) and the condition in subsection (2) below is met.
- (2) That condition is that any of the assets of the transferor's long-term insurance fund which are transferred from the transferor to the transferee by the insurance business transfer scheme are not, immediately after their transfer—
 - (a) if the transferee is an insurance company, assets of the transferee's long-term insurance fund, or
 - (b) if the transferee is not an insurance company, assets of a with-profits fund of the transferee,
 (“relevant non-transferred assets”).
- (3) The relevant amount in relation to the relevant non-transferred assets (see subsection (4) below) is to be taken into account under section 83(2) of the Finance Act 1989 as an increase in value of the assets of the long-term insurance fund of the transferor for the period of account covering the transfer date.
- (4) The relevant amount in relation to the relevant non-transferred assets is—

FVA – BTO

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where

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

BTO is any amount brought into account in respect of the assets as a business transfer-out.

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

(2) In section 432E(2A) of ICTA (apportionments: participating funds)—

(a) before “444AF(2)” insert “ 444AB, 444ABC, ”, and

(b) after paragraph (a) insert—

“(aa) section 444AB or 444ABC of this Act;”.

Transferor's period of account including transfer

5 In ICTA, after section 444ABC (inserted by paragraph 4) insert—

“444ABD Transferor's period of account including transfer

(1) Any profits representing the amount by which—

(a) the value of the liabilities transferred by an insurance business transfer scheme, exceeds

(b) the value of the assets transferred by the insurance business transfer scheme shown (or treated as shown) in line 32 of the periodical return of the transferor for the period of account of the transferor including the transfer date,

are to be taken into account as profits of that period of account.

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

Transfer schemes: taxing the transferee

6 (1) In ICTA, for section 444AC substitute—

“444AC Transfer schemes transferring whole of business: reduction in income of transferee

(1) This section applies where an insurance business transfer scheme has effect to transfer the whole, or substantially the whole, of the long-term business of a person (“the transferor”) to another person (“the transferee”) and conditions A and B are met.

(2) Condition A is that the transferor did not carry on life assurance business that is mutual business during the relevant period of account.

(3) Condition B is that an amount is shown (or treated as shown) in line 13 of Form 14 in the periodical return of the transferor covering the relevant period of account.

(4) The amount which (apart from this section) would be regarded as other income of the transferee for the purposes of section 83(2)(e) of the Finance Act 1989 for the period of account of the transferee which includes the transfer date is to be reduced by an amount equal to the transferred surplus.

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- (5) In subsection (4) above “the transferred surplus” means the amount shown (or treated as shown) in line 13 of Form 14 in the periodical return of the transferor covering the relevant period of account.
- (6) See section 444AA for the meaning of “the transfer date”, and section 444AB for the meaning of “the relevant period of account”, in this section.

444ACZA Transfer schemes transferring part of business: reduction in income of transferee

- (1) This section applies where an insurance business transfer scheme has effect to transfer part (but not the whole or substantially the whole) of the long-term business of a person (“the transferor”) to another person (“the transferee”) and the condition in subsection (2) below is met.
 - (2) The condition is that the transferor did not carry on life assurance business that is mutual business during the period of account of the transferor covering the transfer date.
 - (3) The amount which (apart from this section) would be regarded as other income of the transferee for the purposes of section 83(2)(e) of the Finance Act 1989 for the period of account of the transferee which includes the transfer date is to be reduced by an amount equal to the transferred surplus.
 - (4) In subsection (4) above “the transferred surplus” means such part of the amount shown (or treated as shown) in line 13 of Form 14 in the periodical return of the transferor covering the last period of account of the transferor ending before the transfer date as it is just and reasonable to regard as being attributable to the transfer.
 - (5) See section 444AA for the meaning of “the transfer date” in this section.”
- (2) In section 83(2A) of FA 1989 (receipts not to be taken into account), omit paragraph (b).

Repeal of section 444AD

- 7 (1) In ICTA, omit section 444AD (transfers of business: modification of section 83(2B) of FA 1989).
- (2) In section 83YA(7) of FA 1989 (changes in value of assets brought into account: transfer-in amount), for the words after “if” substitute “a transfer takes place in the following period of account; and the amount of the transfer-in amount for the previous period of account is any amount by which—
 - (a) the fair value of such of the assets of the long-term insurance fund of the company immediately after the transfer as were assets of the transferor's long-term insurance fund immediately before the transfer, exceeds
 - (b) the amount of any business transfer-in brought into account in accordance with section 83(2)(e) in relation to the transfer.”

Transfer schemes: anti-avoidance

- 8 (1) In ICTA, before section 444AF (and the italic cross-heading before it) insert—

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Transfer schemes: anti-avoidance rule

“444AE(A) This section applies where—

- (a) as a result of the whole or any part of transfer scheme arrangements involving the transfer of long-term business from one person (“the transferor”) to another (“the transferee”) a Case I advantage is obtained by the transferor or the transferee (or by both), and
 - (b) the sole or main purpose, or one of the main purposes, of the whole or any part of the transfer scheme arrangements is the obtaining of that Case I advantage.
- (2) In subsection (1) above “transfer scheme arrangements” means an insurance business transfer scheme (“the relevant transfer scheme”) together with any relevant associated operations.
- (3) If a Case I advantage is obtained by the transferor (see subsection (1) of section 444AEB), the amount of the transferor's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferor for the period of account of the transferor covering the transfer date.
- (4) If a Case I advantage is obtained by the transferee (see subsection (1) of section 444AEC), the amount of the transferee's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferee for the first period of account of the transferee ending after the transfer date.
- (5) In this section and sections 444AEB and 444AEC “relevant associated operations”, in relation to the relevant transfer scheme, means—
- (a) any other insurance business transfer scheme,
 - (b) any contract of reinsurance,
 - (c) any reconstruction or amalgamation involving the transferor, a dependant of the transferor which is an insurance undertaking or the transferee, or
 - (d) any surplus-increasing transfer of assets,
- which is effected in connection with the relevant transfer scheme.
- (6) In subsection (5) above—
- “dependant” and “insurance undertaking” have the same meaning as in the Insurance Prudential Sourcebook, and
- “surplus-increasing transfer of assets” means a transfer of assets of the transferor's long-term insurance fund to the transferee which is not brought into account for any period of account of the transferee but increases the amount of total surplus shown in line 39 of Form 58 in any periodical return of the transferee.
- (7) See section 444AA for the meaning of “the transfer date” in this section.

Case I advantage: transferor

444AE(B) A Case I advantage is obtained by the transferor if—

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- (a) Case I profits of its life assurance business for a period of account to which this section applies are less than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements, or
 - (b) Case I losses of its life assurance business for such a period of account are greater than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements.
- (2) If a Case I advantage is obtained by the transferor, the amount of the Case I advantage is the aggregate of—
- (a) the amounts (if any) by which Case I profits for each period of account to which this section applies are less than they would be but for the transfer scheme arrangements or part, and
 - (b) the amounts (if any) by which Case I losses for each such period of account are greater than they would be but for the transfer scheme arrangements or part.
- (3) This section applies to a period of account if it is—
- (a) the period of account of the transferor covering the transfer date,
 - (b) any earlier period of account of the transferor, or
 - (c) where any relevant associated operations are effected in any later period of account, that period of account.
- (4) In this section and section 444AEC “Case I profits” and “Case I losses” means profits and losses computed in accordance with the provisions of Case I of Schedule D.
- (5) See section 444AA for the meaning of “the transfer date”, and section 444AEA for the meaning of “relevant associated operations”, in this section.

Case I advantage: transferee

- 444AE(1) A Case I advantage is obtained by the transferee if—
- (a) Case I profits of its life assurance business for a period of account to which this section applies are less than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements, or
 - (b) Case I losses of its life assurance business for such a period of account are greater than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements.
- (2) If a Case I advantage is obtained by the transferee, the amount of the Case I advantage is—
- (a) the amount by which Case I profits for each period of account to which this section applies are less than they would be but for the transfer scheme arrangements or part, or
 - (b) the amount by which Case I losses for each such period of account are greater than they would be but for the transfer scheme arrangements or part.
- (3) This section applies to a period of account if it is—

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

Clearance: no avoidance or group advantage

444AED) Section 444AEA does not apply in relation to the transferor or the transferee if, on an application under this section, the Commissioners for Her Majesty's Revenue and Customs (“the HMRC Commissioners”) have given a notice under subsection (2) below.

- (2) A notice under this subsection is a notice stating that the HMRC Commissioners are satisfied—
 - (a) that the obtaining of a Case I advantage by the applicant is not the sole or main purpose of the whole or any part of the transfer scheme arrangements, or
 - (b) that the transferor and the transferee are members of the same group of companies and that there is no advantage to the group arising from any Case I advantage obtained by the transferor or by the transferee.
- (3) For the purposes of this section there is no advantage to a group arising from any Case I advantage obtained by the transferor or by the transferee if—
 - (a) as a result of transfer scheme arrangements, there is an increase in the liability to corporation tax of one or more companies which are members of the group of companies, and
 - (b) the amount (or aggregate amount) of that increase is not less than the reduction in the liability to corporation tax of the transferor or the transferee (or both) arising from the obtaining of the Case I advantage.
- (4) An application under this section must be in writing and contain particulars of the transfer scheme arrangements.
- (5) The HMRC Commissioners may by notice require the applicant to provide further particulars in order to enable them to determine the application.
- (6) A requirement may be imposed under subsection (5) above within 30 days of the receipt of the application or of any further particulars required under that subsection.
- (7) If a notice under subsection (5) above is not complied with within 30 days or such longer period as the HMRC Commissioners may allow, they need not proceed further on the application.
- (8) The HMRC Commissioners must give notice of their decision on an application under this section to the applicant within 30 days of receiving

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the application or, if they give a notice under subsection (5) above, within 30 days of that notice being complied with.

- (9) If the HMRC Commissioners—
- (a) give notice to the applicant under subsection (8) above that they are not satisfied as mentioned in subsection (2) above, or
 - (b) do not comply with subsection (8) above,
- the applicant may require them to transmit the application to the Special Commissioners.
- (10) A requirement under subsection (9) above must be imposed within 30 days of the giving of the notice or the failure to comply and must be accompanied by any notice given under subsection (5) above and further particulars provided pursuant to any such notice.
- (11) Any notice given by the Special Commissioners has effect for the purposes of subsection (1) above as if it were given by the HMRC Commissioners.
- (12) If any particulars provided under this section do not fully and accurately disclose all facts and considerations material for the decision of the HMRC Commissioners or the Special Commissioners, any resulting notice that they are satisfied as mentioned in subsection (2) above is void.
- (13) For the purposes of this section two companies are members of the same group of companies if they are for the purposes of Chapter 4 of Part 10.”
- (2) In section 432E(2A) of ICTA (as amended by paragraph 4(2)), after “444ABC,” insert “ 444AEA, ” and after paragraph (aa) insert—
- “(ab) section 444AEA of this Act;”.

Repeal of FA s.82C

- 9 In FA 1989, omit section 82C (relevant financial reinsurance contracts).

Transfers: receipts to be taken into account

- 10 (1) Section 83 of FA 1989 (receipts to be taken into account) is amended as follows.
- (2) In the first sentence of subsection (2B), for the words from “but the transfer” to “the time of the transfer” substitute “ the fair value of the assets at the time of the transfer, reduced by any amount brought into account in respect of them (for the period of account in which the transfer takes place or any earlier period of account) as part of total expenditure or as a business transfer-out, ”.
- (3) In that sentence (as amended by sub-paragraph (2))—
- (a) for “as a business transfer out” substitute “ by being netted off against incomings in lines 11 to 15 of a revenue account ”, and
 - (b) for the words after “value of the assets of that fund” substitute “ except to the extent that any of the exclusions in subsections (2C) to (2E) below apply. ”
- (4) Omit the second sentence of subsection (2B).
- (5) For subsection (2E) substitute—

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“(2E) Assets transferred by an insurance business transfer scheme are excluded from subsection (2B) above.”

Transfers and demutualisations: losses where assets added to long-term insurance fund

- 11 (1) FA 1989 is amended as follows.
- (2) Omit—
- (a) in section 83, subsections (3) to (7) and, in subsection (8), the definitions of “add”, “demutualisation” and “total reinsurance” (which relate to losses where assets added to long-term insurance fund),
 - (b) section 83AA (amounts added to long-term insurance fund in excess of loss), and
 - (c) section 83AB (treatment of surplus where there is subsequent transfer from company etc).
- (3) In section 83B(3) (changes in recognised accounts: attribution of amounts carried forward), for “83AB” substitute “ 83ZA ”.
- 12 In section 436A(3) of ICTA (gross roll-up business), for “83AB” substitute “ 83ZA ”.

Transfer schemes: old annuity contracts

- 13 (1) Paragraph 16 of Schedule 7 to FA 1991 (transitional relief for old general annuity contracts) is amended as follows.
- (2) In sub-paragraph (7), in the definition of “old annuity contract”, insert at the end “ (including one forming part of the business transferred to another insurance company by an insurance business transfer scheme) ”.
- (3) After that sub-paragraph insert—
- “(8) Where—
- (a) business is transferred to an insurance company by an insurance business transfer scheme during an accounting period of the company, and
 - (b) the business transferred consists of or includes old annuity contracts (“the transferred contracts”),
- the reference in the definition of R1 in sub-paragraph (2) above to the company's opening liabilities for the accounting period is, in relation to the transferred contracts, a reference to the company's liabilities in respect of the transferred contracts immediately after the transfer.”

Transfer schemes: no gain/no loss

- 14 (1) TCGA 1992 is amended as follows.
- (2) In section 211 (application of section 139), for subsections (2) and (2A) substitute—
- “(2) Where this section applies the transferor and the transferee are treated for the purposes of corporation tax on chargeable gains as if any assets included in the transfer which—

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- (a) immediately before they are acquired by the transferee, were assets of the transferor's long-term insurance fund, and
- (b) immediately after they are so acquired are assets of the transferee's long-term insurance fund,

were acquired for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the transferor on the disposal.

(3) Subsection (2) above is subject to section 212.”

(3) In section 35(3)(d) (re-basing: exceptions), after “171,” insert “ 211, ”.

Transfer schemes: old reinsurance business

15 In paragraph 57 of Schedule 8 to FA 1995 (application of provisions made by that Schedule), after sub-paragraph (2) (which disapplies section 442A of ICTA in relation to the reinsurance of policies and contracts made and reinsured before 29th November 1994) insert—

“(3) Where business consisting of or including an arrangement for the reinsurance of a policy or contract made before 29th November 1994 which was effected before that date has been transferred by an insurance business transfer scheme sub-paragraph (2) has effect in relation to the transferee.”

Power to amend transfer provisions

- 16 (1) The Treasury may by order make provision in relation to insurance business transfer schemes.
- (2) The power conferred by sub-paragraph (1) includes power to amend or repeal any provision of the Corporation Tax Acts relating to insurance business transfer schemes and otherwise to amend the Corporation Tax Acts.
- (3) The power conferred by sub-paragraph (1) includes power to make—
- (a) different provision for different cases or otherwise for different purposes, and
 - (b) incidental, supplementary, consequential or transitional provisions and savings.
- (4) Provision made by an order under this paragraph may be made so as to have effect in relation to periods of account current when it is made.
- (5) No order may be made under this paragraph unless a draft of the statutory instrument containing it has been laid before the House of Commons before 1st April 2008 and has been approved by a resolution of that House.

Commencement

- 17 (1) The amendments made by paragraphs 1 to 3 and 13 to 15 have effect in relation to periods of account beginning on or after 1st January 2007.
- (2) The amendments made by paragraphs 4, 6 to 9, 10(3) to (5), 11 and 12 have effect in accordance with provision made by an order made by the Treasury.

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- (3) But the amendments made by paragraphs 11 and 12 also have effect in relation to periods of account beginning on or after 1st January 2007 where the transfer of business or demutualisation concerned took place before 21st March 2007.
- (4) The amendment made by paragraph 5 has effect in relation to transfers of business with a transfer date after 21st March 2007.
- (5) The amendment made by paragraph 10(2) has effect in relation to transfers taking place on or after 6th December 2006.

Status:

Point in time view as at 19/07/2007.

Changes to legislation:

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