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SCHEDULES

SCHEDULE 23

Section 46

INSURANCE COMPANIES

Transfer from non technical account not to be receipt

- 1 (1) In section 83 of FA 1989 (receipts to be taken into account), after subsection (2) insert—
- “(2AZA) No amount shown as transfer from non technical account in line 32 of Form 58 in respect of the whole of the company's long-term business in the periodical return for a period of account is to be taken into account as a receipt of the period of account.”
- (2) The amendment made by sub-paragraph (1) has effect in relation to periods of account ending on or after 22 April 2009.
- (3) But, in relation to a period of account of a company beginning before that date, that amendment has effect only insofar as the amount shown as transfer from non technical account in line 32 of Form 58 covering the whole of the company's long-term business in the periodical return for the period of account is attributable to transfers made on or after that date.

No deduction for capital allocations to with-profits policy holders

- 2 (1) In section 82 of FA 1989 (calculation of profits), after subsection (2) insert—
- “(2A) But amounts are not allowed as such a deduction if they—
- (a) are allocated to holders of policies under which they are eligible to participate in surplus,
 - (b) are of a capital nature, and
 - (c) are not funded from amounts brought into account as part of total income in line 19 of the 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.
- (2B) For the purposes of subsection (2A) above payments made in connection with the reattribution of inherited estate are to be regarded as being of a capital nature.”
- (2) The amendment made by sub-paragraph (1) has effect in relation to amounts allocated on or after 22 April 2009 to holders of policies under which they are eligible to participate in surplus.

Limits on loss relief for addition to non-profit funds

- 3 (1) In ICTA, after section 434A insert—

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“434AZA Reduced loss relief for additions to non-profit funds

- (1) Where this section applies in the case of a company carrying on life assurance business, relief allowable under section 393A or Chapter 4 of Part 10 in respect of losses incurred by the company in the life assurance business in an accounting period is reduced in accordance with section 434AZB.
- (2) This section applies in the case of a company where—
 - (a) there has been a relevant addition to one or more non-profit funds in a period of account ending no later than the accounting period (“the relevant period of account”) (see subsection (3)),
 - (b) the company is not a non-profit company in relation to the relevant period of account and has not elected under subsection (9) of section 83YA of the Finance Act 1989 to be treated for the purposes of that section as if it were, and
 - (c) condition A or B is met,
 and, if the relevant period of account is not the period of account ending with the accounting period (“the current period of account”), condition C is also met.
- (3) For the purposes of subsection (2), there is a relevant addition to a non-profit fund in the relevant period of account if an amount is shown as a transfer from non-technical account in line 32 of the Form 58 of the non-profit fund in the periodical return for that period of account.
- (4) Condition A is that there is a relevant book value election in relation to assets of a non-profit fund of the company.
- (5) For the purposes of subsection (4), there is a relevant book value election in relation to assets of a non-profit fund if an amount is shown in relation to the non-profit fund as the excess of the value of net admissible assets in line 51 of the Form 14 of the non-profit fund in the periodical return for the current period of account.
- (6) Condition B is that the company is party to arrangements the main purpose, or one of the main purposes, of which is to reduce the relevant admissible value of assets of a non-profit fund of the company, other than any structural assets.
- (7) For the purposes of subsection (6) (and section 434AZB), the “relevant admissible value” means the value reflected in line 89 of Form 13 of the periodical return for the current period of account.
- (8) Condition C is that the surplus arising since the last valuation shown in line 34 of the Form 58 of the non-profit fund, or any of the non-profit funds, in relation to which condition A or B is met in the periodical return for the current period of account is a negative amount.

434AZB Additions to non-profit funds: amount of loss reduction

- (1) The amount of the relief allowable as mentioned in section 434AZA(1) is reduced by whichever of the following is the least—
 - (a) the amount of the loss,

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- (b) the amount specified in subsection (2), and
 - (c) the amount specified in subsection (4).
- (2) The amount mentioned in subsection (1)(b) is—
- (a) where only condition A in section 434AZA is met, the relevant amount relating to the non-profit fund in relation to which it is met or (where it is met in relation to more than one non-profit fund) the sum of the relevant amounts relating to them,
 - (b) where only condition B is met, the amount of the relevant reduction relating to the non-profit fund in relation to which it is met or (where it is met in relation to more than one non-profit fund) the sum of the relevant reductions relating to them, and
 - (c) where both condition A and condition B are met, the aggregate of the amounts in paragraphs (a) and (b).
- (3) In subsection (2)—
- (a) “relevant amount”, in relation to a non-profit fund, means the amount shown in relation to the non-profit fund as the excess of the value of net admissible assets in line 51 of the Form 14 of the non-profit fund in the periodical return for the current period of account (as reduced by any amount which has had effect to reduce relief for losses for a previous accounting period), and
 - (b) “relevant reduction”, in relation to a non-profit fund, means the reduction of the relevant admissible value of assets of the non-profit fund (other than structural assets) which is attributable to the arrangements (as so reduced).
- (4) The amount mentioned in subsection (1)(c) is—
- (a) if the relevant period of account is the current period of account, the amount referred to in section 434AZA(3) in the case of the non-profit fund, or of each of the non-profit funds, to which there has been a relevant addition in the relevant period of account, and
 - (b) otherwise, so much of the amount shown in line 31 of the Form 58 of the non-profit fund or non-profit funds in the periodical return for the current period of account as is attributable to the amount so referred to.

434AZC Sections 434AZA and 434AZB: supplementary

- (1) For the purposes of sections 434AZA and 434AZB, a non-profit fund required to support a with-profits fund is to be treated as not being a non-profit fund.
- (2) Sections 434AZA and 434AZB apply to a non-profit part of a with-profits fund as if references to something shown in the Form 14 or Form 58 of the non-profit fund in a periodical return were to what would be so shown if there were a Form 14 or Form 58 of the non-profit part of the with-profits fund in the periodical return.
- (3) In sections 434AZA and 434AZB—
 - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

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“structural assets” has the same meaning as in section 83XA of the Finance Act 1989 (see subsection (3) of that section and any regulations made under it).”

- (2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods ending on or after 22 April 2009 unless—
- (a) to the extent that section 434AZA would otherwise apply because condition A in that section is met in relation to a non-profit fund, the relevant addition to the non-profit fund was made before that date, or
 - (b) to the extent that section 434AZA would otherwise apply because condition B in that section is so met, the relevant addition to the non-profit fund and the arrangements were both made before that date.

FAFTS and contingent loans

- 4 (1) In paragraph 4(5) of Schedule 17 to FA 2008 (financing-arrangement-funded transfers: companies with unrepaid contingent loan liabilities before first period of account beginning on or after 1 January 2008), in the definition of “R”, after “(7)(a) of that section” insert “ in respect of amounts brought into account as transfers to non-technical account for periods of account beginning on or after 1 January 2008 ”.
- (2) The amendment made by sub-paragraph (1) has effect in relation to periods of account beginning on or after 1 January 2008.

Apportionment: foreign business assets

- 5 (1) Section 432E of ICTA (section 432B apportionment: participating funds) is amended as follows.
- (2) In subsection (3)(a), omit “and foreign business assets”.
- (3) In subsection (4), in the definition of “A”, omit “and foreign business assets”.
- (4) In subsection (4A), omit “or foreign business assets”.
- 6 In consequence of the amendments made by paragraph 5, omit—
- (a) paragraph 19(4)(a) and (6) of Schedule 7 to FA 2007, and
 - (b) paragraph 10(3)(c) of Schedule 17 to FA 2008.
- 7 (1) The amendments made by paragraphs 5 and 6 have effect in relation to periods of account beginning on or after 1 January 2009 and ending on or after 22 April 2009.
- (2) But an insurance company may, in its company tax return for—
- (a) an accounting period beginning on or after 1 January 2008 but before 1 January 2009, or
 - (b) an accounting period beginning on or after 1 January 2009 and ending before 22 April 2009,
- elect that the amendments made by paragraphs 5 and 6 have effect in relation to that accounting period.

Value shifting attributable to transfer of business

- 8 (1) In section 32(1) of TCGA 1992 (value shifting: disposals within group followed by disposal of shares), after “171(1)” insert “ or 211 ”.

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- (2) The amendment made by sub-paragraph (1) has effect for determining whether section 30 of TCGA 1992 has effect as respects a disposal on or after 22 April 2009.

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