



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XII

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

#### CHAPTER I

##### INSURANCE COMPANIES, UNDERWRITERS AND CAPITAL REDEMPTION BUSINESS

###### Modifications etc. (not altering text)

- C1** Definitions in Pt. XII Chapter I (ss. 431-458) applied by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 48, Sch. 7 paras. 16(7), **18**
- C2** [Pt. XII Chapter I \(ss. 431-458\)](#) applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), **ss. 212(7)(b)**, 289 (with ss. 60, 101(1), 171, 201(3))
- C3** [Pt. 12 Ch. 1](#) modified (s. 431AB treated as inserted) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), **reg. 7A** (as inserted (8.4.2004 with effect in accordance with reg. 1 of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), **reg. 7**)

###### *Insurance companies: general*

###### Modifications etc. (not altering text)

- C4** See 1989 ss.82-92 for changes made by Finance Act 1989 and 1990 ss.41-48 for changes made by Finance Act 1990.

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### **431 Interpretative provisions relating to insurance companies.**

(1)<sup>M1</sup>This section has effect for the interpretation of this Chapter.

(2)<sup>M2</sup>Unless the context otherwise requires—

“annuity business” means the business of granting annuities on human life [F1, other than the business of granting immediate needs annuities (within the meaning of section 580C)];

F2 .....

F2 .....

[F3F4 .....

F5 .....

[F6“basic life assurance and general annuity business” has the meaning given by section 431F;]

[F7“brought into account” has the meaning given by section 83A of the Finance Act 1989;]

“closing” and “opening”, in relation to a period of account, refer respectively to the position at the end and at the beginning of the period and, in relation to an accounting period, refer respectively to the position at the end and at the beginning of the period of account in which the accounting period falls;

“closing liabilities” includes liabilities assumed at the end of the period of account concerned in consequence of the declaration of reversionary bonuses or a reduction in premiums;

[F8“contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and “contract of long-term insurance” means any contract which falls within Part II of Schedule 1 to that Order;]

[F9F10 .....

F11 .....

[F12[F13“insurance business transfer scheme” means 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;

“insurance company” means—

- (a) a person (other than a friendly society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act or a firm qualifying for authorisation under Schedule 4 to that Act which—
  - (i) carries on business which consists of the effecting or carrying out of contracts of insurance, and
  - (ii) carries on that business through a branch or agency in the United Kingdom;]]

[F14“investment reserve”, in relation to an insurance company, means the excess of the value of the assets of the company’s long-term business over the aggregate of—

- (a) the value of the liabilities of that business, and

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(b) any money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) of the company not within paragraph (a) above which are owed in respect of that business;]

[<sup>F15F16</sup> .....

“liabilities”, in relation to an insurance company, means the [<sup>F17</sup>long-term liabilities of the company determined for the purposes of the company’s periodical return on actuarial principles in accordance with section 5.6 of the Prudential Sourcebook (Insurers) (excluding any that have been reinsured);]

“life assurance business” includes annuity business;

[<sup>F18</sup>“life reinsurance business” has the meaning given by section 431C;

[<sup>F19</sup>[<sup>F20</sup>“linked assets”, and related expressions, shall be construed in accordance with section 432ZA;]

[<sup>F21</sup>“long-term business” means business which consists of the effecting or carrying out of contracts of long-term insurance;]

“[<sup>F22</sup>long-term insurance fund]” means the fund maintained by an insurance company in respect of its [<sup>F23</sup>long-term] business <sup>F24</sup> . . . ;]

[<sup>F25</sup>“long-term liabilities” means liabilities of an insurance company arising under or in connection with contracts for long-term business (including liabilities arising from deposit back arrangements within the meaning given by section 11.1 of the Prudential Sourcebook (Insurers));]

<sup>F26</sup> .....

[<sup>F27F28</sup> .....

<sup>F29</sup> .....

[<sup>F30</sup>“overseas life assurance business” has the meaning given by section 431D;

“overseas life assurance fund” shall be construed in accordance with Schedule 19AA;]

“overseas life insurance company” means an insurance company [<sup>F31</sup>not resident in] the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom; <sup>F32</sup> . . .

[<sup>F33</sup>“pension business” has the meaning given by section 431B;

“periodical return”, in relation to an insurance company, means a return deposited with the [<sup>F34</sup>Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers)].

[<sup>F35</sup>“period of account” means the period covered by a periodical return;]

[<sup>F36</sup>“the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000 <sup>X1</sup>;]

<sup>F37</sup> .....

[<sup>F38</sup>“reinsurance business” includes retrocession business;

[<sup>F39F40</sup> .....

[<sup>F41</sup>“value”, in relation to assets of an insurance company, means the value of the assets as taken into account for the purposes of the company’s periodical return;

“with-profits liabilities” means liabilities in respect of policies or contracts under which the policy holders or annuitants are eligible to participate in surplus;]

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[ Subsections (2ZB) and (2ZC) below apply where an insurance business transfer<sup>F42</sup>(2ZA) scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).

(2ZB) If the transfer takes place otherwise than on the last day of a period of account of the transferor, references to—

- (a) opening liabilities of the transferor,
- (b) opening values or net values of assets of the transferor, or
- (c) the opening amount of the investment reserve of the transferor,

for the period of account, so far as relating to the business transferred, are to the part of those liabilities or values, or that reserve, which bears to the whole the proportion A/C.

(2ZC) If the transfer takes place otherwise than on the first day of a period of account of the transferee, references to—

- (a) closing liabilities of the transferee,
- (b) closing values or net values of assets of the transferee, or
- (c) the closing amount of the investment reserve of the transferee,

for the period of account, so far as relating to the business transferred, are to the part of those liabilities or values, or that reserve, which bears to the whole the proportion B/C.

(2ZD) For the purposes of subsection (2ZC) above—

- (a) closing liabilities of the transferee are to be taken not to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferor with the transferee, but
- (b) closing liabilities of the transferee are to be taken to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferee with the transferor if the business transferred consists of or includes that reinsurance business.

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

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

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

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

- <sup>F43</sup>(2A) [ <sup>F44</sup> ..... ]
- (3) <sup>F44</sup> .....
  - (4) <sup>F44</sup> .....
  - (5) <sup>F44</sup> .....
  - (6) <sup>F44</sup> .....|||]

**Editorial Information**

**X1** This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).

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### Textual Amendments

- F1** S. 431(2): words in definition of "annuity business" inserted (with effect in accordance with s. 147(4) (5) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 147\(2\)](#)
- F2** S. 431(2): definition of "general annuity business" and "pension business" repealed (with effect in accordance with Sch. 8 para. 57, Sch. 29 Pt. 8(5) Notes 2, 3 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#)
- F3** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F4** S. 431(2): definition of "basic life assurance business" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2
- F5** S. 431(2): definition of "basic life assurance and general annuity business" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2
- F6** S. 431(2): definition of "basic life assurance and general annuity business" inserted (with effect in accordance with [Sch. 8 para. 57](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 1](#)
- F7** S. 431(2): definition of "brought into account" inserted (with effect in accordance with [Sch. 33 para. 20\(3\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 20\(2\)](#)
- F8** S. 431(2): definition of "contract of insurance" inserted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 26\(2\)](#)
- F9** S. 431(2): definition of "foreign income dividends" inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 16 para. 4](#)
- F10** S. 431(2): definition of "foreign income dividends" repealed (with effect in accordance with Sch. 6 para. 5(2) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 6 para. 5\(1\)](#), [Sch. 8 Pt. 2\(11\)](#), Note
- F11** S. 431(2): definition of "industrial assurance business" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(26\)](#)
- F12** S. 431(2): definition of "insurance company" substituted (with effect in accordance with s. 52(5) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 52\(1\)](#)
- F13** S. 431(2): definitions of "insurance business transfer scheme" and "insurance company" substituted for definition of "insurance company" (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 26\(3\)](#)
- F14** S. 431(2): definition of "investment reserve" inserted (with effect in accordance with [Sch. 33 para. 28](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 25](#)
- F15** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F16** S. 431(2): definition of "investment reserve" repealed (with effect in accordance with s. 109(10) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), s. 109(9)(a), [Sch. 40 Pt. 2\(16\)](#), Note 1
- F17** S. 431(2): words in definition of "liabilities" substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 26\(4\)](#)
- F18** S. 431(2): definition of "life reinsurance business" inserted (with effect in accordance with [Sch. 8 para. 57](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 1](#)
- F19** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F20** S. 431(2): definition of "linked assets" substituted (with effect in accordance with [Sch. 8 para. 57](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 11\(1\)](#)
- F21** S. 431(2): definition of "long-term business" substituted for definition of "long term business" (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 26\(5\)](#)
- F22** S. 431(2): words in definition of "long term business fund" substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 52\(1\)\(b\)](#)

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- F23** S. 431(2): word in definition of "long term business fund" substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 52\(2\)\(a\)](#)
- F24** S. 431(2): words in definition of "long term business fund" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(26\)](#)
- F25** S. 431(2): definition of "long-term liabilities" inserted (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 26\(6\)](#)
- F26** S. 431(2): definition of "offshore income gain" repealed (with effect in accordance with Sch. 8 para. 55 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 1
- F27** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F28** S. 431(2): definition of "ordinary long term business" and "ordinary life assurance business" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(26\)](#)
- F29** S. 431(2): definition of "overseas life assurance business" repealed (with effect in accordance with Sch. 8 para. 55 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 1
- F30** S. 431(2): definition of "overseas life assurance business" inserted (with effect in accordance with Sch. 8 para. 55 of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 1](#)
- F31** S. 431(2): words in the definition of "overseas life insurance company" substituted (27.7.1993 as mentioned in s. 103(3)(4) of the amending Act) by [1993 c. 34, s. 103\(1\)\(3\)\(4\)](#)
- F32** S. 431(2): word following the definition of "overseas life assurance company" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2
- F33** S. 431(2): definition of "pension business" inserted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 1](#)
- F34** S. 431(2): words in definition of "periodical return" substituted (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 26\(7\)](#)
- F35** S. 431(2): definition of "period of account" inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 29](#)
- F36** S. 431(2): definition of "the Prudential Sourcebook (Insurers)" inserted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 26\(8\)](#)
- F37** S. 431(2): definition of "policy holders' fraction" and "shareholders' fraction" inserted by [Finance Act 1989 \(c. 26\)](#), [Sch.8 para.1](#) and repealed (retrospectively) by [Finance Act 1990 \(c. 29\)](#), [Sch.19 Part IV](#), Note 6
- F38** S. 431(2): definition of "reinsurance business" inserted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 1](#)
- F39** S. 431(2): definition of "UK distribution income" inserted (27.7.1993 with effect in relation to accounting periods beginning after 31.12.1992) by [1993 c. 34, s. 99\(2\)\(3\)](#)
- F40** S. 431(2): definition of "UK distribution income" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2
- F41** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F42** S. 431(2ZA)-(2ZE) inserted (with effect in accordance with Sch. 33 para. 22(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 22\(1\)](#)
- F43** S. 431(2A) inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(3\)](#)
- F44** S. 431(2A)-(6) repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2

**Modifications etc. (not altering text)**

- C5** S. 431(2) modified (31.7.1992 with effect as mentioned in reg. 1 of the modifying S.I.) by [S.I. 1992/1655, regs. 1, 5](#) (as amended (31.12.1993) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 1993 \(S.I. 1993/3111\)](#), [regs. 1, 5, 6](#); and as

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- further amended (19.3.1997) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 1997 \(S.I. 1997/471\)](#), **regs. 1, 6**)
- C6** S. 431 modified (20.3.1997 with effect as mentioned in reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), **regs. 1(1), 6** (as amended by: [S.I. 2001/3629](#), **regs. 1, 156, 165(2)(b)**; [S.I. 2003/23](#), **regs. 1, 4**; [S.I. 2004/822](#), **regs. 1, 6**; [S.I. 2005/2005](#), **regs. 1, 5**)
- C7** S. 431(2) modified (20.3.1997 with effect as mentioned in reg. 7(1) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), **regs. 1(1), 7**
- C8** S. 431(2) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), **regs. 1, 5, 7**
- C9** S. 431(2) modified (23.3.1999 with effect in accordance with reg. 1 of the modifying S.I.) by [The Insurance Companies \(Capital Redemption Business\) \(Modification of the Corporation Tax Acts\) Regulations 1999 \(S.I. 1999/498\)](#), **regs. 3, 5**

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- M1** Source—1970 s.323(1); 1973 s.40(7); 1982 s.58(7)  
**M2** Source—1970 s.323(2); 1970(F) Sch.5 Pt.III 11(4)

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#### [<sup>F45</sup>431ZElection that assets not be foreign business assets

- (1) An insurance company may, in its company tax return for the first accounting period of the company beginning on or after 1 January 2008 in which any of the assets of the company's long-term insurance fund would (apart from this section) be foreign business assets, elect that none of the assets of the company's long-term insurance fund are to be regarded for the purposes of this Act as being foreign business assets.
- (2) The election has effect for that accounting period and all subsequent accounting periods of the company.
- (3) An election under subsection (1) is irrevocable.]

#### Textual Amendments

- F45** S. 431ZA inserted (with effect in accordance with [Sch. 17 para. 10\(6\)\(7\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 17 para. 10(2)**

#### [<sup>F46</sup>431AAmendment of Chapter etc.

Where it is expedient to do so in consequence of the exercise of any power under the [<sup>F47</sup>Financial Services and Markets Act 2000, in so far as that Act relates to insurance companies,] the Treasury may by order amend the provisions of this Chapter and any other provision of the Tax Acts so far as relating to insurance companies.]

#### Textual Amendments

- F46** S. 431A inserted (1.1.1990) by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 paras. 2, 11\(2\)](#) (with [Sch. 6 para. 12](#))

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**F47** Words in s. 431A substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 27](#)

[<sup>F48</sup>**431A Relevant benefits for purposes of section 431(4)(d) and (e).**

<sup>F49</sup> .....

**Textual Amendments**

**F48** S. 431AA inserted (with application in accordance with s. 143(5) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 143\(4\)](#)

**F49** S. 431AA repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2

*[<sup>F50</sup>Classes of life assurance business]*

**Textual Amendments**

**F50** Ss. 431B-431F and cross-heading inserted (with effect in accordance with Sch. 8 paras. 55, 57 of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 2](#)

**431B Meaning of “pension business”.**

- (1) In this Chapter “pension business” means so much of a company’s life assurance business as is referable to contracts of the following descriptions or to the reinsurance of liabilities under such contracts.
- (2) The descriptions of contracts are—
  - (a) any contract with an individual who is, or would but for an insufficiency of profits or gains be, chargeable to income tax in respect of relevant earnings (as defined in section 623(1) and (2)) from a trade, profession, vocation, office or employment carried on or held by him, being a contract approved by the Board under section 620 or a substituted contract within the meaning of section 622(3);
  - (b) any contract (including a contract of insurance) entered into for the purposes of, and made with the persons having the management of, an exempt approved scheme as defined in Chapter I of Part XIV, being a contract so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme;
  - (c) any contract made under approved personal pension arrangements within the meaning of Chapter IV of Part XIV;
  - (d) any annuity contract entered into for the purposes of—
    - (i) a scheme which is approved or is being considered for approval under Chapter I of Part XIV;
    - (ii) a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV; or
    - (iii) a fund to which section 608 applies,



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- being a contract which is made with the persons having the management of the scheme or fund, or those persons and a member of or contributor to the scheme or fund, and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;
- (e) any annuity contract which is entered into in substitution for a contract within paragraph (d) above [<sup>F51</sup>or this paragraph] and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;
- [<sup>F52</sup>(ea) any contract which is entered into, for purposes connected with giving effect to any pension sharing order or provision made in relation to a contract falling within paragraph (d) or (e) above or this paragraph and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;]
- (f) any contract with the trustees or other persons having the management of a scheme approved under section 620 or, subject to subsection (5) below, of a superannuation fund which was approved under section 208 of the 1970 Act, being a contract which—
- (i) was entered into for the purposes only of that scheme or fund or, in the case of a fund part only of which was approved under section 208, for the purposes only of that part of that fund, and
  - (ii) (in the case of a contract entered into or varied after 1st August 1956) is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme or fund (or the relevant part of the fund).
- [<sup>F53</sup>(2A) For the purposes of subsection (2)(d) above the members of and contributors to a scheme or fund shall be deemed to include any person who by virtue of any pension sharing order or provision (within the meaning of Part XIV) has become entitled to any credit as against the persons having the management of the scheme or fund.]
- (3) For the purposes of [<sup>F54</sup>subsection (2)(d) to (ea)] above “relevant benefits” means relevant benefits as defined by section 612(1) which correspond—
- (a) where subsection (2)(d)(i) above applies, or subsection (2)(e) [<sup>F55</sup>or (ea)] above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(i), with benefits that could be provided by a scheme approved under Chapter I of Part XIV;
  - (b) where subsection (2)(d)(ii) above applies, or subsection (2)(e) [<sup>F55</sup>or (ea)] above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(ii), with benefits that could be provided by a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV;
  - (c) where subsection (2)(d)(iii) above applies, or subsection (2)(e) [<sup>F55</sup>or (ea)] above applies and the contract within subsection (2)(d) was entered into for the purposes of a fund falling within subsection (2)(d)(iii), with benefits that could be provided by a fund to which section 608 applies.
- (4) For the purposes of subsection (3)(a), (b) or (c) above a hypothetical scheme or fund (rather than any particular scheme or fund), and benefits provided by a scheme or fund directly (rather than by means of an annuity contract), shall be taken.
- (5) Subsection (2)(f) above shall not apply to a contract where the fund in question was approved under section 208 of the 1970 Act unless—

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- (a) immediately before 6th April 1980 premiums paid under the contract with the trustees or other persons having the management of the fund fell within section 323(4) of that Act (premiums referable to pension business); and
  - (b) the terms on which benefits are payable from the fund have not been altered since that time; and
  - (c) section 608 applies to the fund.
- (6) In subsection (5) above “premium” includes any consideration for an annuity.

#### Textual Amendments

- F51** Words in s. 431B(2)(e) inserted (27.7.1999) by Finance Act 1999 (c. 16), **Sch. 10 para. 1(2)(a)**
- F52** S. 431B(2)(ea) inserted (27.7.1999) by Finance Act 1999 (c. 16), **Sch. 10 para. 1(2)(b)**
- F53** S. 431B(2A) inserted (27.7.1999) by Finance Act 1999 (c. 16), **Sch. 10 para. 1(3)**
- F54** Words in s. 431B(3) substituted (27.7.1999) by Finance Act 1999 (c. 16), **Sch. 10 para. 1(4)(a)**
- F55** Words in s. 431B(3) inserted (27.7.1999) by Finance Act 1999 (c. 16), **Sch. 10 para. 1(4)(b)**

#### Modifications etc. (not altering text)

- C10** S. 431B modified (23.3.1999 with effect in accordance with reg. 1 of the modifying S.I.) by The Insurance Companies (Capital Redemption Business) (Modification of the Corporation Tax Acts) Regulations 1999 (S.I. 1999/498), **regs. 3, 6**
- C11** S. 431B(2) modified (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 36 para. 2(7)** (with s. 283(4)(5))

VALID FROM 19/07/2007

#### [<sup>F56</sup>431B] 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).
- (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).]

#### Textual Amendments

- F56** Ss. 431BA, 431BB inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 8** (with Sch. 7 Pt. 2)

VALID FROM 19/07/2007

#### [<sup>F56</sup>431B] 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).

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- (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.]

#### Textual Amendments

- F56** Ss. 431BA, 431BB inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 8 (with Sch. 7 Pt. 2)

#### 431C Meaning of “life reinsurance business”.

- (1) In this Chapter “life reinsurance business” means reinsurance of life assurance business other than pension business or business of any description excluded from this section by regulations made by the Board.
- (2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

#### Modifications etc. (not altering text)

- C12** S. 431C modified (with effect in accordance with reg. 1 of the affecting S.I.) by The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730), reg. 11 (as amended by: S.I. 1996/1621, regs. 1, 5; S.I. 2003/2573, regs. 1(1)(2), 10; S.I. 2007/2087, regs. 1(1)(2), 6)
- C13** S. 431C(1) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), regs. 1, 5, 8
- C14** S. 431C(1) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), regs. 1, 4, 6; S.I. 2004/3369, art. 2(1)

#### 431D Meaning of “overseas life assurance business”.

- (1) In this Chapter “overseas life assurance business” means life assurance business, other than pension business [<sup>F57</sup>, life reinsurance business or business of any description excluded from this section by regulations made by the Board], which—
- (a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and
- (b) in the case of reinsurance business, is—
- (i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or
- (ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph.

[<sup>F58</sup>(2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

- (3) The Board may by regulations—
- (a) make provision as to the circumstances in which a trustee who is a policy holder or annuitant residing in the United Kingdom is to be treated for the purposes of this section as not so residing; and

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- (b) provide that nothing in Chapter II of Part XIII shall apply to a policy or contract which constitutes overseas life assurance business by virtue of any such provision as is mentioned in paragraph (a) above.
- (4) Regulations under subsection (1) or (3) above may contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.]

#### Textual Amendments

- F57** Words in s. 431D(1) substituted (28.7.2000) by Finance Act 2000 (c. 17), s. 108(1) (with s. 108(3))
- F58** S. 431D(2)-(4) substituted for s. 431D(2)-(8) (28.7.2000) by Finance Act 2000 (c. 17), s. 108(2) (with s. 108(3))

#### Modifications etc. (not altering text)

- C15** S. 431D(1) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), regs. 1, 5, 8

### 431E Overseas life assurance business: regulations.

- (1) The Board may by regulations make provision for giving effect to section 431D.
- (2) Such regulations may, in particular—
  - (a) provide that, in such circumstances as may be prescribed, any prescribed issue as to whether business is or is not overseas life assurance business (or overseas life assurance business of a particular kind) shall be determined by reference to such matters (including the giving of certificates or undertakings, the giving or possession of information or the making of declarations) as may be prescribed,
  - (b) require companies to obtain certificates, undertakings, information or declarations from policy holders or annuitants, or from trustees or other companies, for the purposes of the regulations,
  - (c) make provision for dealing with cases where any issue such as is mentioned in paragraph (a) above is (for any reason) wrongly determined, including provision allowing for the imposition of charges to tax (with or without limits on time) on the insurance company concerned or on the policy holders or annuitants concerned,
  - (d) require companies to supply information and make available books, documents and other records for inspection on behalf of the Board, and
  - (e) make provision (including provision imposing penalties) for contravention of, or non-compliance with, the regulations.
- (3) The regulations may—
  - (a) make different provision for different cases, and
  - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

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### [<sup>F59</sup>431E 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.]

#### Textual Amendments

- F59** S. 431EA inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 10 (with Sch. 7 Pt. 2)

### 431F Meaning of “basic life assurance and general annuity business”.

In this Chapter “basic life assurance and general annuity business” means life assurance business (including reinsurance business) other than pension business, life reinsurance business or overseas life assurance business.

#### Modifications etc. (not altering text)

- C16** S. 431F modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), regs. 1, 5, 9
- C17** S. 431F modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), regs. 1, 4, 7; S.I. 2004/3369, art. 2(1)

[<sup>F60</sup>Separation of different categories of business]

#### Textual Amendments

- F60** Cross-heading before s. 432 inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 51(2) (with Sch. 8 para. 55(2))

VALID FROM 19/07/2007

### [<sup>F61</sup>431G Company carrying on life assurance business

- (1) This section applies in relation to an insurance company which carries on life assurance business (whether or not it also carries on insurance business of any other kind).

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- (2) Subject as follows, the profits of the life assurance business for any accounting period shall be charged to tax under the I minus E basis.
- (3) Where in the case of an insurance company for an accounting period either—
  - (a) all of its life assurance business is reinsurance business and none of that business is of a type excluded from this subsection by regulations made by the Board, or
  - (b) all, or substantially all, of its life assurance business is gross roll-up business, the profits of that business for the accounting period shall be charged to tax in accordance with Case I of Schedule D and not otherwise.
- (4) Where—
  - (a) the profits of the life assurance business of an insurance company for any accounting period are charged to tax under the I minus E basis, and
  - (b) had those profits been charged to tax in accordance with Case I of Schedule D, a loss would have arisen to the company from that business for the period, the loss (after being reduced in accordance with section 434A(2)(a)) may be set-off under section 393A or section 403(1).
- (5) The application, in relation to the life assurance business of an insurance company, of any provision of Case I of Schedule D is not to be taken—
  - (a) to prevent the application of the I minus E basis in relation to that business of the company for any accounting period, or
  - (b) to affect the operation of the I minus E basis in relation to the that business of the company for any accounting period except as specifically provided by the Corporation Tax Acts.]

#### Textual Amendments

**F61** Ss. 431G, 431H and preceding cross-heading substituted for s. 432 and preceding cross-heading (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 4](#) (with [Sch. 8 Pt. 2](#))

#### Modifications etc. (not altering text)

**C18** S. 431G modified by [The Insurance Companies \(Taxation of Reinsurance Business\) Regulations 1995 \(S.I. 1995/1730\)](#), [reg. 12](#) (as amended (13.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Insurance Companies \(Taxation of Reinsurance Business\) \(Amendment\) Regulations 2007 \(S.I. 2007/2087\)](#), [regs. 1\(1\), 8](#))

VALID FROM 19/07/2007

#### <sup>F62</sup> 431H Company carrying on life assurance business and other insurance business

- (1) This section applies in relation to an insurance company which carries on life assurance business and insurance business of any other kind.
- (2) For the purposes of the Corporation Tax Acts—
  - (a) the life assurance business, and
  - (b) the other insurance business,

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are to be treated as separate businesses.

- (3) The profits of the other insurance business shall be charged to tax under Case I of Schedule D as the profits of a separate trade.
- (4) But subsection (3) above does not apply where that business is mutual business.
- (5) As to the profits of the life assurance business, see section 431G.]

#### Textual Amendments

- F62** Ss. 431G, 431H and preceding cross-heading substituted for s. 432 and preceding cross-heading (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 4** (with Sch. 8 Pt. 2)

#### Modifications etc. (not altering text)

- C19** S. 431H modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **reg. 7A** (as inserted (14.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2007 (S.I. 2007/2134), **regs. 1(1), 7**; and as amended by S.I. 2008/1937, **regs. 1(1)(2), 5**)

### 432 Separation of different [<sup>F63</sup>categories] of business.

- (1) <sup>M3</sup>Where an insurance company carries on life assurance business in conjunction with insurance business of any other [<sup>F64</sup>category], the life assurance business shall, for the purposes of the Corporation Tax Acts, be treated as a separate business from any other [<sup>F64</sup>category] of business carried on by the company.
- (2) <sup>F65</sup> .....

#### Textual Amendments

- F63** S. 432: word in sidenote substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 51(3)** (with Sch. 8 para. 55(2))
- F64** Words in s. 432 substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 12(3)** (with Sch. 8 para. 55(2))
- F65** S. 432(2) repealed (with effect in accordance with s. 167(10), Sch. 41 Pt. 5(26) Note of the repealing Act) by Finance Act 1996 (c. 8), s. 167(1), **Sch. 41 Pt. 5(26)**

#### Modifications etc. (not altering text)

- C20** S. 432 modified (20.3.1997 with effect in accordance with reg. 8(1) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 8(2)**
- C21** S. 432 modified (12.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 8** (and that modifying reg. 8 is omitted by virtue of S.I. 2007/2134, **regs. 1(1)(2), 8**)

#### Marginal Citations

- M3** Source—1970 s.307

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VALID FROM 08/01/2007

**[F66] 432YA Long-term business other than life assurance business — adjustment consequent on change in Insurance Prudential Sourcebook**

- (1) This section applies in the case of—
  - (a) a company which is a non-profit company, or
  - (b) the non-profit fund of a company which is not a non-profit company,
 if an amount (other than nil) is shown in paragraph 4(12) of Appendix 9.4 to the periodical return for the company for the first period of account which ends on or after 31st December 2006.
- (2) In computing profits of long-term business which is not life assurance business in accordance with the provisions applicable to Case I of Schedule D an amount (“the relevant amount”) shall be added—
  - (a) to the closing long term business provision of the company for the first period of account which ends on or after 31st December 2006, and
  - (b) to the opening long term business provision of the company for the next period of account.
- (3) The relevant amount is, subject to subsection (4), the amount by which B exceeds A. Here—
 

A is the company's long term business provision in respect of business which is not life assurance business for the first period of account which ends on or after 31st December 2006, calculated after taking into account the company's ability to—

  - (a) make provision for non-attributable expenses by reference to a homogeneous risk group instead of by reference to individual policies or contracts;
  - (b) make provision for the voluntary discontinuance of policies or contracts using a prudent lapse rate assumption; and
  - (c) set negative liabilities against positive liabilities (subject to overall liabilities not being less than nil);

in accordance with the Insurance Prudential Sourcebook; and

B is the company's long term business provision for that period of account in respect of business which is not life assurance business, calculated without taking into account the matters referred to in paragraphs (a) to (c) of the definition of A.
- (4) In a case falling within subsection (1)(b)—
  - (a) the relevant amount shall be reduced (but not below nil) by so much (if any) of the amount shown in paragraph 4(12) of Appendix 9.4 to the periodical return as is reflected in column 1 of line 51 of the Form 14 for that period of account relating to the non-profit fund in question; and
  - (b) the references in subsection (3) to long term business provision and to liabilities are respectively to long term business provision and to liabilities relating to the non-profit fund in question.
- (5) In this section—



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“long term business provision” has the same meaning as in Schedule 9A to the Companies Act 1985;

“non-profit company” has the meaning given in section 83YA(8) of the Finance Act 1989; and

“non-profit fund” has the same meaning as in the Insurance Prudential Sourcebook.]

### Textual Amendments

**F66** S. 432YA inserted (8.1.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment No. 2\) Order 2006 \(S.I. 2006/3387\)](#), **arts. 1(1), 2**

### [<sup>F67</sup>432Z] **Linked assets.**

- (1) In this Chapter “linked assets” means assets of an insurance company which are identified in its records as assets by reference to the value of which benefits provided for under a policy or contract are to be determined.
- (2) Linked assets shall be taken—
  - (a) to be linked to [<sup>F68</sup>long-term] business of a particular category if the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category; and
  - (b) to be linked solely to [<sup>F68</sup>long-term] business of a particular category if all (or all but an insignificant proportion) of the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category.
- (3) Where an asset is linked to more than one category of [<sup>F68</sup>long-term] business, a part of the asset shall be taken to be linked to each category; and references in this Chapter to assets linked (but not solely linked) to any category of business shall be construed accordingly.
- (4) Where subsection (3) above applies, the part of the asset linked to any category of business shall be a proportion determined as follows—
  - (a) where in the records of the company values are shown for the asset in funds referable to particular categories of business, the proportion shall be determined by reference to those values;
  - (b) in any other case the proportion shall be equal to [<sup>F69</sup>the proportion A/B where—
 

A is the total of the linked liabilities of the company which are liabilities of the internal linked fund in which the asset is held and are referable to that category of business;

B is the total of the linked liabilities of the company which are liabilities of that fund.]
- (5) For the purposes of sections 432A to 432F—
  - (a) income arising in any period from assets linked but not solely linked to a category of business,

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- (b) gains arising in any period from the disposal of such assets, and
- (c) increases and decreases in the value of such assets,

shall be treated as arising to that category of business in the proportion which is the mean of the proportions determined under subsection (4) above at the beginning and end of the period.

[<sup>F70</sup>(6) In this section—

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

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

“linked liabilities” means liabilities in respect of benefits to be determined by reference to the value of linked assets.]

- (7) In the case of a policy or contract the effecting of which constitutes a class of life assurance business the fact that it also constitutes [<sup>F68</sup>long-term] business other than life assurance business shall be disregarded for the purposes of this section unless the benefits to be provided which constitute [<sup>F68</sup>long-term] business other than life assurance business are to be determined by reference to the value of assets.]

#### Textual Amendments

- F67** S. 432ZA inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 11(2) (with Sch. 8 para. 55(2))
- F68** Words in s. 432ZA(2)(a)(b)(3)(7) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 52(2)(b)
- F69** Words in s. 432ZA(4)(b) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(1)
- F70** S. 432ZA(6) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(2)

#### [<sup>F71</sup>432A Apportionment of income and gains.

[<sup>F72</sup>(1) This section has effect [<sup>F73</sup>for determining for the purposes of any provision of the Corporation Tax Acts in relation to any period for which an insurance company carries on business] what parts of—

- (a) income arising from the assets of the company’s [<sup>F74</sup>long-term insurance fund], or
  - (b) gains or losses accruing on the disposal of such assets,
- are referable to any category of business.

[<sup>F75</sup>(1A) If the company carries on only one category of business in the period, all of the income and gains or losses referred to in subsection (1) above shall be referable to that category of business; but if the company carries on more than one category of business in the period, the following provisions shall apply.]

- (2) The categories of business referred to in [<sup>F76</sup>subsections (1) and (1A)] above are—
- (a) pension business;
  - (b) life reinsurance business;

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- (c) overseas life assurance business;
  - [<sup>F77</sup>(d) basic life assurance and general annuity business; and]
  - (f) [<sup>F78</sup>long-term] business other than life assurance business.
- (3) Income arising from, and gains or losses accruing on the disposal of, assets linked to any category of business (apart from overseas life assurance business) shall be referable to that category of business.]
- (4) Income arising from, and gains or losses accruing on the disposal of, assets of the overseas life assurance fund (and no other assets) shall be referable to overseas life assurance business.
- (5) There shall be referable to any category of business (apart from overseas life assurance business) the relevant fraction of any income, gains or losses not directly referable to [<sup>F79</sup>any category] of business.
- (6) For the purposes of subsection (5) above “the relevant fraction”, in relation to a category of business, is the fraction of which—
- (a) the numerator is the aggregate of—
    - (i) the mean of the opening and closing liabilities of the category, reduced [<sup>F80</sup>(but not below nil)] by the mean of the opening and closing [<sup>F81</sup>net values] of any assets directly referable to the category, and
    - (ii) the mean of the appropriate parts of the opening and closing amounts of the investment reserve; and
  - [<sup>F82</sup>(b) the denominator is the aggregate of—
    - (i) the numerator given by paragraph (a) above; and
    - (ii) the numerators given by that paragraph in relation to the other categories of business.]
- [<sup>F83</sup>(7) For the purposes of subsections (5) and (6) above—
- (a) income, gains or losses are directly referable to a category of business if referable to that category by virtue of subsection (3) or (4) above, and
  - (b) assets are directly referable to a category of business if income arising from the assets is, and gains or losses accruing on the disposal of the assets are, so referable by virtue of subsection (3) above.]

[<sup>F84</sup>(8) In subsection (6) above “appropriate part”, in relation to the investment reserve, means—

    - (a) where none (or none but an insignificant proportion) of the liabilities of the [<sup>F78</sup>long-term] business are with-profits liabilities, the part of that reserve which bears to the whole the proportion A/B where—
 

A is the amount of the liabilities of the category of business in question;

B is the whole amount of the liabilities of the [<sup>F78</sup>long-term] business; and
    - (b) in any other case, the part of that reserve which bears to the whole the proportion C/D where—
 

C is the amount of the with-profits liabilities of the category of business in question;

D is the whole amount of the with-profits liabilities of the [<sup>F78</sup>long-term] business.]

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- [<sup>F85</sup>(9) Where a company carries on overseas life assurance business—
- (a) references in this section to liabilities do not include liabilities of that business, and
  - (b) the appropriate part of the investment reserve as defined by paragraph 4(2)(a) of Schedule 19AA shall be left out of account in determining that reserve for the purposes of this section.]

[ In this section and sections 432C and 432D “net value”, in relation to any assets,  
<sup>F86</sup>(9A) means the excess of the value of the assets over [<sup>F87</sup>the value of money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) attributable to an internal linked fund which are not owed in respect of long-term liabilities.]

(9B) <sup>F88</sup> . . . . . ]

<sup>F89</sup>(10) . . . . . ]

#### Textual Amendments

- F71** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F72** S. 432A(1)-(3) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 13(2)**
- F73** Words in s. 432A(1) substituted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(2)**
- F74** Words in s. 432A(1)(a)(9B) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(c)**
- F75** S. 432A(1A) inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(3)**
- F76** Words in s. 432A(2) substituted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(4)**
- F77** S. 432A(2)(d) substituted for s. 432A(2)(d)(e) (with effect in accordance with s. 167(10) of the amending Act) by Finance Act 1996 (c. 8), **s. 167(2)**
- F78** Words in s. 432A(2)(f)(8)(a)(b)(9B) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(2)(c)**
- F79** Words in s. 432A(5)(6)(b)(i) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 13(3)** (with Sch. 8 para. 55(2))
- F80** Words in s. 432A(6)(a) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(a)(4)(a)**
- F81** Words in s. 432A(6)(a) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(a)(4)(a)**
- F82** S. 432A(6)(b) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(b)(4)(a)**
- F83** S. 432A(7) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 13(4)** (with Sch. 8 para. 55(2))
- F84** S. 432A(8) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(5)**
- F85** S. 432A(9) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 13(5)** (with Sch. 8 para. 55(2))
- F86** S. 432A(9A)(9B) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(6)**
- F87** Words in s. 432A(9A) substituted (with effect in accordance with Sch. 33 para. 28 of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 26**
- F88** S. 432A(9B) repealed (with effect in accordance with Sch. 43 Pt. 3(12), Note 1 of the repealing Act) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 3(12)**

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**F89** S. 432A(10) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, ss. 91(2)(a), 213, **Sch. 23 Pt.III** (8), Note

#### Modifications etc. (not altering text)

- C22** S. 432A modified (3.5.1994) by Finance Act 1994, (c. 9), s. 169, Sch. 18 para 1(4)
- C23** S. 432A modified by S.I. 1992/1655, **regs. 6-8** (as amended (31.12.1993) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1, 5, 7**; and as further amended (10.8.1995) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1995 (S.I. 1995/1916), **regs. 1, 5**)
- C24** S. 432A applied (with effect in accordance with s. 105(1) of the affecting Act) by Finance Act 1996 (c. 8), **Sch. 11 para. 3** (with Sch. 15)
- C25** S. 432A applied (19.3.1997) by Finance Act 1997 (c. 16), **Sch. 12 para 19**
- C26** S. 432A modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 9, 13** (as amended by: S.I. 2000/2710, **regs. 1, 4**; S.I. 2001/3629, **arts. 1, 157, 165**; S.I. 2001/3975, **regs. 1, 4**; S.I. 2003/23, **regs. 1, 5, 6**; S.I. 2004/822, **regs. 1, 8, 9**; S.I. 2005/2005, **regs. 1, 6**)
- C27** S. 432A modified by Finance Act 1996 (c. 8), **Sch. 11 para. 3A(5)** (as inserted (with effect in accordance with s. 109(10) of the 2000 amending Act) by Finance Act 2000 (c. 17), **s. 109(8)**)
- C28** S. 432A applied (with effect in accordance with Sch. 29 Pt. 14 of the affecting Act) by Finance Act 2002 (c. 23), **Sch. 29 para. 138(2)(3)**
- C29** S. 432A(2) modified (with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 10-12**
- C30** S. 432A(2) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 10**
- C31** S. 432A(2) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 8**; S.I. 2004/3369, **art. 2(1)**

#### [<sup>F90</sup>432A] Schedule A business or overseas property business.

- (1) An insurance company is treated as carrying on separate Schedule A businesses, or overseas property businesses, in accordance with the following rules.
- (2) The exploitation of land held as an asset of the company's [<sup>F91</sup>long-term insurance fund] is treated as a separate business from the exploitation of land not so held.
- (3) The exploitation of land held as an asset of the company's overseas life assurance fund is treated as a separate business from the exploitation of other land held as an asset of its [<sup>F91</sup>long-term insurance fund].
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
  - (a) pension business;
  - (b) life reinsurance business;
  - (c) basic life assurance and general annuity business;
  - (d) [<sup>F92</sup>long-term] business other than life assurance business.
- (5) Accordingly, the exploitation of land held as an asset of the company's [<sup>F91</sup>long-term insurance fund] otherwise than as mentioned in subsection (3) or (4) is treated as a separate business from any other.
- (6) In this section “land” means any estate, interest or rights in or over land.]

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### Textual Amendments

- F90** Ss. 432AA, 432AB inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 5 para 39** (with Sch. 5 para. 73)
- F91** Words in s. 432AA(2)(3)(5) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by **The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 52(1)(d)**
- F92** Word in s 432AA(4)(d) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by **The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 52(2)(d)**

### Modifications etc. (not altering text)

- C32** S. 432AA modified by **The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), reg. 13A** (as inserted (13.10.1999) by **The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1999 (S.I. 1999/2636), regs. 1, 3**)
- C33** S. 432AA modified (12.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by **The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), regs. 1(1), 10** (as amended by: S.I. 2007/2134, **regs. 1(1)(2), 11**; S.I. 2008/1937, **regs. 1(1)(2), 8**)
- C34** S. 432AA(4) modified (6.4.1999) by **The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), regs. 1, 5, 11**
- C35** S. 432AA(4) modified (6.4.2005) by **The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), regs. 1, 4, 9; S.I. 2004/3369, art. 2(1)**

### [<sup>F90</sup> 432A] **Bosses from Schedule A business or overseas property business.**

- (1) This section applies to any loss arising in a Schedule A business or overseas property business.
- (2) A loss arising from any category of business mentioned in section 432A(2) shall be apportioned under that section in the same way as income.
- [<sup>F93</sup>(3) So far as a loss is referable to basic life assurance and general annuity business, it shall be treated for the purposes of section 76 as expenses payable which fall to be brought into account at Step 3 in subsection (7) of that section.]
- (4) Where a company is treated under section 432AA as carrying on—
  - (a) more than one Schedule A business, or
  - (b) more than one overseas property business,
 then, in relation to either kind of business, the reference in subsection (3) above to a loss referable to basic life assurance and general annuity business shall be construed as a reference to any aggregate net loss after setting the losses from those businesses which are so referable against any profits from those businesses that are so referable.
- (5) The provisions of section 392A or 392B (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.
- (6) Where a company is treated under section 432AA as carrying on—
  - (a) more than one Schedule A business, or
  - (b) more than one overseas property business,
 and, in relation to either kind of business, there are losses and profits referable to business which is not life assurance business, those losses shall be set against those profits before being used under section 392A or 392B.]

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### Textual Amendments

- F90** Ss. 432AA, 432AB inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 5 para 39** (with Sch. 5 para. 73)
- F93** S. 432AB(3) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 17(2)

### Modifications etc. (not altering text)

- C36** S. 432AB modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **reg. 13B** (as inserted (13.10.1999) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1999 (S.I. 1999/2636), **regs. 1, 3**)
- C37** S. 432AB modified (12.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 11**

### [<sup>F94</sup> 432B Apportionment of receipts brought into account.

- (1) This section and [<sup>F95</sup>sections 432C to 432F] have effect where it is necessary in accordance with section 83 of the Finance Act 1989 to determine what parts of any items [<sup>F96</sup>brought into account, within the meaning of that section,] are referable to life assurance business or any class of life assurance business.
- [<sup>F97</sup>(2) Where for that purpose reference falls to be made to more than one account recognised for the purposes of that section, the provisions of sections 432C to 432F apply separately in relation to each account.]
- (3) Sections 432C and 432D apply where the business with which an account is concerned (“the relevant business”) relates exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus; and [<sup>F98</sup>sections 432E and 432F apply] where the relevant business relates wholly or partly to other policies or contracts. ]

### Textual Amendments

- F94** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F95** Words in s. 432B(1)(2) substituted (with effect in accordance with Sch. 8 para. 53(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 17(1)(a)** (with Sch. 8 para. 55(2))
- F96** Words in s. 432B(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 16(2)(a)** (with Sch. 8 para. 55(2))
- F97** S. 432B(2) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 16(2)(b)** (with Sch. 8 para. 55(2))
- F98** Words in s. 432B(3) substituted (with effect in accordance with Sch. 8 para. 53(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 17(1)(b)** (with Sch. 8 para. 55(2))

### Modifications etc. (not altering text)

- C38** S. 432B modified by S.I. 1992/1655, **reg. 9** (as amended (31.12.1993) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1, 8**)
- C39** Ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S. I. 1992/1655, **regs. 1, 10**

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**C40** S. 432B modified (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1992/1655, regs. 1, 9(1)

**[<sup>F99</sup>432C Section 432B apportionment: income of non-participating funds.**

- (1) To the extent that the amount brought into account as income is attributable to assets [<sup>F100</sup>linked] to [<sup>F101</sup>pension business, life reinsurance business, basic life assurance and general annuity business or long-term] business other than life assurance business], it shall be referable to the category of business concerned.
- (2) To the extent that that amount is attributable to assets of the overseas life assurance fund [<sup>F102</sup>or land in the United Kingdom linked to overseas life assurance business], it shall be referable to overseas life assurance business.
- (3) There shall be referable to any category of business (apart from overseas life assurance business) the relevant fraction of so much of the amount brought into account as income as is not directly referable to [<sup>F103</sup>any category of business].
- (4) For the purposes of subsection (3) above “the relevant fraction”, in relation to a category of business, is the fraction of which—
  - (a) the numerator is the mean of the opening and closing liabilities of the relevant business so far as referable to the category, reduced [<sup>F104</sup>(but not below nil)] by the mean of the opening and closing [<sup>F105</sup>net values] of any assets of the relevant business directly referable to the category; and
  - [<sup>F106</sup>(b) the denominator is the aggregate of—
    - (i) the numerator given by paragraph (a) above; and
    - (ii) the numerators given by that paragraph in relation to the other categories of business.]
- (5) For the purposes of subsections (3) and (4) above—
  - (a) <sup>F107</sup> .....
  - (b) the part of the amount brought into account as income which is directly referable to a category of business is the part referable to the category by virtue of subsection (1) [<sup>F108</sup>or (2)] above and assets are directly referable to a category of business if such part of the amount brought into account as income as is attributable to them is so referable.
- [<sup>F109</sup>(6) For the purposes of this section, where a company carries on overseas life assurance business “liabilities” does not include liabilities of that business.]

**Textual Amendments**

- F99** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), Sch. 6 para. 4
- F100** Word in s. 432C(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 12(1)(a) (with Sch. 8 para. 55(2))
- F101** Words in s. 432C(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para 14(2) (with Sch. 8 para. 55(2))
- F102** Words in s. 432C(2) inserted (with effect in accordance with Sch. 8 para. 55(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 3 (with Sch. 8 para. 55(2))
- F103** Words in s. 432C(3) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para 14(3) (with Sch. 8 para. 55(2))



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- F104** Words in s. 432C(4)(a) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(3)(a)(4)(b)
- F105** Words in s. 432C(4)(a) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(3)(a)(4)(b)
- F106** S. 432C(4)(b) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(3)(b)(4)(b)
- F107** S. 432C(5)(a) repealed (with effect in accordance with Sch. 8 para. 57(1) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 8 para. 14(5), Sch. 29 Pt. 8(5), Note 2 (with Sch. 8 para. 55(2))
- F108** Words in s. 432C(5)(b) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(7)
- F109** S. 432C(6) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 14(6) (with Sch. 8 para. 55(2))

**Modifications etc. (not altering text)**

- C41** Ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1992/1655, regs. 110
- C42** S. 432C(1) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), regs. 1, 5, 12
- C43** S. 432C(1) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), regs. 1, 4, 10; S.I. 2004/3369, art. 2(1)

VALID FROM 08/04/2010

**[<sup>F110</sup>432CA] Apportionment of asset value increase where line 51 amount decreases**

- (1) This section applies where—
- an insurance company is not a non-profit company in relation to a period of account (“the current period of account”),
  - in the case of any business with which an account of the company for the current period of account is concerned (“the relevant business”), an amount is a relevant brought into account amount for that period of account (see subsection (2)),
  - section 432C applies for determining the extent to which the relevant brought into account amount is referable to life assurance business or to gross roll-up business, and
  - the line 51 reduction condition is met (see subsection (3)).
- (2) An amount is a relevant brought into account amount for a period of account if—
- it is brought into account as mentioned in subsection (2)(b) of section 83 of the Finance Act 1989 (increases in value of non-linked assets) for that period,
  - it is deemed to be brought into account for that period by subsection (2B) of that section in consequence of the transfer of non-linked assets, or
  - it is taken into account under subsection (2) of that section for that period by virtue of section 444AB as being the relevant amount in relation to non-linked assets.
- (3) The line 51 reduction condition is met if—
- the amount shown in column 1 of line 51 of Form 14 of the company's periodical return in respect of the relevant business for the current period of account, is less than

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- (b) the amount so shown for the period of account immediately before it; and the amount of the difference is “the relevant reduction”.
- (4) Section 432C applies in relation to so much of the relevant brought into account amount as does not exceed the relevant reduction (“the affected amount”) as if it were brought into account as an increase in the value of assets in the case of the relevant business for the applicable appropriate period of account of the company.
- (5) A period of account is an “appropriate period of account” if it ended before the current period of account and—
- (a) the amount shown in column 1 of line 51 of Form 14 of the company's periodical return in respect of the relevant business for it, was more than
- (b) the amount so shown for the period of account immediately before it; and the amount of the difference is “the relevant increase.”
- (6) The “applicable” appropriate period of account is the one which ended most recently (“the most recent appropriate period of account”).
- (7) But if the relevant increase in the case of the most recent appropriate period of account is less than the affected amount, the most recent appropriate period of account is the applicable appropriate period of account in relation to only so much of the affected amount as does not exceed that relevant increase.
- (8) In that case, the appropriate period of account which ended most recently before the most recent appropriate period of account is the applicable appropriate period of account in relation to so much of the remainder as does not exceed the relevant increase in the case of that appropriate period of account (and, where necessary, so on until the applicable appropriate period of account is established in relation to all of the affected amount or there are no more appropriate periods of account).
- (9) If the current period of account is not the first in relation to which this section has applied in the case of the business concerned, the amount of the relevant increase in the case of any appropriate period of account (“the period in question”) is to be treated as reduced by the relevant aggregate.
- (10) The “relevant aggregate” is the aggregate of so much of the affected amount for any period or periods of account earlier than the current period of account as was an amount to which section 432C applied as if it were brought into account as mentioned in subsection (4) for the period in question.
- (11) For the purposes of this section an insurance company which has elected under section 83YA(9) of the Finance Act 1989 (changes in value of assets brought into account: non-profit companies) to be treated as a non-profit company in relation to a period of account is to be regarded as a non-profit company in relation to the period of account.]

#### Textual Amendments

**F110** S. 432CA inserted (with effect in accordance with s. 47(2)-(4) of the amending Act) by Finance Act 2010 (c. 13), s. 47(1)

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VALID FROM 27/07/2010

### **[<sup>F111</sup>432CB] Transfers of business involving excess assets**

- (1) This section applies where, under an insurance business transfer scheme, there is a transfer of long-term business—
  - (a) from a non-profit fund of an insurance company (“the transferor”) which is not a non-profit company in relation to the relevant period of account,
  - (b) to another insurance company (“the transferee”) to constitute or form part of a non-profit fund of the transferee (“the transferee's non-profit fund”),
 (“the transfer”) and conditions A and B are met.
- (2) Condition A is that the fair value of the assets transferred by the transfer exceeds by an amount (“the chargeable excess”) the amount of the relevant liabilities transferred by the transfer.
 

For this purpose “relevant” liabilities are liabilities of a type shown (or treated as shown) in any of lines 14, 17, 21 to 23 and 31 to 38 of Form 14 of a periodical return of an insurance company.
- (3) Condition B is that the main purpose, or one of the main purposes, of the transferor or the transferee (or both) in entering into any part of the transfer scheme arrangements is to secure a reduction in tax as a result of section 432C having effect in the case of the transferee, rather than the transferor, in relation to the business transferred by the transfer.
- (4) The chargeable excess is to be brought into account by the transferor as mentioned in section 83(2)(b) of the Finance Act 1989 for the relevant period of account.
- (5) Where there is no amount shown in relation to the transferee's non-profit fund in column 1 of line 51 of Form 14 of the periodical return of the transferee for the first period of account of the transferee ending on or after the transfer date (“the first post-transfer period of account”), the chargeable excess is to be brought into account by the transferee as mentioned in section 83(2) of the Finance Act 1989 as a decrease in the value of non-linked assets for the first post-transfer period of account.
- (6) Where—
  - (a) there is an amount shown in relation to the transferee's non-profit fund in column 1 of line 51 of Form 14 of the periodical return of the transferee for the first post-transfer period of account, and
  - (b) the amount so shown in column 1 of line 51 of Form 14 of the periodical return of the transferee for that period of account, or for any other period of account of the transferee ending after the transfer date, (an “affected period of account”) is less than the total chargeable excess amount,
 the relevant amount is to be brought into account by the transferee as mentioned in section 83(2) of the Finance Act 1989 as a decrease in the value of non-linked assets for the affected period of account.
- (7) For this purpose “the relevant amount” is the amount by which—
  - (a) the amount shown in relation to the transferee's non-profit fund in column 1 of line 51 of Form 14 of the periodical return of the transferee for the affected period of account, is less than

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- (b) the total chargeable excess amount less any amount brought into account by the transferee as mentioned in section 83(2) of the Finance Act 1989 as a decrease in the value of non-linked assets for any earlier period of account by virtue of the operation of this section in relation to the transferee's non-profit fund.
- (8) In subsections (6) and (7) “the total chargeable excess amount” means the aggregate of—
- (a) the chargeable excess, and
  - (b) any amount which is the chargeable excess in relation to any other transfer of business to the transferee's non-profit fund.
- (9) In this section “the relevant period of account” means—
- (a) the period of account of the transferor ending immediately before the transfer date, or
  - (b) if no period of account of the transferor so ends, the period of account of the transferor covering the transfer date.
- (10) In this section “the transfer scheme arrangements” means the insurance business transfer scheme and any relevant associated operations; and for this purpose “relevant associated operations” means—
- (a) any other insurance business transfer scheme,
  - (b) any contract of reinsurance, or
  - (c) any reconstruction or amalgamation involving the transferor, a dependant of the transferor which is an insurance undertaking or the transferee,
- which is effected in connection with the insurance business transfer scheme.
- (11) In subsection (10)—
- “dependant”, and
- “insurance undertaking”,
- have the same meaning as in the Insurance Prudential Sourcebook.
- (12) In this section “the transfer date” means the date on which the insurance business transfer scheme takes effect.
- (13) For the purposes of this section an insurance company which has elected under section 83YA(9) of the Finance Act 1989 (changes in value of assets brought into account: non-profit companies) to be treated as a non-profit company in relation to a period of account is to be regarded as a non-profit company in relation to the period of account.]

#### Textual Amendments

**F111** S. 432CB inserted (with effect in accordance with s. 9(2) of the amending Act) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), s. 9(1)

#### [<sup>F112</sup>432D]Section 432B apportionment: value of non-participating funds.

- (1) To the extent that the amount brought into account as the increase or decrease in the value of assets [<sup>F113</sup>or as other income] is attributable to assets [<sup>F114</sup>linked] to [<sup>F115</sup>pension business, life reinsurance business, basic life assurance and general

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annuity business or [<sup>F116</sup>long-term] business other than life assurance business], or to assets of the overseas life assurance fund which are [<sup>F114</sup>linked] to overseas life assurance business, it shall be referable to the category of business concerned.

(2) There shall be referable to any category of business the relevant fraction of the amount brought into account as the increase or decrease in the value of assets [<sup>F113</sup>or as other income] except so far as the amount is attributable to assets which are directly referable to [<sup>F117</sup>any category of business].

[<sup>F118</sup>(3) For the purposes of subsection (2) above “the relevant fraction”, in relation to a category of business, is the fraction of which—

(a) the numerator is the mean of the opening and closing liabilities of the relevant business so far as referable to the category, reduced [<sup>F119</sup>(but not below nil)] by the mean of the opening and closing [<sup>F120</sup>net values] of any assets of the relevant business directly referable to the category; and

[<sup>F121</sup>(b) the denominator is the aggregate of—

(i) the numerator given by paragraph (a) above; and

(ii) the numerators given by that paragraph in relation to the other categories of business.]

(4) For the purposes of subsections (2) and (3) above, the part of the amount brought into account as the increase or decrease in the value of assets [<sup>F113</sup>or as other income] which is directly referable to a category of business is the part referable to the category by virtue of subsection (1) above and assets are directly referable to a category of business if such part of the amount brought into account as the increase or decrease in the value of assets [<sup>F113</sup>or as other income] as is attributable to them is so referable.]]

### Textual Amendments

**F112** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**

**F113** Words in s. 432D inserted (with effect in accordance with Sch. 33 para. 9(1) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 9(1)**

**F114** Words in s. 432D(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 12(1)(a)** (with Sch. 8 para. 55(2))

**F115** Words in s. 432D(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 15(2)** (with Sch. 8 para. 55(2))

**F116** Word in s. 432D(1) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(2)(f)**

**F117** Words in s. 432D(2) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 15(3)** (with Sch. 8 para. 55(2))

**F118** S. 432D(3)(4) substituted for s. 432D(3) (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 15(4)** (with Sch. 8 para. 55(2))

**F119** Words in s. 432D(3)(a) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(a)(4)(c)**

**F120** Words in s. 432D(3)(a) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(a)(4)(c)**

**F121** S. 432D(3)(b) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(b)(4)(c)**

### Modifications etc. (not altering text)

**C44** Ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S. I. 1992/1655, **regs. 1,10**

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- C45** S. 432D(1) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), **regs. 1, 5, 12**
- C46** S. 432D(1) modified (6.4.2005) by [The Child Trust Funds \(Insurance Companies\) Regulations 2004 \(S.I. 2004/2680\)](#), **regs. 1, 4, 10; S.I. 2004/3369, art. 2(1)**

**[<sup>F122</sup>432E] Section 432B apportionment: participating funds.**

- (1) The part of the net amount [<sup>F123</sup> to be taken into account in accordance with section 83(2) of the <sup>M4</sup>Finance Act 1989 (that is to say, the aggregate amount to be taken into account as receipts reduced by the aggregate amount to be taken into account as expenses)] which is referable to a particular category of business [<sup>F124</sup> shall be the amount determined in accordance with [<sup>F125</sup>subsections (2) and (2A)] below or, if greater, the amount determined in accordance with subsection (3) below.]
- (2) For the purposes of subsection (1) above there shall be determined the amount which is such as to secure—
- (a) <sup>F126</sup> .....
- (b) <sup>F127</sup> ... that

$$CS - CAS = \left( S - AS \right) \times \frac{CAS}{AS}$$

where—

S is the surplus of the relevant business;

AS is so much of that surplus as is allocated to persons entitled to the benefits provided for by the policies or contracts to which the relevant business relates;

CAS is so much of the surplus so allocated as is attributable to policies or contracts of the category of business concerned; and

CS is so much of the surplus of the relevant business as would remain if the relevant business were confined to business of the category concerned.

[ In a case where an amount is taken into account under subsection (2) of section 83 <sup>F128</sup>(2A) of the Finance Act 1989 by virtue of subsection (2B) of that section, the amount determined under subsection (2) above is increased by—

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

where—

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

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

- (3) For the purposes of subsection (1) above there shall also be determined the aggregate of—

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- (a) the applicable percentage of what is left of the mean of the opening and closing liabilities of the relevant business so far as referable to the category of business concerned after deducting from it the mean of the opening and closing values of any assets of the relevant business [<sup>F129</sup>linked] to that category of business, and
  - (b) the part of the net amount mentioned in subsection (1) above that is attributable to assets [<sup>F129</sup>linked] to that category of business.
- (4) For the purposes of subsection (3) above “the applicable percentage”, in any case, is such percentage as may be determined for that case by or in accordance with an order made by the Treasury.
- (5) Where the part of the net amount referable to a particular category or categories of business (“the subsection (3) category or categories”) is the amount determined in accordance with subsection (3) above, the amount determined in accordance with subsection (2) above in relation to any other category (“the relevant category”) shall be reduced by—

$$\frac{XY}{Z}$$

where—

X is the excess of the amount determined in accordance with subsection (3) above in the case of the subsection (3) category (or each of them) over the amount determined in its case (or the case of each of them) in accordance with subsection (2) above;

Y is so much of the surplus of the relevant business as is allocated to persons entitled to the benefits provided for by policies or contracts of the relevant category; and

Z is so much of the surplus of the relevant business as is allocated to persons entitled to the benefits provided for by policies or contracts of the category (or each of the categories) which is not a subsection (3) category.

[<sup>F130</sup>References in this subsection to the amount determined in accordance with subsection (3) above are to that amount after making any deduction required by section 432F.]

- (6) Where the category of business concerned is overseas life assurance business—
- (a) if the part of the income brought into account that is attributable to assets of the overseas life assurance fund not [<sup>F129</sup>linked] to overseas life assurance business is greater than the amount arrived at under subsection (3)(a) above, this section shall have effect as if that part of that income were the amount so arrived at; <sup>F131</sup> . . .
  - (b) <sup>F131</sup> . . . . .]

**Textual Amendments**

**F122** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), Sch. 6 para. 4

**F123** Words in s. 432E(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 16(3) (with Sch. 8 para. 55(2))

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- F124** Words in s. 432E(1) substituted (with effect in accordance with Sch. 8 para. 53(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 17(2)(a)** (with Sch. 8 para. 55(2))
- F125** Words in s. 432E(1) substituted (with effect in accordance with Sch. 33 para. 10(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 10(2)**
- F126** S. 432E(2)(a) repealed (with effect in accordance with Sch. 33 para. 10(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 10(3)(a), **Sch. 43 Pt. 3(12)**, Note 2
- F127** Words in s. 432E(2)(b) repealed (with effect in accordance with Sch. 33 para. 10(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 10(3)(b), **Sch. 43 Pt. 3(12)**, Note 2
- F128** S. 432E(2A) inserted (with effect in accordance with Sch. 33 para. 10(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 10(4)**
- F129** Words in s. 432E(3)(a)(b)(6)(a) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 12(1)(a)** (with Sch. 8 para. 55(2))
- F130** Words in s. 432E(5) inserted (with effect in accordance with Sch. 8 para. 53(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 17(2)(b)** (with Sch. 8 para. 55(2))
- F131** S. 432E(6)(b) and preceding word repealed (with effect in accordance with Sch. 3 para. 2(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 2(1), **Sch. 8 Pt. 2(6)**, Note

#### Modifications etc. (not altering text)

- C47** Ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1992/1655, **regs. 1, 10**
- C48** S. 432E modified (20.3.1997 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 14** (as amended by S.I. 2004/822, **regs. 1, 10**)
- C49** For orders see Part III Vol.5 (under “Life assurance apportionment of participating funds: applicable percentage”).

#### Marginal Citations

- M4** 1989 c. 26.

### [<sup>F132</sup>Section 432B apportionment: supplementary provisions.

- (1) The provisions of this section provide for the reduction of the amount determined in accordance with section 432E(3) (“the subsection (3) figure”) for an accounting period in which that amount exceeds, or would otherwise exceed, the amount determined in accordance with section 432E(2) (“the subsection (2) figure”).
- (2) For each category of business in relation to which section 432E falls to be applied there shall be determined for each accounting period the amount (if any) by which the subsection (2) figure, after making any reduction required by section 432E(5), exceeds the subsection (3) figure (“the subsection (2) excess”).
- (3) Where there is a subsection (2) excess, the amount shall be carried forward and if in any subsequent accounting period the subsection (3) figure exceeds, or would otherwise exceed, the subsection (2) figure, it shall be reduced by the amount or cumulative amount of subsection (2) excesses so far as not previously used under this subsection.
- (4) Where in an accounting period that amount is greater than is required to bring the subsection (3) figure down to the subsection (2) figure, the balance shall be carried forward and aggregated with any subsequent subsection (2) excess for use in subsequent accounting periods.]



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**Textual Amendments**

**F132** S. 432F inserted (with effect in accordance with Sch. 8 para. 53 of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 17(3) (with Sch. 8 para. 55(2))

**Modifications etc. (not altering text)**

**C50** S. 432F(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), regs. 1(1), 15; and that modifying reg. 15 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, reg. 11

VALID FROM 01/01/2005

**[<sup>F133</sup>432 Section 432B: apportionment of business transfer-in**

(1) This section applies where an amount falls within section 83(2)(e) of the Finance Act 1989.

(2) Where—

(a) this section applies, and

(b) it is necessary in accordance with section 83 to determine what part of a business transfer-in is referable to life assurance business or any category of life assurance business,

a business transfer-in shall be apportioned to the categories of business of the transferee in the proportions which the amount of the liabilities transferred for each of those categories bear to the whole of the liabilities transferred.]

**Textual Amendments**

**F133** S. 432G inserted (1.1.2005 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), art. 4

**<sup>F134</sup>433 Profits reserved for policy holders and annuitants.**

.....

**Textual Amendments**

**F134** S. 433 repealed (14.3.1989) by Finance Act 1989 (c. 26), s. 84(5), Sch. 8 para. 2, Sch. 17 Pt. IV, Note 3 (with s. 84(6))

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*[<sup>F135</sup>Miscellaneous provisions relating to life assurance business]*

**Textual Amendments**

**F135** Cross-heading before s. 434 inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 51(4) (with Sch. 8 para. 55(2))

**434 Franked investment income etc.**

[<sup>F136</sup>[<sup>F137</sup>(1) Section 208 shall not apply in relation to—

- (a) the charge to corporation tax on the life assurance profits of an insurance company computed in accordance with the provisions of this Act applicable to Case I of Schedule D; or
- (b) any computation of such profits in accordance with those provisions.

(1A) Paragraph 2 of Schedule F shall not have effect for the purposes of subsection (1)(a) or (b) above, <sup>F138</sup> . . . .

(1B) The reference in subsection (1) above to the life assurance profits of an insurance company is a reference to the profits of the company—

- (a) in respect of its life assurance business; or
- (b) in respect of any category of life assurance business which it carries on.]]

(2) <sup>F139</sup> . . . . .

[<sup>F140</sup>(3) <sup>F141</sup> . . . . .

(3A) [<sup>F142</sup>So much of the policy holders' share of the franked investment income from investments of a company's long-term insurance fund as is referable to its] life assurance business shall be left out of account in determining, under subsection (7) of section 13, the franked investment income forming part of the company's profits for the purposes of that section.]

[<sup>F143</sup>(3B) <sup>F144</sup> . . . . .

(3C) <sup>F144</sup> . . . . .

(3D) <sup>F144</sup> . . . . .]

(4) <sup>M5</sup>*Subject to subsection (5)below, the specified part shall be, in the case of any unrelieved income, the same fraction of it as the fraction which, on a computation of the profits of the company in respect of its life assurance business in accordance with the provisions applicable to Case I of Schedule D (whether or not the company is in fact charged to tax under that Case for the relevant accounting period or periods), would be connoted by the words in section 433 "such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants".* <sup>F145</sup>

(5) *If the income exceeds the profits as computed in accordance with the provisions applicable to Case I of Schedule D other than section 433, the specified part shall be that fraction of the income so far as not exceeding the profits, together with the amount of the excess.* <sup>F146</sup>

(6) <sup>F141</sup> . . . . .

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[<sup>F147</sup>(6A) For the purposes of this section—

- (a) “the policy holders’ share” of any franked investment income is so much of that income as is not the shareholders’ share within the meaning of section 89 of the Finance Act 1989, <sup>F148</sup> . . . . .
- [<sup>F150</sup> . . . . .
- ] <sup>F149</sup>(aa) . . . . .
- (ab) <sup>F150</sup> . . . . .
- (ac) <sup>F150</sup> . . . . .]
- (b) “the policy holders’ share of the relevant profits” has the same meaning as in section [<sup>F151</sup>89] of that Act.]
- (7) <sup>F139</sup> . . . . .
- (8) <sup>F141</sup> . . . . .

**Textual Amendments**

- F136** S. 434(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 19(2)** (with Sch. 8 para. 55(2))
- F137** S. 434(1)-(1B) substituted for s. 434(1) (with effect in accordance with Sch. 3 para. 3(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 3 para. 3(2)**
- F138** Words in s. 434(1A) repealed (with effect in accordance with Sch. 4 para. 27(2), Sch. 8 Pt. 2(10) Note of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 4 para. 27(1), **Sch. 8 Pt. 2(10)**
- F139** S. 434(2)(7) repealed (with effect in accordance with Sch. 29 Pt. 8(5) Note 2 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**
- F140** S. 434(3)(3A) substituted for s. 434(3) by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 3(1)**
- F141** S. 434(3)(6)(8) repealed (with effect in accordance with Sch. 3 para. 25(5)(6) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 25(2)-(4), **Sch. 27 Pt. 3(2)**, Note
- F142** Words in s. 434(3A) substituted (with effect in accordance with Sch. 33 para. 12(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 12(2)**
- F143** S. 434(3B)-(3D) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 5(4)**
- F144** S. 434(3B)-(3D) repealed (with effect in accordance with Sch. 6 para. 3(4) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 6(2), **Sch. 8 Pt. 2(11)**, Note
- F145** Repealed by 1989 ss.84 and 187 and Sch.8 para.3(2) and Sch.17 Part IV with respect to accounting periods beginning on or after 1 January 1990.
- F146** Repealed by 1989 ss.84 and 187 and Sch.8 para.3(2) and Sch.17 Part IV with respect to accounting periods beginning on or after 1 January 1990.
- F147** 1990 s.45(7).
- F148** Word at the end of s. 434(6A)(a) repealed (3.5.1994) by Finance Act 1994 (c. 9), Sch. 16 para. 5(5), **Sch. 26 pt. 5(16)**
- F149** S. 434(6A)(aa)-(ac) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para 5(5)**
- F150** S. 434(6A)(aa)-(ac) repealed (with effect in accordance with Sch. 6 para. 6(4) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 6(3), **Sch. 8 Pt. 2(11)**, Note
- F151** Words in s. 434(6A)(b) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 6(7)(a)**

**Modifications etc. (not altering text)**

- C51** S. 434 amended (27.7.1993) by 1993 c. 34, s. **78(6)(11)**
- C52** S. 434(1)(1A)(1C)(1D) restricted by (Finance (No. 2) Act 1992 (c. 48), s. **65** (as amended (31.7.1997) by (Finance (No. 2) Act 1997 (c. 58), **Sch. 3 para. 15)**

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**C53** S. 434(1A) modified by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), [regs. 5, 12A \(as amended \(22.8.2000\) by The Individual Savings Account \(Insurance Companies\) \(Amendment\) Regulations 2000 \(S.I. 2000/2075\)](#), [regs. 1, 3\)](#)

#### Marginal Citations

**M5** Source—1970 s.310(6)

### <sup>F152</sup><sup>F153</sup> **434 Computation of losses and limitation on relief.**

(1) <sup>F154</sup> .....

<sup>F155</sup>(2) Where for any accounting period the loss arising to an insurance company from its life assurance business falls to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D—

(a) the loss resulting from the computation shall be reduced (but not below nil) by the aggregate of—

(i) the aggregate amount treated as a charge on income in computing <sup>F156</sup>, otherwise than in accordance with those provisions, the relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of the company for the period]; and

(ii) any relevant non-trading deficit for that period on the company's debtor relationships; and

<sup>F157</sup>(iii) any loss for that period under section 441; and]]

(b) if the whole or any part of that loss as so reduced is set off—

(i) under section 393A, or

(ii) under section 403(1),

any losses for that period under section 436 <sup>F158</sup>or 439B] shall be reduced to nil, unless the aggregate of those losses exceeds the total of the amounts set off as mentioned in sub-paragraphs (i) and (ii) above, in which case each of those losses shall be reduced by an amount which bears to that total the proportion which the loss in question bears to that aggregate.

<sup>F159</sup>(2A) The reference in subsection <sup>F160</sup>(2)(a)(ii) above to a relevant non-trading deficit for any period on a company's debtor relationships is a reference to the non-trading deficit on the company's loan relationships which would be produced by any separate computation made under paragraph 2 of Schedule 11 to the Finance Act 1996 for the company's basic life assurance and general annuity business if credits and debits given in respect of the company's creditor relationships (within the meaning of Chapter II of Part IV of that Act) were disregarded.]

(3) In the case of a company carrying on life assurance business, no relief shall be allowable <sup>F161</sup>—

(a) under Chapter II (loss relief) or Chapter IV (group relief) of Part X, or

(b) in respect of any amount representing a non-trading deficit on the company's loan relationships that has been computed otherwise than by reference to debits and credits referable to that business,]

against the policy holders' share of the relevant profits for any accounting period.

For the purposes of this subsection “the policy holders' share of the relevant profits” has the same meaning as in section <sup>F162</sup>89] of the Finance Act 1989.]]

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### Textual Amendments

- F152** S. 434A inserted by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 4**
- F153** S. 434A substituted (with effect in accordance with **Sch. 8 para. 57(1)** of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para 20(1)** (with **Sch. 8 para. 55(2)**)
- F154** S. 434A(1) repealed (with effect in accordance with **Sch. 3 para. 4(2)** of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 3 para. 4(1)**, **Sch. 8 Pt. 2(6)**, Note
- F155** S. 434A(2) substituted (with effect in accordance with **Sch. 31 paras. 2(1), 10(1)** of the amending Act) by Finance Act 1996 (c. 8), **Sch. 31 para. 2(1)(a)(2)**
- F156** Words in s. 434A(2)(a)(i) substituted (with effect in accordance with **Sch. 33 para. 6(12)** of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 6(8)**
- F157** S. 434A(2)(a)(iii) inserted (with effect in accordance with **Sch. 27 para. 12(1)** of the amending Act) by Finance Act 2000 (c. 17), **Sch. 27 para. 8(a)**
- F158** Words in s. 434A(2) substituted (with effect in accordance with **Sch. 27 para. 12(1)** of the amending Act) by Finance Act 2000 (c. 17), **Sch. 27 para. 8(b)**
- F159** S. 434A(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 23(2)** (with **Sch. 15**)
- F160** Words in s. 434A(2A) substituted (with effect in accordance with **Sch. 31 paras. 2(1), 10(1)** of the amending Act) by Finance Act 1996 (c. 8), **Sch. 31 para. 2(1)(b)**
- F161** Words in s. 434A(3) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 23(3)** (with **Sch. 15**)
- F162** Words in s. 434A(3) substituted (with effect in accordance with **Sch. 33 para. 6(12)** of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 6(7)(b)**

### Modifications etc. (not altering text)

- C54** S. 434A(2) modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 23(1)** (with **Sch. 15**)
- C55** S. 434A(2) modified by Finance Act 1996 (c. 8), **Sch. 31 para. 2(3)**

VALID FROM 21/07/2009

### **[<sup>F163</sup> 434AZB] 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—
- 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)),
  - 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
  - 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.

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- (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.]

#### Textual Amendments

**F163** Ss. 434AZA-434AZC inserted (with effect in accordance with Sch. 23 para. 3(2) of the amending Act) by Finance Act 2009 (c. 10), Sch. 23 para. 3(1)

VALID FROM 21/07/2009

#### **[<sup>F163</sup> 434AZB] Conditions 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,
  - (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

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(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.]

#### Textual Amendments

**F163** Ss. 434AZA-434AZC inserted (with effect in accordance with [Sch. 23 para. 3\(2\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 23 para. 3\(1\)](#)

VALID FROM 21/07/2009

#### **[<sup>F163</sup> 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

“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).]

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#### Textual Amendments

- F163** Ss. 434AZA-434AZC inserted (with effect in accordance with [Sch. 23 para. 3\(2\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 23 para. 3\(1\)](#)

#### [<sup>F164</sup>434B] Treatment of interest and annuities.

- (1) <sup>F165</sup> .....
- (2) <sup>F166</sup> .....]

#### Textual Amendments

- F164** S. 434B inserted (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 21\(1\)](#) (with [Sch. 8 para. 55\(2\)](#))
- F165** S. 434B(1) repealed (with effect in accordance with s. 165(4)(5) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), s. 165(3), [Sch. 41 Pt 5\(25\)](#), Note (with [Sch. 14 para. 24](#))
- F166** S. 434B(2) repealed (with effect in accordance with s. 67(7), [Sch. 18 Pt. 6\(6\)](#) Note of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), s. 67(4), [Sch. 18 Pt. 6\(6\)](#)

#### [<sup>F167</sup>434C] Interest on repayment of advance corporation tax.

- <sup>F168</sup> .....

#### Textual Amendments

- F167** S. 434C inserted (with effect in accordance with [Sch. 8 paras. 54, 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 22](#) (with [Sch. 8 para. 55\(2\)](#))
- F168** S. 434C repealed (with effect in accordance with [Sch. 3 para. 26\(2\)](#) of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 3 para. 26\(1\)](#), [Sch. 27 Pt. 3\(2\)](#), Note

#### [<sup>F169</sup>434D] Capital allowances: management assets.

- <sup>F170</sup> .....

#### Textual Amendments

- F169** Ss. 434D, 434E inserted (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 23\(1\)](#) (with [Sch. 8 para. 55\(2\)](#))
- F170** S. 434D repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\)](#), [Sch. 2 para. 39](#), [Sch. 4](#)

#### 434E Capital allowances: investment assets.

- <sup>F171</sup> .....



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**Textual Amendments**

- F169** Ss. 434D, 434E inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 23(1) (with Sch. 8 para. 55(2))
- F171** S. 434E repealed (with effect in accordance with s. 579 of the repealing Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 39, Sch. 4

**<sup>F172</sup>435 Taxation of gains reserved for policy holders and annuitants.**

**Textual Amendments**

- F172** S. 435 repealed (with effect in accordance with s. 84(5)(b) of the repealing Act) by Finance Act 1989 (c. 26), s. 84(4), Sch. 8 para. 5, Sch. 17 Pt. IV, Note 3 (with s. 84(6))

**436 [<sup>F173</sup>Pension business]: separate charge on profits.**

- (1) <sup>M6</sup>Subject to the provisions of this section, profits arising to an insurance company from <sup>F174</sup> . . . pension business shall be treated as income within Schedule D, and be chargeable under Case VI of that Schedule, and for that purpose—
  - (a) [<sup>F175</sup>that business] shall be treated separately, and
  - (b) subject to paragraph (a) above, and to subsection (3) below, the profits therefrom shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (2) Subsection (1) above shall not apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its ordinary life assurance business.
- (3) <sup>M7</sup>In making the computation referred to in subsection (1) above—
  - (a) [<sup>F176</sup>sections [<sup>F177</sup>82 and 82B to 83AB] of the Finance Act 1989] shall apply with the necessary modifications <sup>F178</sup> . . . ;
  - <sup>F179</sup>(aa) <sup>F180</sup> . . . . .]
  - (b) *no deduction shall be allowed in respect of any expenses of management deductible under section 76;* <sup>F181</sup>
  - (c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from pension business <sup>F182</sup> . . . in any previous accounting period or year of assessment;
  - (d) <sup>F183</sup> . . . . .
  - (e) <sup>F183</sup> . . . . .
- (4) <sup>M8</sup>Section 396 shall not be taken to apply to a loss incurred by a company on its <sup>F184</sup> . . . pension business.
- (5) <sup>M9</sup>Nothing in section 128 or 399(1) shall affect the operation of this section.

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### Textual Amendments

- F173** Words in s. 436 sidenote substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 51(5)** (with Sch. 8 para. 55(2))
- F174** Words in s. 436(1) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, 123, Sch. 7 paras. 4(1)(a), 18, **Sch. 19 Pt.V** Note 3
- F175** Words in s. 436(1)(a) substituted (for accounting periods beginning on or after 1. 1. 1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 4(1)(b), **18**
- F176** 1989 s.84 and Sch.8 para.6 and, subject to s.84(6) deemed to have come into force on 14 March 1989. Previously “section 433”.
- F177** Words in s. 436(3)(a) substituted (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 1(3)(a)**
- F178** Words in s. 436(3)(a) repealed (with effect in accordance with Sch. 33 para. 1(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 1(3)(b), **Sch. 43 Pt. 3(12)**, Note 1
- F179** S. 436(3)(aa) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 16(4)** (with Sch. 8 para. 55(2))
- F180** S. 436(3)(aa) repealed (with effect in accordance with Sch. 31 para. 10(2) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 31 para. 7(1)(a), **Sch. 41 Pt. 5(23)**, Note
- F181** Words repealed by 1989 ss.87(4) and 187 and Sch.17 Part IV with respect to accounting periods beginning on or after 1 January 1990. (See 1989 s.87(5) in relation to straddling periods).
- F182** Words in s. 436(3)(c) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(2)(a), **18** Sch. 19 Pt. V, Note 3
- F183** S. 436(3)(d)(e) repealed (with effect in accordance with Sch. 3 para. 5(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 5(1), **Sch. 8 Pt. 2(6)**, Note
- F184** Words in s. 436(4) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(3), 18, **Sch. 19 Pt. V**, Note 3

### Modifications etc. (not altering text)

- C56** S. 436 modified (with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1)**, 19, 20 (as amended by S.I. 2004/822, **regs. 1**, 12, 14)
- C57** S. 436 modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1**, 5, 13
- C58** S. 436 modified (6.4.1999) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 19A**, 20A (as inserted by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1**, 25(3)(4), and as amended by S.I. 2004/822, **regs. 1**, 13, 15)
- C59** S. 436 modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1**, 4, 11; S.I. 2004/3369, **art. 2(1)**
- C60** S. 436 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1)**, 13 (which modifying reg. 13 is omitted by virtue of S.I. 2007/2134, **regs. 1(1)(2)**, 13)
- C61** See also 1989 s.43—certain Sch.D computations involving emoluments.

### Marginal Citations

- M6** Source—1970 s.312(1); 1970(F) Sch.5 Part III 11(3)
- M7** Source—1970 s.312(2), 314(5); 1970(F) Sch.5 Part III 11(6)(a)(b); 1972 Sch.18 5(1)(a)
- M8** Source—1970 s.312(3); 1970(F) Sch.5 Part III 11(3)
- M9** Source—1985 s.72(7)

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VALID FROM 19/07/2007

**[<sup>F185</sup>436A] Gross roll-up business: separate charge on profits**

- (1) 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 [<sup>F186</sup>83ZA] 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.
- (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.]

**Textual Amendments**

**F185** Ss. 436A, 436B inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 25 (with Sch. 7 Pt. 2)

**F186** S. 436A(3): "83ZA" substituted for "83AB" (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 12; S.I. 2008/379, art. 2

**Modifications etc. (not altering text)**

**C62** S. 436A modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), reg. 13A (as inserted (14.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2007 (S.I. 2007/2134), regs. 1(1), 14)

**Status:** Point in time view as at 28/09/2004. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 19/07/2007

**[<sup>F185</sup>436B] Gains referable to gross roll-up business not to be chargeable gains**

- (1) 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.]

**Textual Amendments**

**F185** Ss. 436A, 436B inserted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 25](#) (with [Sch. 7 Pt. 2](#))

**437 General annuity business.**

- [<sup>F187</sup>[<sup>F188</sup>(1A) In the computation, otherwise than in accordance with the provisions applicable to Case I of Schedule D, of the [<sup>F189</sup>relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period], new annuities paid by the company in that period shall be brought into account by treating an amount equal to the income limit for that period [<sup>F190</sup> as expenses payable which fall to be brought into account for that period at Step 3 in section 76(7)].]
- (1C) For the purposes of this section [<sup>F191</sup>(but subject to subsections (1CA) to (1CD) below)]—
- (a) “new annuity” means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company’s basic life assurance and general annuity business;
  - (b) “the income limit” for an accounting period of an insurance company is the difference between—
    - (i) the total amount of the new annuities paid by the company in that accounting period; and
    - (ii) the total of the capital elements contained in the new annuities so paid; and
  - (c) the capital element contained in an annuity shall be determined in accordance with Chapter V of Part XIV, but for this purpose—
    - (i) it is immaterial whether or not an annuitant claims any relief to which he is entitled under that Chapter; and
    - (ii) where, by virtue of subsection (2) of section 657, section 656 does not apply to an annuity, the annuity shall be treated as containing the capital element that it would have contained apart from that subsection.

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[ Where a new annuity (“the actual annuity”) is a steep-reduction annuity, the income <sup>F192</sup>(1CA) limit for an accounting period of the company paying the annuity shall be computed for the purposes of this section as if—

- (a) the contract providing for the actual annuity provided instead for the annuities identified by subsections (1CB) and (1CC) below; and
- (b) the consideration for each of those annuities were to be determined by the making of a just and reasonable apportionment of the consideration for the actual annuity.

(1CB) The annuities mentioned in subsection (1CA)(a) above are—

- (a) an annuity the payments in respect of which are confined to the payments in respect of the actual annuity that fall to be made before the earliest time for the making in respect of the actual annuity of a reduced payment such as is mentioned in section 437A(1)(c); and
- (b) subject to subsection (1CC) below, an annuity the payments in respect of which are all the payments in respect of the actual annuity other than those mentioned in paragraph (a) above.

(1CC) Where an annuity identified by paragraph (b) of subsection (1CB) above (“the later annuity”) would itself be a steep-reduction annuity, the annuities mentioned in subsection (1CA)(a) above—

- (a) shall not include the later annuity; but
- (b) shall include, instead, the annuities which would be identified by subsection (1CB) above (with as many further applications of this subsection as may be necessary for securing that none of the annuities mentioned in subsection (1CA)(a) above is a steep-reduction annuity) if references in that subsection to the actual annuity were references to the later annuity.

(1CD) Subsections (1CA) to (1CC) above shall be construed in accordance with section 437A.]

(1D) In any case where—

- (a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in an accounting period beginning before 1st January 1992,
- (b) the company’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (c) the company’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall be treated for the purposes of this section, other than this subsection, as if the group annuity contract had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1E) In any case where—

- (a) a payment in respect of an annuity is made by a reinsurer under a reinsurance treaty made in an accounting period beginning before 1st January 1992,
- (b) the reinsurer’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (c) the reinsurer’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

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the payment shall, as respects the reinsurer, be treated for the purposes of this section, other than this subsection, as if the reinsurance treaty had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1F) In this section—

“group annuity contract” means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

“reinsurance treaty” means a contract under which one insurance company is obliged to cede, and another (in this section referred to as a “reinsurer”) to accept, the whole or part of a risk of a class or description to which the contract relates.]

- F<sup>193</sup>(2) .....
- F<sup>194</sup>(3) .....
- F<sup>195</sup>(4) .....
- F<sup>196</sup>(5) .....
- (6) <sup>F<sup>197</sup></sup> .....

#### Textual Amendments

- F187** S. 437(1A)-(1F) substituted for s. 437(1) (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 5, 18
- F188** S. 437(1A) substituted for s. 437(1A)(1B) (with effect in accordance with s. 67(7) of the amending Act) by Finance Act 1997 (c. 16), s. 67(1)
- F189** Words in s. 437(1A) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 6(9)
- F190** Words in s. 437(1A) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 18
- F191** Words in s. 437(1C) inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), s. 67(2)
- F192** S. 437(1CA)-(1CD) inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), s. 67(2)
- F193** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F194** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F195** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F196** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F197** S. 437(6) repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(5), Note 2

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**Modifications etc. (not altering text)**

- C63** S. 437 modified (10.8.1995) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1992 \(S.I. 1992/1655\)](#), **reg. 10A** (as inserted by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 1995 \(S.I. 1995/1916\)](#), **regs. 1, 6**)
- C64** S. 437 modified (with effect in accordance with reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), **regs. 1(1), 21** (as amended (31.12.1997) with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment No. 2\) Regulations 1997 \(S.I. 1997/2877\)](#), **regs. 1(1), 4**)

[<sup>F198</sup>**437A** Meaning of “steep-reduction annuity” etc.

- (1) For the purposes of section 437 an annuity is a steep-reduction annuity if—
- the amount of any payment in respect of the annuity (but not the term of the annuity) depends on any contingency other than the duration of a human life or lives;
  - the annuitant is entitled in respect of the annuity to payments of different amounts at different times; and
  - those payments include a payment (“a reduced payment”) of an amount which is substantially smaller than the amount of at least one of the earlier payments in respect of that annuity to which the annuitant is entitled.
- (2) Where there are different intervals between payments to which an annuitant is entitled in respect of any annuity, the question whether or not the conditions in subsection (1) (b) and (c) above are satisfied in the case of that annuity shall be determined by assuming—
- that the annuitant’s entitlement, after the first payment, to payments in respect of that annuity is an entitlement to payments at yearly intervals on the anniversary of the first payment; and
  - that the amount to which the annuitant is assumed to be entitled on each such anniversary is equal to the annuitant’s assumed entitlement for the year ending with that anniversary.
- (3) For the purposes of subsection (2) above an annuitant’s assumed entitlement for any year shall be determined as follows—
- the annuitant’s entitlement to each payment in respect of the annuity shall be taken to accrue at a constant rate during the interval between the previous payment and that payment; and
  - his assumed entitlement for any year shall be taken to be equal to the aggregate of the amounts which, in accordance with paragraph (a) above, are treated as accruing in that year.
- (4) In the case of an annuity to which subsection (2) above applies, the reference in section 437(1CB)(a) to the making of a reduced payment shall be construed as if it were a reference to the making of a payment in respect of that annuity which (applying subsection (3)(a) above) is taken to accrue at a rate that is substantially less than the rate at which at least one of the earlier payments in respect of that annuity is taken to accrue.
- (5) Where—
- any question arises for the purposes of this section whether the amount of any payment in respect of any annuity—

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- (i) is substantially smaller than the amount of, or
- (ii) accrues at a rate substantially less than,
  - an earlier payment in respect of that annuity, and
- (b) the annuitant or, as the case may be, every annuitant is an individual who is beneficially entitled to all the rights conferred on him as such an annuitant, that question shall be determined without regard to so much of the difference between the amounts or rates as is referable to a reduction falling to be made as a result of the occurrence of a death.
- (6) Where the amount of any one or more of the payments to which an annuitant is entitled in respect of an annuity depends on any contingency, his entitlement to payments in respect of that annuity shall be determined for the purposes of section 437(1CA) to (1CC) and this section according to whatever (applying any relevant actuarial principles) is the most likely outcome in relation to that contingency.
- (7) Where any agreement or arrangement has effect for varying the rights of an annuitant in relation to a payment in respect of any annuity, that payment shall be taken, for the purposes of section 437(1CA) to (1CC) and this section, to be a payment of the amount to which the annuitant is entitled in accordance with that agreement or arrangement.
- (8) References in this section to a contingency include references to a contingency that consists wholly or partly in the exercise by any person of any option.]

**Textual Amendments**  
**F198** S. 437A inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), s. 67(3)

**438 Pension business: exemption from tax.**

- (1) <sup>M10</sup>Exemption from corporation tax shall be allowed in respect of income from, and chargeable gains in respect of, investments and deposits of so much of an insurance company's [<sup>F199</sup>long-term insurance fund] as is referable [<sup>F200</sup>(in accordance with section 432A)] to pension business.
- (2) <sup>M11</sup>The exemption from tax conferred by subsection (1) above shall not exclude any sums from being taken into account as receipts in computing profits or losses for any purpose of the Corporation Tax Acts.
- (3) <sup>F201</sup> .....
- [<sup>F202</sup>(3AA) <sup>F201</sup> .....
- [<sup>F203</sup>(4) This section shall be disregarded in determining, in relation to an insurance company which is entitled to a tax credit in respect of a distribution, whether the condition in paragraph (a) or (b) of section 231(2) is satisfied.]
- (5) <sup>F204</sup> .....
- (6) <sup>F204</sup> .....
- [<sup>F205</sup>(6A) <sup>F206</sup> .....
- [<sup>F207</sup>(6B) <sup>F204</sup> .....



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- (6C) <sup>F204</sup> .....
- (6D) <sup>F204</sup> .....
- (6E) <sup>F204</sup> .....]
- (7) <sup>F204</sup> .....
- (8) <sup>M12</sup> Nothing in sections [<sup>F208</sup>431B(2)(c)] or 643(2) of this Act or section [<sup>F209</sup>271(1)(h) of the 1992 Act] shall be construed as affording relief in respect of any sums to be brought into account under this section.
- [<sup>F210</sup>(9) <sup>F211</sup> .....

### Textual Amendments

- F199** Words in s. 438(1) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 52\(1\)\(e\)](#)
- F200** Words in s. 438(1) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(1\)\(a\)](#)
- F201** S. 438(3)(3AA) repealed (with effect in accordance with Sch. 3 para. 6(7) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 3 para. 6\(2\)](#), [Sch. 8 Pt. 2\(6\)](#), Note
- F202** S. 438(3AA) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 16 para. 6\(2\)](#)
- F203** S. 438(4) substituted (with effect in accordance with Sch. 3 para. 6(7) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 3 para. 6\(3\)](#)
- F204** S. 438(5)-(7) repealed (with effect in accordance with Sch. 3 para. 6(7)-(9) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 3 para. 6\(4\)\(5\)](#), [Sch. 8 Pt. 2\(6\)](#), Note (with Sch. 3 para. 13(17))
- F205** 1990 s.45(9).
- F206** S. 438(5)-(7) repealed (with effect in accordance with Sch. 3 para. 6(7)(8), Sch. 8 Pt. 2(6) Note of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 3 para. 6\(4\)\(5\)](#), [Sch. 8 Pt. 2\(6\)](#)
- F207** S. 438(6B)-(6E) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 16 para. 6\(4\)](#)
- F208** Words in s. 438(8) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 4\(3\)](#) (with Sch. 8 para. 55(2))
- F209** Words in s. 438(8) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290(1), [Sch. 10 para. 14\(21\)](#) (with ss. 60, 101(1), 171, 201(3))
- F210** S. 438(9) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 28\(2\)](#) (with Sch. 8 para. 55(2))
- F211** S. 438(9) repealed (with effect in accordance with Sch. 3 para. 6(8) of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 3 para. 6\(6\)](#), [Sch. 8 Pt. 2\(6\)](#), Note

### Modifications etc. (not altering text)

- C65** S. 438 amended (27.7.1993) by 1993 c. 34, [s. 78\(6\)\(11\)](#)
- C66** S. 438 modified (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 18 para. 1\(5\)](#)
- C67** S. 438 modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), [regs. 1, 5, 14](#) (and as substituted (22.8.2000) by [The Individual Savings Account \(Insurance Companies\) \(Amendment\) Regulations 2000 \(S.I. 2000/2075\)](#), [regs. 1, 4](#))
- C68** S. 438(1) modified (6.4.2005) by [The Child Trust Funds \(Insurance Companies\) Regulations 2004 \(S.I. 2004/2680\)](#), [regs. 1, 4, 12](#); S.I. 2004/3369, [art. 2\(1\)](#)

### Marginal Citations

- M10** Source—1970 s.314(1); 1970(F) Sch.5 Part III 11(3), (6)(c)
- M11** Source—1970 s.314(2)

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**M12** Source—1987 (No.2) s.39(3)

[<sup>F212</sup>**438A** Pension business: payments on account of tax credits and deducted tax.

<sup>F213</sup> .....

**Textual Amendments**

**F212** S. 438A inserted (2.10.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 49(1); S.I. 1992/1746, art.2

**F213** S. 438A repealed (with effect in accordance with s. 87(2)(5) of the repealing Act) by Finance Act 2001 (c. 9), s. 87(1), Sch. 33 Pt. 2(12)

[<sup>F214</sup>**438B** Income or gains arising from property investment LLP

- (1) Where an asset held by an insurance company as an asset of its [<sup>F215</sup>long-term insurance fund] is held by the company as a member of a property investment LLP, the policy holders' share of any income arising from, or chargeable gains accruing on the disposal of, the asset which—
  - (a) is attributable to the company, and
  - (b) would otherwise be referable by virtue of section 432A to pension business,
 shall be treated for the purposes of the Corporation Tax Acts as referable to basic life assurance and general annuity business.
- (2) For the purposes of this section the property business of the insurance company for the purposes of which the asset is held shall be treated as a separate business.
 

“Property business” means a Schedule A business or overseas property business.
- (3) Where (apart from this subsection) an insurance company would not be carrying on basic life assurance and general annuity business, it shall be treated as carrying on such business if any income or chargeable gains of the company are treated as referable to the business by virtue of subsection (1) above.
- (4) A company may be charged to tax by virtue of this section—
  - (a) notwithstanding section 439A, and
  - (b) whether or not the income or chargeable gains to which subsection (1) above applies is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.
- (5) The policy holders' share of income or chargeable gains to which subsection (1) above applies—
  - (a) shall not be treated as relevant profits for the purposes of section 88 of the Finance Act 1989 (corporation tax on policy holders' fraction of profits),  
<sup>F216</sup> .....
  - (b) <sup>F216</sup> .....
 but the whole of the income or gains to which that subsection applies shall be chargeable to tax at the rate provided by [<sup>F217</sup>that section].
- (6) So far as income is brought into account as mentioned in section 83(2) of the Finance Act 1989, sections 432B to 432F (apportionment of receipts brought into account) have effect as if subsection (1) above did not apply.]

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### Textual Amendments

- F214** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, **Sch. 25 para. 5**
- F215** Words in s. 438B(1) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(f)**
- F216** S. 438B(5)(b) repealed (with effect in accordance with Sch. 33 para. 13(11) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 13(6)(a), **Sch. 43 Pt. 3(12)**, Note 3
- F217** Words in s. 438B(5) substituted (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 13(6)(b)**

### Modifications etc. (not altering text)

- C69** S. 438B modified (with effect in accordance with regs. 21A(5), 21B(3) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 21A, 21B** (as inserted (1.1.2002) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2001 (S.I. 2001/3975), **regs. 1, 6**) (and as amended by: S.I. 2003/23, **regs. 1, 7**; S.I. 2004/822, **regs. 1, 16, 17**)
- C70** S. 438B modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 15**; and that modifying reg. 15 is omitted (14.8.2007 with effect in accordance with reg. 1(1)(2) of the revoking S.I.) by virtue of S.I. 2007/2134, **reg. 15**

### [<sup>F214</sup>438C Determination of policy holders' share for purposes of s.438B

- (1) For the purposes of section 438B the policy holders' share of any income or chargeable gains to which subsection (1) of that section applies is what remains after deducting the shareholders' share.
- (2) The shareholders' share is found by applying to the whole the fraction—

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

where—

A is the amount of the profits of the company for the period which are chargeable to tax under section 436; and

B is an amount equal to the excess of—

- (a) the amount taken into account as receipts of the company in computing those profits (apart from premiums and sums received by virtue of a claim under a reinsurance contract), over
  - (b) the amounts taken into account as expenses in computing those profits.
- (3) Where there is no such excess as is mentioned in subsection (2) above, or where the profits are greater than any excess, the whole of the income or gains is treated as the shareholders' share.
  - (4) Subject to that, where there are no profits none of the income or gains is treated as the shareholders' share.]

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### Textual Amendments

**F214** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, Sch. 25 para. 5

## 439 Restricted government securities.

- [<sup>F218</sup>(1) For the purposes of this Chapter restricted government securities shall be treated as linked solely to pension business.
- (2) In this section]“restricted government securities” means, subject to the following provisions of this section, government securities issued on the condition that, except in such circumstances as may be specified in the conditions of issue, they are to be held by insurance companies against and applied solely towards meeting pension business liabilities.
- (6) <sup>M13</sup>Subject to subsection (7) below, the following Treasury Stock, namely—
- (a) 2 per cent. Index-linked Treasury Stock 1996;
  - (b) 2 per cent. Index-linked Treasury Stock 2006;
  - (c) 2 per cent. Index-linked Treasury Stock 2011;
- are not restricted government securities for the purposes of this section.
- (7) If any of the index-linked stock referred to in subsection (6) above was on 27th March 1982 held by an insurance company against and applied solely towards meeting the liabilities of the company’s pension business, then—
- (a) <sup>M14</sup>if and so long as the stock continues to be so held by that company, it shall continue to be treated as restricted government securities for the purposes of this section; and
  - (b) <sup>M15</sup>if the stock ceases to be restricted government securities otherwise than by virtue of being actually disposed of or redeemed, on the day on which it so ceases the stock shall be deemed for the purposes of corporation tax, including (subject to subsection (8) below) <sup>F219</sup> corporation tax on chargeable gains, to have been disposed of and immediately re-acquired at its market value on that date.
- (8) <sup>M16</sup>For the purposes of sections 67 and 68 of the 1979 Act (gilt-edged securities)—
- (a) in ascertaining the date on which securities were acquired, no account shall be taken of any deemed disposal and reacquisition resulting from subsection (7)(b) above; and
  - (b) so long as any index-linked stock continues, by virtue of subsection (7) (a) above, to be treated as restricted government securities for the purposes of this section, it shall be regarded as being stock of a different kind from the index-linked stock referred to in subsection (6) above which is not so treated.

<sup>F220</sup>

### Textual Amendments

**F218** 1990 s.41 and Sch.6 para.7 on and after 1 January 1990 subject to the commencement provisions of paras.11 and 12. Previously

“(1) This section applies where for any accounting period—(a) any division falls to be made between the pension business and any other kind of long-term business of an insurance company, and (b) any of the income or gains or losses of the company for that period relate to restricted government securities;

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and where this section applies section 431(3) shall have effect subject to the provisions of this section. (2) All income, gains or losses of the company which relate to restricted government securities shall be referred to its pension business. (3) Where the division of the other income, gains or losses of the company is made by reference to the liabilities at any time in the accounting period which are referable to pension business or to two or more kinds of business including pension business, those liabilities shall be treated as reduced by the appropriate amount. (4) In subsection (3) above “the appropriate amount” means—(a) in a case in which the total liabilities of the company at the time in question which are referable to long-term business are less than the market value at that time of the investments and deposits held by the company relating to all such business, such proportion of the market value of the restricted government securities held by the company at that time as those liabilities bear to the market value of those investments and deposits, and (b) in any other case, the market value of the restricted government securities at that time. (5) In this section— “long-term business” has the same meaning as in section 1(1) of the Insurance Companies Act 1982;”.

**F219** Repealed by 1990 s.132 and Sch.19 Part IV.

**F220** Repealed by 1990 s.132 and Sch.19 Part IV.

#### Marginal Citations

**M13** Source—1982 s.58(1), (3)

**M14** Source—1982 s.58(4)

**M15** Source—1982 s.58(5)

**M16** Source—1982 s.58(6)

#### [<sup>F221</sup>439A] Taxation of pure reinsurance business.

If a company does not carry on life assurance business other than reinsurance business, and none of that business is of a type excluded from this section by regulations made by the Board, the profits of that business shall be charged to tax in accordance with Case I of Schedule D and not otherwise.]

#### Textual Amendments

**F221** S. 439A inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 26 (with Sch. 8 para. 55(2))

#### [<sup>F222</sup>439B] Life reinsurance business: separate charge on profits.

- (1) Where a company carries on life reinsurance business and the profits arising from that business are not charged to tax in accordance with the provisions applicable to Case I of Schedule D, then, subject as follows, those profits shall be treated as income within Schedule D and be chargeable to tax under Case VI of that Schedule, and for that purpose—
  - (a) that business shall be treated separately, and
  - (b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (2) Subsection (1) above does not apply to so much of reinsurance business of any description excluded from that subsection by regulations made by the Board.

Regulations under this subsection may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

- (3) In making the computation referred to in subsection (1) above—

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- (a) sections [F223 82 and 82B to 83AB] of the Finance Act 1989 shall apply with the necessary modifications F224 . . . , [F225 and]
  - (b) F226 . . . . .
  - (c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from life reinsurance business in any previous accounting period beginning on or after 1st January 1995.
- (4) Section 396 shall not be taken to apply to a loss incurred by a company on life reinsurance business.
- (5) Nothing in section 128 or 399(1) shall affect the operation of this section.
- (6) Gains accruing to a company which are referable [F227 (in accordance with section 432A)] to its life reinsurance business shall not be chargeable gains.
- (7) F228 . . . . .]

#### Textual Amendments

- F222** S. 439B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 27(1) (with Sch. 8 para. 55(2))
- F223** Words in s. 439B(3)(a) substituted (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 1(4)(a)
- F224** Words in s. 439B(3)(a) repealed (with effect in accordance with Sch. 33 para. 1(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 1(4)(b), Sch. 43 Pt. 3(12), Note 1
- F225** Word at the end of s. 439B(3)(a) added (with effect in accordance with Sch. 31 para. 10(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 31 para. 7(2)
- F226** S. 439B(3)(b) repealed (with effect in accordance with Sch. 31 para. 10(2) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 31 para. 7(1)(b), Sch. 41 Pt. 5(23), Note
- F227** Words in s. 439B(6) inserted (22.7.2004) by Finance Act 2004 (c. 12), Sch. 7 para. 9(1)(b)
- F228** S. 439B(7) repealed (with effect in accordance with Sch. 3 para. 7(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 7(1), Sch. 8 Pt. 2(6), Note

#### [F229 440 Transfers of assets etc.

- (1) If at any time an asset (or a part of an asset) held by an insurance company ceases to be within one of the categories set out in subsection (4) below and comes within another of those categories, the company shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) for a consideration equal to its market value at that time.
- (2) Where—
- [F230 (a) an asset is acquired by a company as a result of an insurance business transfer scheme which has effect to transfer long-term business from any person (“the transferor”) to the company, and]
  - (b) the asset (or part of it) is within one of the categories set out in subsection (4) below immediately before the acquisition and is within another of those categories immediately afterwards,
- the transferor shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) immediately before the acquisition for a consideration equal to its market value at that time.

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[ Where under subsection (1) or (2) above there is a deemed disposal and re-acquisition  
<sup>F231</sup>(2A) of any asset representing a loan relationship of a company, [<sup>F232</sup>Chapter 2 of Part 4 of the Finance Act 1996 applies] as respects that asset as if the asset that is deemed to be disposed of and the asset that is deemed to be re-acquired were different assets.]

[ Where under subsection (1) or (2) above there is a deemed disposal and re-acquisition  
<sup>F233</sup>(2B) of any derivative contract of a company, [<sup>F234</sup>Schedule 26 to the Finance Act 2002 applies] as respects that contract as if the contract that is deemed to be disposed of and the contract that is deemed to be re-acquired were different assets.]

(3) Where, apart from this subsection, section [<sup>F235</sup>171 or 173 the 1992 Act] (transfers within a group) would apply to a disposal or acquisition by an insurance company of an asset (or part of an asset) which, immediately before the disposal or (as the case may be) immediately after the acquisition, is within one of the categories set out in [<sup>F236</sup>paragraphs (a) to (e)] of subsection (4) below, that section shall not apply to the disposal or acquisition.

[<sup>F237</sup>(4) The categories referred to in subsections (1) to (3) above are—

- (a) assets linked solely to pension business;
- (b) assets linked solely to life reinsurance business;
- (c) assets of the overseas life assurance fund;
- (d) assets linked solely to basic life assurance and general annuity business;
- (e) assets of the [<sup>F238</sup>long-term insurance fund] not within any of the preceding paragraphs;
- (f) other assets.]

(5) In this section “market value” has the same meaning as in the [<sup>F239</sup>1992] Act.

[ In a case where the profits of a company’s life assurance business are charged to tax  
<sup>F240</sup>(6) in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3).]]

### Textual Amendments

**F229** Ss. 440, 440A substituted for s. 440 (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 8, **11(2)** (with Sch. 6 para. 12)

**F230** S. 440(2)(a) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 28(2) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 28(1)**

**F231** S. 440(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 25** (with Sch. 15)

**F232** Words in s. 440(2A) substituted (with effect in accordance with s. 52(3) of the amending Act (which is amended (retrospectively) by FA 2005 (c. 7), Sch. 4 para. 50, Sch. 11 Pt. 2(7)) by Finance Act 2004 (c. 12), **Sch. 10 para. 43**

**F233** S. 440(2B) inserted (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 27 para. 5** (with Sch. 28)

**F234** Words in s. 440(2B) substituted (with effect in accordance with s. 52(3) of the amending Act (which is amended (retrospectively) by FA 2005 (c. 7), Sch. 4 para. 50, Sch. 11 Pt. 2(7)) by Finance Act 2004 (c. 12), **Sch. 10 para. 70**

**F235** Words in s. 440(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(22)(a)** (with ss. 60, 101(1), 171, 201(3))

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- F236** Words in s. 440(3) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 5(2)** (with Sch. 8 para. 55(2))
- F237** S. 440(4) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995, Sch. 8 para. 5(3), s. 55(2)
- F238** Words in s. 440(4)(e) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(g)**
- F239** Words in s. 440(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(22)(b)** (with ss. 60, 101(1), 171, 201(3))
- F240** S. 440(6) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(3)** (with Sch. 8 para. 55(2))

#### Modifications etc. (not altering text)

- C71** S. 440 modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), **reg 10C** (as inserted (10.8.1995) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1995 (S.I. 1995/1916), **regs. 1, 6**)
- C72** S. 440 modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 22** (as amended by: S.I. 2001/3629, **arts. 1(2)(b), 158(1), 165(2)(d)**; S.I. 2004/822, **regs. 1, 18**)
- C73** S. 440 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 16** (as amended by S.I. 2007/2134, **regs. 1(1)(2), 16**)
- C74** S. 440(1) excluded (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, **Sch. 7 para. 6(4)**
- C75** S. 440(2) modified (with effect in accordance with reg. 1 of the modifying S.I.) by The Friendly Societies (Taxation of Transfers of Business) Regulations 1995 (S.I. 1995/171), **regs. 4, 5** (as amended (19.3.1997) by The Friendly Societies (Taxation of Transfers of Business) (Amendment) Regulations 1997 (S.I. 1997/472), **regs. 1, 3**)
- C76** S. 440(2) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 23** (as amended by S.I. 2001/3629, **arts. 1(2)(b), 158(2)**); and that modifying reg. 23 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, **reg. 19**
- C77** S. 440(2) modified (with effect in accordance with reg. 4A(3) of the modifying S.I.) by The Friendly Societies (Taxation of Transfers of Business) Regulations 1995 (S.I. 1995/171), **reg. 4A(1)(2)(a)** (as inserted (19.3.1997) by The Friendly Societies (Taxation of Transfers of Business) (Amendment) Regulations 1997 (S.I. 1997/472), **regs. 1, 4**)
- C78** S. 440(4) modified (20.3.1997 with effect in accordance with reg. 1(2) of the amending Regulations) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 24, 25**; and that modifying reg. 25 is omitted (8.4.2004 with effect in accordance with regs. 1, 20(2) of the revoking S.I.) by virtue of S.I. 2004/822, **reg. 20(1)**
- C79** S. 440(4) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 15**
- C80** S. 440(4)(a) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 13**; S.I. 2004/3369, **art. 2(1)**

#### [<sup>F241</sup>440A] Securities.

- (1) Subsection (2) below applies where the assets of an insurance company include securities of a class all of which would apart from this section be regarded for the purposes of corporation tax on chargeable gains as one holding.
- (2) Where this subsection applies—



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- [<sup>F242</sup>(a) so many of the securities as are identified in the company's records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of—
- (i) pension business, or
  - (ii) life reinsurance business, or
  - (iii) basic life assurance and general annuity business,
- shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,]
- (c) so many of the securities as are included in the overseas life assurance fund shall be treated for those purposes as a separate holding which is an asset of that fund,
- (d) so many of the securities as are included in the company's [<sup>F243</sup>long-term insurance fund] but do not fall within any of the preceding paragraphs shall be treated for those purposes as a separate holding which is an asset of that fund (but not of any of the descriptions mentioned in those paragraphs, and
- (e) any remaining securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.
- (3) Subsection (2) above also applies where the assets of an insurance company include securities of a class and apart from this section some of them would be regarded as a 1982 holding, and the rest as a [<sup>F244</sup>section 104 holding], for the purposes of corporation tax on chargeable gains.
- (4) In a case within subsection (3) above—
- (a) the reference in any paragraph of subsection (2) above to a separate holding shall be construed, where necessary, as a reference to a separate 1982 holding and a separate [<sup>F244</sup>section 104 holding], and
  - (b) the questions whether such a construction is necessary in the case of any paragraph and, if it is, how many securities falling within the paragraph constitute each of the two holdings shall be determined in accordance with paragraph 12 of Schedule 6 to the Finance Act 1990 and the identification rules applying on any subsequent acquisitions and disposals.
- (5) Section [<sup>F245</sup>105 of the 1992 Act]] shall have effect where subsection (2) above applies as if securities regarded as included in different holdings by virtue of that subsection were securities of different kinds.
- [<sup>F246</sup><sup>F247</sup>(6) In this section—
- “1982 holding” has the same meaning as in section 109 of the 1992 Act;
  - “[<sup>F244</sup>section 104 holding]” has the same meaning as in section 104(3) of that Act; and
  - “securities” means shares, or securities of a company, and any other assets where they are of a nature to be dealt in without identifying the particular assets disposed or acquired.]
- [<sup>F246</sup>(7) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(4).]

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### Textual Amendments

- F241** Ss. 440, 440A substituted for s. 440 (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 8, **11(2)** (with Sch. 6 para. 12)
- F242** S. 440A(2)(a) substituted for s. 440A(2)(a)(b) (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 6** (with Sch. 8 para. 55(2))
- F243** Words in s. 440A(2)(d) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(h)**
- F244** Words in s. 440A(3)(4)(6) substituted (with effect in accordance with s. 123(6) of the amending Act) by Finance Act 1998 (c. 36), **s. 123(5)(a)**
- F245** Words in s. 440A(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(23)(a)** (with ss. 60, 101(1), 171, 201(3))
- F246** S. 440A(7) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(4)** (with Sch. 8 para. 55(2))
- F247** S. 440A(6) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(23)(b)** (with ss. 60, 101(1), 171, 201(3))

### Modifications etc. (not altering text)

- C81** S. 440A(2) modified (31.7.1992 with effect in accordance with reg. 1 of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), **regs. 1, 14, 15** (as amended (31.12.1993 with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1(1), 5**)
- C82** S. 440A(2) modified (31.7.1992 with effect in accordance with reg. 1 of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), **regs. 1, 16** (as substituted (31.12.1993 with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1(1), 10**)
- C83** S. 440A(2) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 26, 27**; and that modifying reg. 27 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, **reg. 21**
- C84** S. 440A(2) modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 17** (as amended by S.I. 2007/2134, **regs. 1(1)(2), 17**)
- C85** S. 440A(2)(a)(i) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 16**
- C86** S. 440A(2)(a)(i) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 14**; S.I. 2004/3369, **art. 2(1)**
- C87** See 1990 s.41 and Sch.6 para.12(2)—subs.(d) omitted for period 1 January 1990 to 19 March 1990 inclusive.
- C88** See 1990 s.41 and Sch.6 para.12(1), (3), (4), (6), (7) and (10)—application and commencement provisions for “1982 holdings” and “new holdings”.
- C89** See 1990 s.41 and Sch.6 para.12(1), (3), (4), (6), (7) and (10)—application and commencement provisions for “1982 holdings”

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and  
“new holdings”.

[<sup>F248</sup>**440B** Modifications where tax charged under Case I of Schedule D.

- (1) The following provisions apply where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D.

[<sup>F250</sup> .....]  
<sup>F249</sup>(1A)

- (2) [<sup>F250</sup> .....

- (3) Section 440(1) and (2) apply as if the only categories set out in subsection (4) of that section were—

- (a) assets of the [<sup>F251</sup>long-term insurance fund], and  
(b) other assets.

- (4) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—

- (”) so many of the securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of [<sup>F252</sup>long-term] business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business, and  
(b) any remaining securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph.”.

- (5) Section 212(1) of the 1992 Act does not apply, but without prejudice to the bringing into account of any amounts deferred under section 213(1) or 214A(2) of that Act from any accounting period beginning before 1st January 1995.]

**Textual Amendments**

**F248** S. 440B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(1)** (with Sch. 8 para. 55(2))

**F249** S. 440B(1A) inserted (with effect in accordance with Sch. 27 para. 5(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 27 para. 5(1)**

**F250** S. 440B(1A)(2) repealed (with effect in accordance with Sch. 3 para. 8(4)(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 8(2)(3), **Sch. 8 Pt. 2(6)**, Note

**F251** Words in s. 440B(3)(a) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(i)**

**F252** Words in s. 440B(4) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(2)(g)**

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VALID FROM 19/07/2007

**[<sup>F253</sup>440] Modifications for change of tax basis**

- (1) Subsection (2) makes provision for a case where—
  - (a) subsection (4) of section 431G applies in relation to the profits of the life assurance business of an insurance company for any accounting period, but
  - (b) the profits of that business for a succeeding accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of subsection (3) of that section.
- (2) The loss referred to in section 431G(4)(b) (less any loss for the same accounting period set off under section 436A for any intervening accounting period and any amount deducted for any such period in respect of the loss by virtue of section 85A(3)(b) of the Finance Act 1989) may be set off under section 393 against profits of that succeeding accounting period (without being reduced in accordance with section 434A(2)(a)).
- (3) In determining whether any loss has been set off under section 436A for any intervening accounting period, or whether any amount has been deducted for any such period in respect of the loss by virtue of section 85A(3)(b) of the Finance Act 1989, losses of earlier accounting periods are to be assumed to be set off before those of later accounting periods.
- (4) Subsection (5) makes provision for a case where—
  - (a) a loss arises to an insurance company for an accounting period for which the profits of its life assurance business fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3)(b),
  - (b) the profits of that business for a subsequent accounting period are charged to tax under the I minus E basis, and
  - (c) had those profits (instead) been charged to tax in accordance with Case I of Schedule D, any of that loss would have been available to be set off against them under section 393.
- (5) The loss is to be treated for the purposes of the operation of section 436A in relation to the subsequent accounting period as if it were a loss arising from its gross roll-up business in the accounting period in which it arose.
- (6) Subsections (7) and (8) make provision for a case where—
  - (a) the profits of the life assurance business of an insurance company for an accounting period are charged to tax under the I minus E basis,
  - (b) the profits of that business for its next accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), and
  - (c) that prevents the giving of relief in accordance with section 86(8) of the Finance Act 1989 (acquisition expenses relieved in fractions under section 76).
- (7) Any relief which would have been so given in—
  - (a) the next accounting period, or

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(b) any subsequent accounting period for which the profits of the company's life assurance business continue to be charged to tax in accordance with Case I of Schedule D,

may be given by set-off against any gains treated as accruing under section 213(1) of the 1992 Act at the end of the accounting period.

(8) But if the profits of the company's life assurance business for a subsequent accounting period are charged to tax under the I minus E basis, any relief not previously given under subsection (7) is to be treated for the purposes of the operation of section 76 in relation to the first subsequent accounting period for which profits are so charged as if it were an amount which is to be relieved under that section by virtue of section 86(8) and (9) of the Finance Act 1989.]

#### Textual Amendments

**F253** S. 440C inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 8 para. 9 (with Sch. 8 Pt. 2)

VALID FROM 27/12/2007

#### [<sup>F254</sup> 440D Modifications in relation to BLAGAB group reinsurers

Schedule 19ABA (which makes modifications of this Act in relation to BLAGAB group reinsurers) shall have effect.]

#### Textual Amendments

**F254** S. 440D inserted (27.12.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Taxation of Reinsurance Business) (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/3430), art. 3(2)

#### [<sup>F255</sup> 441 Overseas life assurance business.

- (1) This section <sup>F256</sup> . . . shall apply for an accounting period of an insurance company <sup>F257</sup> . . . if during the period the company carries on overseas life assurance business.
- (2) Subject to the provisions of this section <sup>F256</sup> . . . , profits arising to the company from the overseas life assurance business shall be treated as income within Schedule D, and the chargeable under Case VI of that Schedule, and for that purpose—
  - (a) that business shall be treated separately, and
  - (b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) Subsection (2) above shall not apply if the company is charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.
- (4) In making the computation referred to in subsection (2) above—

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- (a) sections [<sup>F258</sup>82 and 82B to 83AB] of the Finance Act 1989 shall apply with the necessary modifications <sup>F259</sup> . . . . , [<sup>F260</sup>and] <sup>F262</sup> . . . . . ]
- <sup>F261</sup>(aa) (b) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from overseas life assurance business in any previous accounting period beginning on or after 1st January 1990.
- (5) Section 396 shall not be taken to apply to a loss incurred by a company on overseas life assurance business.
- (6) Nothing in section 128 or 399(1) shall affect the operation of this section.
- (7) <sup>F263</sup> . . . . .
- (8) Gains accruing on the disposal by a company of assets of its overseas life assurance fund shall not be chargeable gains. ]]

#### Textual Amendments

- F255** Ss. 441, 441A substituted for s. 441 by Finance Act 1990 (c. 29), Sch.7 paras. 3, 10
- F256** Words in s. 441(1)(2) repealed (10.7.2003) by Finance Act 2003 (c. 14), Sch. 33 para. 12(3), **Sch. 43 Pt. 3(12)**
- F257** Words in s. 441(1) repealed (with effect in accordance with Sch. 8 para. 55 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 8 para. 30, **Sch. 29 Pt. 8(5)**, Note 1
- F258** Words in s. 441(4)(a) substituted (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 1(4)(a)**
- F259** Words in s. 441(4)(a) repealed (with effect in accordance with Sch. 33 para. 1(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 1(4)(b), **Sch. 43 Pt. 3(12)**, Note 1
- F260** Word at the end of s. 441(4)(a) added (with effect in accordance with Sch. 31 para. 10(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 31 para. 7(2)**
- F261** S. 441(4)(aa) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 16(5)** (with Sch. 8 para. 55(2))
- F262** S. 441(4)(aa) repealed (with effect in accordance with Sch. 31 para. 10(2) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 31 para. 7(1)(c), **Sch. 41 Pt. 5(23)**, Note
- F263** S. 441(7) repealed (with effect in accordance with Sch. 8 para. 57(1) of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 2 (with Sch. 8 para. 55(2))

#### Modifications etc. (not altering text)

- C90** S. 441 modified (with effect in accordance with reg. 1(2) of the modifying S.I.) by **The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473)**, **regs. 1(1)**, 28 (as amended by S.I. 2004/822, **regs. 1**, 22)
- C91** S. 441 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by **The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014)**, **regs. 1(1)**, 18; and that modifying reg. 18 is omitted (14.8.2007 with effect in accordance with reg. 1(1)(2) of the revoking S.I.) by virtue of S.I. 2007/2134, **reg. 18(a)**

#### <sup>F264</sup>Section 441: distributions.

- (1) <sup>F265</sup> . . . . .
- (2) <sup>F266</sup> . . . . .

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- [<sup>F267</sup>(3) <sup>F266</sup> .....
- (4) <sup>F266</sup> .....
- (5) <sup>F266</sup> .....]
- (7) <sup>F266</sup> .....
- (8) <sup>F266</sup> .....]

#### Textual Amendments

- F264** Ss. 441, 441A substituted for s. 441 by Finance Act 1990 (c. 29), Sch.7 paras. 3, 10
- F265** S. 441A(1) repealed (with effect in accordance with Sch. 3 para. 9(4) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 9(2), **Sch. 8 Pt. 2(6)**, Note
- F266** S. 441A(2)-(8) repealed (with effect in accordance with Sch. 4 para. 28(2), Sch. 8 Pt. 2(10) Note of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 4 para. 28(1), **Sch. 8 Pt. 2(10)**
- F267** S. 441A(3)-(5) substituted for s. 441A(3)-(6) (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 31** (with Sch. 8 para. 55(2))

#### [<sup>F268</sup>441B] Treatment of UK land.

- (1) This section applies to land in the United Kingdom which—
  - (a) is held by a company as an asset linked to the company’s overseas life assurance business, or
  - (b) is held by a company which is charged to tax under Case I of Schedule D in respect of its life assurance business as an asset by reference to the value of which benefits under any policy or contract are to be determined, where the policy or contract (or, in the case of a reinsurance contract, the underlying policy or contract) is held by a person not residing in the United Kingdom.
- (2) Income arising from land to which this section applies shall be treated for the purposes of this Chapter as referable to basic life assurance and general annuity business.

[ For the purposes of subsection (2) above a Schedule A business for the exploitation  
<sup>F269</sup>(2A) of any land to which this section applies shall be treated as a separate business from any other such business.]

- (3) Where (apart from this subsection) an insurance company would not be carrying on basic life assurance and general annuity business it shall be treated as carrying on such business if any income of the company is treated as referable to such business by subsection (2) above.
- (4) A company may be charged to tax by virtue of this section—
  - (a) notwithstanding section 439A, and
  - (b) whether or not the income to which subsection (2) above relates is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.
- (5) In this section “land” has the same meaning as in Schedule 19AA.]

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#### Textual Amendments

- F268** S. 441B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 32 (with Sch. 8 para. 55(2))
- F269** S. 441B(2A) inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 5 para. 41 (with Sch. 5 para. 73)

#### 442 Overseas business of U.K. companies.

- (1) <sup>M17</sup>Subsections (2) and (3) below apply where a company resident in the United Kingdom carries on insurance business outside the United Kingdom through a [<sup>F270</sup>permanent establishment] and—
- (a) that business, or part of it, together with the whole assets of the company used for the purposes of that business or part (or together with the whole of those assets other than cash), is transferred to a company not resident in the United Kingdom;
  - (b) the business or part is so transferred wholly or partly in exchange for shares, or for shares and loan stock, issued by the transferee company to the transferor company; and
  - (c) the shares so issued, either alone or taken together with any other shares in the transferee company already held by the transferor company, amount in all to not less than one quarter of the ordinary share capital of the transferee company.
- (2) In making any computation in accordance with the provisions of this Act applicable to Case I of Schedule D of the profits or losses of the transferor company for the accounting period in which the transfer occurs, there shall be disregarded any profit or loss in respect of any asset transferred which, apart from this subsection, would fall to be taken into account in making that computation.
- (3) Where by virtue of subsection (2) above any profit or loss is disregarded in making any computation <sup>F271</sup> . . . the profit or loss shall be treated for the purposes of the [<sup>F272</sup>1992 Act] as a chargeable gain or allowable loss accruing to the transferor company on the transfer.
- (4) Where at any time a company resident in the United Kingdom—
- (a) which carries on insurance business wholly outside the United Kingdom, and
  - (b) the whole or part of whose ordinary share capital is beneficially owned by one or more companies resident in the United Kingdom,
- ceases to be resident in the United Kingdom, the profits or losses of the company in respect of that business for the accounting period ending at that time shall be computed for tax purposes without regard to the whole, or, as the case may be, a corresponding part of any profit or loss in respect of any asset which, apart from this subsection, would fall to be calculated in accordance with section 100(1)(b) and taken into account in making that computation.

#### Textual Amendments

- F270** Words in s. 442(1) substituted (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), s. 153(1)(a)



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**F271** Words in s. 442(3) repealed (with effect in accordance with s. 164(5) of the amending Act) by Finance Act 1996 (c. 8), Sch. 41 Pt. 5(24), Note

**F272** Words in s. 442(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), Sch. 10 para. 14(24) (with ss. 60, 101(1), 171, 201(3))

#### Modifications etc. (not altering text)

**C92** S. 442(3) excluded by Income and Corporation Taxes Act 1970 (c. 10), s. 269C(8) (as inserted (retrospectively) by Finance (No. 2) Act 1992 (c. 48), s.48)

#### Marginal Citations

**M17** Source—1977 s.45(1)—(4); 1979(C) Sch.7

### [<sup>F273</sup>442A] Taxation of investment return where risk reinsured.

- (1) Where an insurance company reinsures any risk in respect of a policy or contract attributable to its basic life assurance and general annuity business, the investment return on the policy or contract shall be treated as accruing to the company [<sup>F274</sup>while the risk remains reinsured by the company under] the reinsurance arrangement and shall be charged to tax under Case VI of Schedule D.
- (2) The Board may make provision by regulations as to the amount of investment return to be treated as accruing in each accounting period during which the reinsurance arrangement is in force.
- (3) The regulations may, in particular, provide that the investment return to be treated as accruing to the company in respect of a policy or contract in any accounting period shall be calculated by reference to—
  - (a) the aggregate of the sums paid by the company to the reinsurer during that accounting period and any earlier accounting periods by way of premium or otherwise;
  - (b) the aggregate of the sums paid by the reinsurer to the company during that accounting period and any earlier accounting periods by way of commission or otherwise;
  - (c) the aggregate amount of the net investment return treated as accruing to the company in any earlier accounting periods, that is to say, net of tax at such rate as may be prescribed; and
  - (d) such percentage rate of return as may be prescribed.

[ Where a transfer of the reinsurance arrangement from one insurance company (“the <sup>F275</sup>(3A) transferor”) to another (“the transferee”) is effected by novation or an insurance business transfer scheme, for the purpose of calculating the investment return to be treated as accruing to the transferee in respect of the policy or contract after the transfer, the references to the company in subsection (3)(a), (b) and (c) above include (as well as the transferee)—

- (a) the transferor, and
  - (b) any insurance company from which the reinsurance arrangement was transferred on an earlier transfer effected by novation or an insurance business transfer scheme.]
- (4) The regulations shall provide that the amount of investment return to be treated as accruing <sup>F276</sup>. . . in respect of a policy or contract in the final accounting period during

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which the policy or contract is in force is the amount, ascertained in accordance with regulations, by which the profit over the whole period during which the policy or contract, and the reinsurance arrangement, were in force exceeds the aggregate of the amounts treated as accruing in earlier accounting periods.

If that profit is less than the aggregate of the amounts treated as accruing in earlier accounting periods, the difference shall go to reduce the amounts treated by virtue of this section as arising in that accounting period from other policies or contracts, and if not fully so relieved may be carried forward and set against any such amounts in subsequent accounting periods.

(5) Regulations under this section—

- (a) may exclude from the operation of this section such descriptions of insurance company, such descriptions of policies or contracts and such descriptions of reinsurance arrangements as may be prescribed;
- (b) may make such supplementary provision as to the ascertainment of the investment return to be treated as accruing to the company as appears to the Board to be appropriate, including provision requiring payments made during an accounting period to be treated as made on such date or dates as may be prescribed; and
- (c) may make different provision for different cases or descriptions of case.

(6) In this section “prescribed” means prescribed by regulations under this section.]

#### Textual Amendments

- F273** S. 442A inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 34 (with Sch. 8 paras. 55(2), 57(2))
- F274** Words in s. 442A(1) substituted (with effect in accordance with Sch. 33 para. 23(5) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 23(2)
- F275** S. 442A(3A) inserted (with effect in accordance with Sch. 33 para. 23(5) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 23(3)
- F276** Words in s. 442A(4) repealed (with effect in accordance with Sch. 33 para. 23(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 23(4), Sch. 43 Pt. 3(12), Note 4

#### Modifications etc. (not altering text)

- C93** S. 442A restricted (28.7.1995 with effect in accordance with reg. 1 of the affecting S.I.) by The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730), regs. 9, 10
- C94** S. 442A(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), regs. 1(1), 29
- C95** S. 442A(1) modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), regs. 1(1), 19

#### 443 Life policies carrying rights not in money.

<sup>M18</sup>Where any investments or other assets are or have been, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder on or after 6th April 1967, the policy holder’s acquisition of the assets, and the disposal of them to him, shall be deemed to be for

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a consideration equal to the market value of the assets for the purposes of computing income in accordance with Case I or VI of Schedule D.

**Marginal Citations**

**M18** Source—1970 s.321(1)(b), (2)

**444 Life policies issued before 5th August 1965.**

(1) <sup>M19</sup>This section applies in relation to policies of life assurance issued before 5th August 1965 by a company carrying on life assurance business, being policies which—

- (a) provide for benefits consisting to any extent of investments of a specified description or of a sum of money to be determined by reference to the value of such investments, but
- (b) do not provide for the deduction from those benefits of any amount by reference to tax chargeable in respect of chargeable gains.

(2) Where—

- (a) the investments of the company's life assurance fund, so far as referable to those policies, consist wholly or mainly of investments of the description so specified, and
- (b) on the company becoming liable under any of those policies for any such benefits (including benefits to be provided on the surrender of a policy), a chargeable gain accrues to the company from the disposal, in meeting or for the purpose of meeting that liability, of investments of that description forming part of its life assurance fund, or would so accrue if the liability were met by or from the proceeds of such a disposal,

then the company shall be entitled as against the person receiving the benefits to retain out of those benefits a part not exceeding in amount or value corporation tax, at the rate specified in subsection (3) below, in respect of the chargeable gain referred to in paragraph (b) above, computed without regard to any amount retained under this subsection.

(3) The amount to be retained under subsection (2) above shall, subject to subsection (4) below, be computed by reference to the rate of corporation tax for the time being in force or, if no rate of corporation tax has yet been fixed for the financial year, the rate last in force.

(4) In so far as the chargeable gain represents or would represent a gain belonging or allocated to, or reserved for, policy holders, the amount to be retained shall be computed by reference to a rate of tax not exceeding 37.5 per cent.

**Marginal Citations**

**M19** Source—1970 s.322

[<sup>F277</sup>444A] **Transfers of business.**

[<sup>F278</sup>(1) Subject to subsection (7) below, this section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).]

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- [<sup>F279</sup>(2) Any expenses payable which (assuming the transferor had continued to carry on the business transferred after the transfer) would have fallen to be brought into account by the transferor in determining the deduction for expenses payable to be allowed under section 76 in computing profits for an accounting period following the period which ends with the day on which the transfer takes place shall, instead, be brought into account under and in accordance with that section by the transferee as expenses payable by him (and giving effect in the case of acquisition expenses, to section 86(6) to (9) of the Finance Act 1989).]
- (3) Any loss which (assuming the transferor had continued to carry on the business transferred after the transfer)—
- (a) would have been available under section 436(3)(c) [<sup>F280</sup>or 439B(3)(c)] to be set off against profits of the transferor for the accounting period following that which ends with the day on which transfer takes place, or
  - (b) where [<sup>F281</sup>the transfer relates to any overseas life assurance business or] in connection with the transfer the transferor also transfers the whole or part of any [<sup>F282</sup>such] business, would have been so available under section 441(4)(b), shall, instead, be treated as a loss of the transferee (and available to be set off against profits of the same class of business as that in which it arose) [<sup>F283</sup>if the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to the transfer).]
- [ Where subsection (3) above has effect, sections [<sup>F285</sup>343(4),] (5) and (7) to (12) and <sup>F284</sup>(3ZA) 344 apply in relation to the business in which the loss arose construing—
- (a) references to the predecessor and the successor as to (respectively) the transferor and the transferee, and
  - (b) references to section 343(3) as to subsection (3) of this section, except that nothing in section 343(8) to (10) and (12) applies in relation to the transferee.]

[ Any subsection (2) excess (within the meaning of section 432F(2)) which (assuming <sup>F286</sup>(3A) the transferor had continued to carry on the business transferred after the transfer) would have been available under section 432F(3) or (4) to reduce a subsection (3) figure (within the meaning of section 432F(1)) of the transferor in an accounting period following that which ends with the day on which transfer takes place—

    - (a) shall, instead, be treated as a subsection (2) excess of the transferee, and
    - (b) shall be taken into account in the first accounting period of the transferee ending after the date of the transfer (to reduce the subsection (3) figure or, as the case may be, to produce or increase a subsection (2) excess for that period), in relation to the revenue account of the transferee dealing with or including the business transferred.]

(4) Where acquisition expenses are treated as [<sup>F287</sup>expenses payable by the transferee] by virtue of subsection (2) above, the amount deductible for the first accounting period of the transferee ending after the transfer takes place shall be calculated as if that accounting period began with the day after the transfer.

(5) Where the transfer is of part only of the transferor's [<sup>F288</sup>long-term] business, [<sup>F289</sup>subsection (2), (3) or (3A)] above shall apply only to such part of any amount to which it would otherwise apply as is appropriate.

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- (6) Any question arising as to the operation of subsection (5) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.
- (7) Subject to subsection (8) below, this section shall not apply unless the transfer is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to corporation tax.
- (8) Subsection (7) above shall not affect the operation of this section in any case where, before the transfer, the Board have, on the application of the transferee, notified the transferee that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any scheme or arrangements such as are mentioned in that subsection; and subsections (2) to (5) of section [F<sup>290</sup>138 of the 1992 Act] shall have effect in relation to this subsection as they have effect in relation to subsection (1) of that section.]

#### Textual Amendments

- F277** S. 444A inserted (with effect in accordance with Sch. 9 para. 7 of the amending Act) by Finance Act 1990 (c. 29), Sch. 9 para. 4
- F278** S. 444A(1) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 29(2) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 29(1)
- F279** S. 444A(2) substituted (28.9.2004 with effect in accordance with art. 1 of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 19(2)
- F280** Words in s. 444A(3)(a) inserted (with effect in accordance with Sch. 9 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 27(2) (with Sch. 8 para. 55(2))
- F281** Words in s. 444A(3) inserted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 9 para. 1(3)(a)
- F282** Word in s. 444A(3)(b) substituted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 9 para. 1(3)(b)
- F283** Words in s. 444A(3) inserted (with effect in accordance with Sch. 33 para. 24(4) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 24(2)
- F284** S. 444A(3ZA) inserted (with effect in accordance with Sch. 33 para. 24(4) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 24(3)
- F285** Words in s. 444A(3ZA) substituted (22.7.2004) by Finance Act 2004 (c. 12), Sch. 7 para. 1
- F286** S. 444A(3A) inserted (with effect in accordance with Sch. 8 para. 53(1)(3) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 17(4) (with Sch. 8 para. 55(2))
- F287** Words in s. 444A(4) substituted (28.9.2004 with effect in accordance with art. 1 of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 19(3)
- F288** Words in s. 444A(5) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2000/3629), art. 52(2)(h)
- F289** Words in s. 444A(5) substituted (with effect in accordance with Sch. 8 para. 53(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 17(5) (with Sch. 8 para. 55(2))
- F290** Words in s. 444A(8) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), Sch. 10 para. 14(25) (with ss. 60, 101(1), 171, 201(3))

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**Modifications etc. (not altering text)**

- C96** S. 444A(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), **regs. 1(1), 30** (as amended (1.12.2001) by [S.I. 2001/3629](#), **arts. 1(2)(b), 159**); and that modifying reg. 30 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of [S.I. 2004/822](#), **reg. 23**

VALID FROM 19/02/2008

**[<sup>F291</sup>444A] Transfers of life assurance business: Case VI losses of the transferor**

- (1) This section applies where—
- (a) an insurance business transfer scheme has effect to transfer life assurance business from one person (“the transferor”) to another (“the transferee”),
  - (b) assuming the transferor had continued to carry on the business transferred after the transfer, the amount of any profits would have been charged to tax in respect of that business under the I minus E basis,
  - (c) the profits in respect of the business transferred for the first period of account of the transferee ending after the date on which the transfer takes effect are charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), and
  - (d) the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to a transfer).
- (2) Any loss which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to be set off against profits chargeable under section 436A (a “Case VI loss”) shall instead be treated as a loss of the transferee (a “Case I loss”) available to be set off against GRBP in relation to a period of account.
- (3) For the purposes of subsection (2) above “GRBP”, in relation to a period of account, is—

$$P \times \frac{GRBTL}{TL}$$

where—

*P* is the amount of such profits of the transferee's life assurance business for the period of account as relate to the business transferred (that amount being determined in accordance with section 343(9) and (10), where applicable),

*GRBTL* is the mean of the opening and closing liabilities of the transferred gross roll-up 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.

- (4) Where the transfer is of part only of the transferor's long-term business, subsection (2) above shall apply only to such part of any Case VI loss to which it would otherwise apply as is appropriate.

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- (5) Any question arising as to the operation of subsection (4) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing.]

#### Textual Amendments

**F291** Ss. 444AZA, 444AZB inserted (19.2.2008 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), art. 9

VALID FROM 19/02/2008

#### **<sup>F291</sup>444AZB** Transfers of life assurance business: Case I losses of the transferor

- (1) This section applies where—
- an insurance business transfer scheme has effect to transfer life assurance business from one person (“the transferor”) to another (“the transferee”),
  - assuming the transferor had continued to carry on the business transferred after the transfer, the amount of any profits would have been charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3),
  - the profits in respect of the business transferred for the first period of account of the transferee ending after the date on which the transfer takes effect are charged to tax under the I minus E basis, and
  - the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to a transfer).
- (2) The relevant fraction of any loss which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to be set off against profits of that business (a “Case I loss”) shall instead be treated as a loss of the transferee (a “Case VI loss”) available to be set off against the amount of such profits chargeable under section 436A for a period of account as relate to the business transferred (that amount being determined in accordance with section 343(9) and (10), where applicable).
- (3) For the purposes of subsection (2) above “the relevant fraction”, in relation to a period of account, is—

$$\frac{GRBTL}{TL}$$

where—

*GRBTL* is the mean of the opening and closing liabilities of the transferred gross roll-up 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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- (4) Where the transfer is of part only of the transferor's long-term business, subsection (2) above shall apply only to such part of the amount of any Case I loss to which it would otherwise apply as is appropriate.
- (5) Any question arising as to the operation of subsection (4) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing.]

#### Textual Amendments

**F291** Ss. 444AZA, 444AZB inserted (19.2.2008 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 \(S.I. 2008/381\)](#), **art. 9**

#### [<sup>F292</sup>444A] **Transfers of business: deemed periodical return**

- (1) This section applies where an insurance business transfer scheme has effect to transfer the whole of the long-term business of one person (“the transferor”).
- (2) Where the last period covered by a periodical return of the transferor ends otherwise than immediately before the transfer, there is to be deemed for the purposes of corporation tax to be a periodical return of the transferor covering the period—
  - (a) beginning immediately after the last period ending before the transfer which is covered by an actual periodical return of the transferor, and
  - (b) ending immediately before the transfer,
 containing such entries as would have been included in an actual periodical return of the transferor covering that period (and so making that period a period of account of the transferor).
- (3) Where the last period covered by a periodical return of the transferor (whether or not by virtue of subsection (2) above) ends immediately before the transfer, there is to be deemed for the relevant purpose to be a periodical return of the transferor—
  - (a) covering the time of the transfer, and
  - (b) containing such entries as would have been included in an actual periodical return covering the time of the transfer,
 (and so making the time of the transfer a period of account of the transferor for the relevant purpose).
- (4) Where the last period covered by a periodical return of the transferor ends after the transfer, the periodical return covering that period is to be ignored for all purposes of corporation tax other than the relevant purpose.
- (5) In this section “the relevant purpose” means determining for the purposes of section 83(2B) of the Finance Act 1989 whether a transfer is brought into account as part of total expenditure.
- (6) For the purposes of this section “insurance business transfer scheme” includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).]



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### Textual Amendments

**F292** S. 444AA inserted (with effect in accordance with Sch. 33 para. 18(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 18(1)

### [<sup>F293</sup> 444A] **Transfers of business: charge on transferor retaining assets**

- (1) This section applies where, immediately after an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to one or more others (“the transferee” or “the transferees”), the transferor—
  - (a) does not carry on long-term business, but
  - (b) holds assets which, immediately before the transfer, were assets of its long-term insurance fund.
- (2) The transferor shall be charged to tax under Case VI of Schedule D in respect of the taxable amount as if it had been received by the transferor during the accounting period beginning immediately after the day of the transfer.
- (3) If the transferor was charged to tax on the profits of its life assurance business under Case I of Schedule D for the accounting period ending with the day of the transfer, the taxable amount is the whole of the previously untaxed amount.
- (4) Otherwise, the taxable amount is the non-BLAGAB fraction of the previously untaxed amount.
- (5) The previously untaxed amount is the lesser of—
  - [<sup>F294</sup>(a) if there are no retained liabilities, the fair value of the retained assets or, if there are, so much of the fair value of the retained assets as exceeds the amount of the retained liabilities, and]
  - (b) the amount by which the fair value of the assets of the transferor’s long-term insurance fund immediately before the transfer exceeds the amount of the relevant pre-transfer liabilities.
- (6) In subsection (5) above “fair value”, in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.

[ In subsection (5) above—

- <sup>F295</sup>(6A) (a) “the retained assets” means such of the assets held by the transferor immediately after the transfer as were assets of its long-term insurance fund immediately before the transfer; and
- (b) “the retained liabilities” means such of the liabilities of the transferor immediately after the transfer as were included in column 1 of line 14, 17, 22, 31 or 38 of Form 14 in the periodical return of the transferor covering the period of account ending immediately before the transfer.]
- (7) Subject to subsection (8) below, the amount of the relevant pre-transfer liabilities is the aggregate of the amounts shown in column 1 of lines 14 and 49 of Form 14 in the periodical return of the transferor covering the period of account ending immediately before the transfer.
- (8) If the amount of the liabilities transferred exceeds the value of the assets so transferred, as brought into account for the first period of account of the transferee (or any of the

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transferees) ending after the transfer, the amount of the relevant pre-transfer liabilities is the amount arrived at by deducting the excess from the aggregate of the amounts shown as mentioned in subsection (7) above.

- (9) For the purposes of subsection (4) above the non-BLAGAB fraction of the previously untaxed amount is the fraction of which—
- (a) the numerator is the amount of the liabilities transferred, apart from those which are liabilities of basic life assurance and general annuity business, and
  - (b) the denominator is the amount of the liabilities transferred.
- (10) References in this section to assets held by the transferor after the transfer do not include any held on trust for the transferee or any of the transferees.
- (11) For the purposes of this section “insurance business transfer scheme” includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).]

#### Textual Amendments

**F293** S. 444AB inserted (with effect in accordance with Sch. 33 para. 19(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 19(1)

**F294** S. 444AB(5)(a) substituted (with effect in accordance with Sch. 7 para. 2(4) of the amending Act) by Finance Act 2004 (c. 12), Sch. 7 para. 2(2)

**F295** S. 444AB(6) inserted (with effect in accordance with Sch. 7 para. 2(4) of the amending Act) by Finance Act 2004 (c. 12), Sch. 7 para. 2(3)

#### [<sup>F296</sup> ~~S. 444AB~~ Subsequent charge in certain cases within s.444AB

- (1) This section applies where—
  - (a) section 444AB applies in relation to a transfer in the case of which there are retained liabilities, and
  - (b) in any accounting period of the transferor beginning after the day of the transfer there is a reduction in the amount of the retained liabilities occasioned otherwise than by the making of a payment in or towards their discharge.
- (2) The transferor shall be charged to tax under Case VI of Schedule D in respect of the taxable amount as if it had been received by the transferor in the accounting period in which the reduction occurs.
- (3) If the transferor was charged to tax on the profits of its life assurance business under Case I of Schedule D for the accounting period ending with the day of the transfer, the taxable amount is the whole amount of the reduction.
- (4) Otherwise the taxable amount is the non-BLAGAB fraction of the amount of the reduction.
- (5) The non-BLAGAB fraction of the amount of the reduction is the fraction of which—
  - (a) the numerator is the amount of the liabilities transferred, apart from those which are liabilities of basic life assurance and general annuity business, and
  - (b) the denominator is the amount of the liabilities transferred.

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- (6) Where in any accounting period of the transferor beginning after the transfer there is an increase in the amount of the retained liabilities, this section applies in relation to subsequent accounting periods of the transferor as if the amount of the retained liabilities were reduced by the amount of the increase.
- (7) Where an amount is shown as post-transfer reduction liabilities in the transferor's accounts for any accounting period beginning after the transfer, this section applies as if the amount of the retained liabilities at the end of that accounting period (and the beginning of the next) were increased by the amount so shown.
- (8) In subsection (7) above “post-transfer reduction liabilities” means liabilities of the transferor to make payments to relevant persons which, in accordance with the terms of the insurance business transfer scheme, have arisen in consequence of a reduction in the amount of the retained liabilities at any time after the transfer.
- (9) In subsection (8) above “relevant persons” means—
  - (a) if the transferor's life assurance business immediately before the transfer was mutual business, persons who were policy holders or annuitants, or members of the transferor, at that time, and
  - (b) in any other case, persons who were policy holders or annuitants at that time.]

#### Textual Amendments

**F296** S. 444ABA inserted (with effect in accordance with Sch. 7 para. 3(2) of the amending Act) by Finance Act 2004 (c. 12), Sch. 7 para. 3(1)

VALID FROM 16/12/2010

#### <sup>F297</sup> 444ABA Profit fund transferred assets

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

$$FVA - (ABTO + TL)$$

where—

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

ABTO is any amount brought into account in respect of the assets as a business transfer-out and shown (or treated as shown) in line 32 of Form 40 in the periodical return of the transferor for the period of account of the transferor including the transfer date, and

TL is the amount of any non-profit fund transferred liabilities which are shown (or treated as shown) in any of lines 17, 21 to 23 and 31 to 38, but not in line 61, in Form 14 in the periodical return for the period of account of the transferor ending (or treated as ending by section 444AA) immediately before the transfer date or, if there is no period of account of the transferor so ending (or treated as so ending), the amount of any liabilities which would be so shown if one did.

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- (2) In subsection (1) “non-profit fund transferred liabilities” means such of the liabilities of the transferor's long-term insurance fund as are transferred from the transferor to the transferee by the insurance business transfer scheme and were, immediately before their transfer, liabilities of a non-profit fund of the transferor.
- (3) See section 444AA for the meaning of “the transfer date” in this section.]

#### Textual Amendments

**F297** S. 444ABAA inserted (with effect in accordance with s. 15(11) of the amending Act) by Finance (No. 3) Act 2010 (c. 33), s. 15(10)

VALID FROM 19/07/2007

#### <sup>F298</sup> 444AB 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.]

#### Textual Amendments

**F298** Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 4(1); S.I. 2008/379, art. 2

VALID FROM 19/02/2008

#### <sup>F299</sup> 444ABB Transfers of business: election for transferee to pay tax of transferor

- (1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2) If the transferor and the transferee jointly elect, the transferee (and not the transferor) is chargeable to any amount of additional corporation tax to which the transferor would otherwise be chargeable by virtue of section 444AB(4) in relation to relevant non-transferred assets.
- (3) An election under subsection (2) above—
- (a) is to be irrevocable, and

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- (b) is to be made by notice to an officer of Revenue and Customs no later than the end of the period of 90 days beginning with the day following the transfer date,
- and a copy of the notice containing the election must accompany the tax return of the transferee for the first accounting period ending after the transfer. Paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.
- (4) Where an election under subsection (2) above has been made, the transferor must inform the transferee of—
- (a) the amount of any additional corporation tax to which the transferor considers the election to apply, and
- (b) the day on which that tax is due and payable,
- no later than the end of the period of 8 months beginning with the day following the transfer date.
- (5) Tax chargeable on the transferee by virtue of an election under subsection (2) above—
- (a) is due in accordance with section 59D of the Management Act <sup>M20</sup> on the day on which it would have been due if no election had been made, and
- (b) for the purposes of that section, is to be treated as tax payable by the transferor (and not as tax payable by the transferee).
- (6) See section 444AA for the meaning of “the transfer date” in this section.]

#### Textual Amendments

**F299** S. 444ABBA inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [art. 14](#)

#### Marginal Citations

**M20** 1970 c. 9

VALID FROM 19/07/2007

#### **[<sup>F300</sup> 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,

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(“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

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.]

#### Textual Amendments

**F300** Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 4(1); S.I. 2008/379, art. 2

VALID FROM 19/07/2007

#### <sup>F301</sup> 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.]

#### Textual Amendments

**F301** S. 444ABD inserted (with effect in accordance with Sch. 9 para. 17(4) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 5

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

(1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).

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- (2) If—
- (a) the element of the transferee’s line 15 figure representing the transferor’s long-term insurance fund, exceeds
  - (b) the amount of the liabilities to policy holders and annuitants transferred to the transferee,
- the excess is not to be regarded as other income of the transferee for the purposes of section 83(2)(d) of the Finance Act 1989.
- (3) In this section and section 444AD “the element of the transferee’s line 15 figure representing the transferor’s long-term insurance fund” means so much of—
- (a) the amount which is brought into account by the transferee as other income in the period of account of the transferee in which the transfer takes place, as represents
  - (b) the assets transferred to the transferee.

VALID FROM 19/07/2007

**[<sup>F302</sup> 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.]

**Textual Amendments**

**F302** Ss. 444AC, 444ACZA substituted for s. 444AC (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 6(1); S.I. 2008/379, art. 2

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VALID FROM 20/07/2005

**[<sup>F303</sup> 444AC] Transfers of business: transferor shares are assets of transferee's long-term insurance fund etc**

- (1) This section applies where an insurance business transfer scheme (see section 444AC(11)) has effect to transfer long-term business from one company (“the transferor”) to another (“the transferee”).
- (2) If—
- (a) immediately before the transfer, the assets of the long-term insurance fund of the transferee comprise or include relevant shares or an interest in such shares, and
  - (b) the fair value (see section 444AC(11)) of the relevant shares, or of that interest, is reduced (whether or not to nil) as a result of the transfer,
- an amount equal to that reduction in fair value is to be taken into account under section 83(2) of the Finance Act 1989 as a receipt of the transferee of the period of account of the transferee in which the transfer takes place.
- (3) But if—
- (a) the assets transferred to the transferee under the transfer comprise or include assets (“the relevant assets”) which, immediately before the transfer,—
    - (i) were assets of the transferor, but
    - (ii) were not assets of the transferor's long-term insurance fund, and
  - (b) in respect of the transfer of the relevant assets, an amount is—
    - (i) brought into account by the transferee as other income of the transferee of the period of account of the transferee in which the transfer takes place, and
    - (ii) taken into account in computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits of the transferee's life assurance business and any category of its life assurance business to which the amount is referable,

the amount taken into account under section 83(2) of the Finance Act 1989 by virtue of subsection (2) above shall be reduced (but not below nil) by an amount equal to the amount referred to in paragraph (b) above.
- (4) In subsection (2) above “relevant shares” means—
- (a) some or all of the shares in the transferor, or
  - (b) some or all of the shares in a company (whether or not an insurance company) which owns, directly or indirectly,—
    - (i) some or all of the shares in the transferor, or
    - (ii) an interest in some or all of those shares.
- (5) In subsection (4) above “shares”, in relation to a company, includes any interests in the company possessed by members of the company.]



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#### Textual Amendments

**F303** S. 444ACA inserted (with effect in accordance with Sch. 9 para. 8(2) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 8(1)

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

- (1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2) If the transferor and the transferee jointly elect, section 83(2B) of the Finance Act 1989 does not apply to the transferor by reason of the transfer as respects so much of the value of the assets to which it would otherwise so apply as does not exceed the amount specified in subsection (4) below.
- (3) An election under subsection (2) above—
  - (a) is irrevocable, and
  - (b) is to be made by notice to an officer of the Board no later than the end of the period of 28 days beginning with the day following that on which the transfer takes place;and a copy of the notice containing the election must accompany the tax return of the transferee for the first accounting period ending after the transfer.

Paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.
- (4) The amount referred to in subsection (2) above is the amount by which—
  - <sup>F304</sup>(a) the fair value of such of the assets of the long-term insurance fund of the transferee immediately after the transfer as were assets of the transferor’s long-term insurance fund immediately before the transfer, is greater than]
  - (b) the element of the transferee’s line 15 figure representing the transferor’s long-term insurance fund.
- (5) In subsection (4) above “fair value”, in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.

#### Textual Amendments

**F304** S. 444AD(4)(a) substituted (with effect in accordance with Sch. 7 para. 4(2) of the amending Act) by Finance Act 2004 (c. 12), Sch. 7 para. 4(1)

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

- (1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2) If a contingent loan made to the transferor (within the meaning of subsection (1) of section 83ZA of the Finance Act 1989) is transferred to the transferee, that section has effect as if—

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- (a) the contingent loan had become repayable by the transferor immediately before the transfer, and
- (b) the contingent loan were made to the transferee immediately after the transfer.

VALID FROM 19/07/2007

#### **444AEB Transfer schemes: anti-avoidance rule**

- (1) 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.

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

VALID FROM 19/07/2007

#### **444AEB Case I advantage: transferor**

- (1) A Case I advantage is obtained by the transferor 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 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.

VALID FROM 19/07/2007

#### **444AEC Case I advantage: transferee**

- (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—

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- (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—
- (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.

VALID FROM 19/02/2008

**<sup>F305</sup> 444AECB of transfer scheme arrangements: anti-avoidance rule**

- (1) This section applies where—
- (a) as a result of 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 that part of the transfer scheme arrangements is the obtaining of that Case I advantage.
- (2) In subsection (1) above “transfer scheme arrangements” has the same meaning as in section 444AEA.
- (3) If a Case I advantage is obtained by the transferor (see subsection (1) of section 444AECB), the amount of the transferor's Case I advantage (see subsection (3) 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—
- (a) to the extent that the advantage is obtained by the transferor in the period of account covering the transfer date or any earlier period of account—
    - (i) for the period of account of the transferor ending (or treated as ending) immediately before the transfer date, or
    - (ii) where there is no such period, for the period of account of the transferor including the transfer date, and
  - (b) to the extent that the advantage is obtained by the transferor in any later period of account of the transferor in which any relevant associated operations are effected, for that later period of account.
- (4) If a Case I advantage is obtained by the transferee (see subsection (1) of section 444AECB), 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

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the assets of the long-term insurance fund of the transferee for the period of account of the transferee in which the advantage is obtained by the transferee.

- (5) See section 444AA for the meaning of “the transfer date”, and section 444AEA for the meaning of “relevant associated operations”, in this section.]

### Textual Amendments

**F305** Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 22**

VALID FROM 19/02/2008

### **F305** ~~444AECB~~ **444AECB of transfer scheme arrangements: Case I advantage transferor**

- (1) A Case I advantage is obtained by the transferor if—
  - (a) Case I profits of its life assurance business for a period of account to which this section applies are, or at the relevant time are expected to be, less than they would be but for any part of the transfer scheme arrangements, or
  - (b) Case I losses of its life assurance business for such a period of account are, or at the relevant time are expected to be, greater than they would be but for any part of the transfer scheme arrangements.
- (2) But if any of the relevant associated operations would, by itself, cause the Case I profits to be greater or the Case I losses to be less than they would be but for that operation, the amount by which those profits would be greater or those losses would be less shall be taken into account in determining whether a Case I advantage is obtained by the transferor.
- (3) 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, or at the relevant time are expected to be, less than they would be but for the relevant part of the arrangements, and
  - (b) the amounts (if any) by which Case I losses for each such period of account are, or at the relevant time are expected to be, greater than they would be but for the relevant part of the arrangements.
- (4) 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.
- (5) In this section and section 444AECC “the relevant part of the arrangements” means, in relation to a Case I advantage, the part of the transfer scheme arrangements as a result of which the Case I advantage is obtained.

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- (6) 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” and “the relevant time”, in this section.]

#### Textual Amendments

**F305** Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [art. 22](#)

VALID FROM 19/02/2008

#### **F305** 444AEEC of transfer scheme arrangements: Case I advantage transferee

- (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, or at the relevant time are expected to be, less than they would be but for any part of the transfer scheme arrangements, or
  - (b) Case I losses of its life assurance business for such a period of account are, or at the relevant time are expected to be, greater than they would be but for the any part of the transfer scheme arrangements.
- (2) But if any of the relevant associated operations would, by itself, cause the Case I profits to be greater, or the Case I losses to be less, than they would be but for that operation, the amount by which those profits would be greater or those losses would be less shall be taken into account in determining whether a Case I advantage is obtained by the transferor.
- (3) 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, or at the relevant time are expected to be, less than they would be but for the relevant part of the arrangements, or
  - (b) the amount by which Case I losses for each such period of account are, or at the relevant time are expected to be, greater than they would be but for the relevant part of the arrangements.
- (4) This section applies to a period of account if it is—
  - (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.
- (5) See section 444AA for the meaning of “the transfer date”, section 444AEA for the meaning of “relevant associated operations”, section 444AEB for the meaning of

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“Case I profits” and “Case I losses” and “the relevant time” and section 444AECB for the meaning of “the relevant part of the arrangements”, in this section.]

### Textual Amendments

**F305** Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [art. 22](#)

VALID FROM 19/07/2007

### 444AED Clearance: no avoidance or group advantage

- (1) 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 the application or, if

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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.

VALID FROM 19/07/2006

### *<sup>F306</sup>Surpluses of mutual and former mutual businesses*

#### **Textual Amendments**

**F306** Ss. 444AF-444AL and preceding cross-heading inserted (with effect in accordance with Sch. 11 para. 5(2)-(14) of the amending Act) by Finance Act 2006 (c. 25), Sch. 11 para. 5(1)

#### **444AF Demutualisation surplus: life assurance business**

(1) This section applies in relation to a period of account of an insurance company (“the relevant period”) if—

- (a) at any time in the relevant period the company carries on life assurance business that is not mutual business,
- (b) the company has an amount of undistributed demutualisation surplus for the relevant period (see subsection (7)), and
- (c) there is a reduction in the amount of the company's unappropriated surplus over the relevant period (see section 444AI).

(2) Where this section applies in relation to the relevant period, there shall be deemed for the purposes of section 83(2) of the Finance Act 1989 to be brought into account for the relevant period as an increase in the value of the assets of the company's long-term insurance fund whichever of the following amounts is the smallest—



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- (a) the amount of the reduction mentioned in subsection (1)(c) above;
  - (b) the amount of the company's undistributed demutualisation surplus for the relevant period;
  - (c) the amount of the company's relevant receipts reduction for the relevant period (see section 444AJ).
- (3) If the company prepares for the relevant period one or more such separate revenue accounts as are mentioned in section 83A(2)(b) of the Finance Act 1989—
- (a) subsection (2) above shall apply separately in relation to each separate revenue account which is recognised for the purposes of section 83 of that Act; and
  - (b) for that purpose, any amount that falls to be determined in order to determine—
    - (i) whether that subsection applies in relation to any such separate revenue account, and
    - (ii) if so, the amount to be brought into account under that subsection in relation to that account,
 shall be determined using only amounts or items which relate to the separate revenue account concerned.
- (4) In applying subsection (2) above in relation to a revenue account or separate revenue account which—
- (a) is recognised for the purposes of section 83 of that Act, and
  - (b) is one in relation to which sections 432C and 432D apply,
- that subsection shall have effect as if for “smallest” there were substituted smaller and as if paragraph (c) were omitted.
- (5) This section shall have effect—
- (a) for the purposes of computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits of the company's life assurance business, and
  - (b) for the purposes of so computing the profits of any category of the company's life assurance business chargeable to tax under Case VI of Schedule D.
- (6) But for the purposes mentioned in subsection (5)(b) above, this section and section 444AG have effect subject to the modification in section 444AH; and the Corporation Tax Acts have effect accordingly (so that there may, in particular, be a difference between—
- (a) the amount deemed to be brought into account by virtue of subsection (2) above for a period of account for those purposes, and
  - (b) the amount so deemed to be brought into account for that period of account for the purposes mentioned in subsection (5)(a) above).
- (7) For the purposes of this section, the undistributed demutualisation surplus of an insurance company for the relevant period is—
- (a) an amount equal to (UDSP – AD + DTSI – DTSO); or
  - (b) if that amount is a negative amount, nil.

For this purpose—

UDSP is the undistributed demutualisation surplus of the company for the period of account immediately preceding the relevant period,

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AD is any amount deemed under this section to be brought into account for the period of account immediately preceding the relevant period as an increase in the value of the assets of the company's long-term insurance fund,

DTSI is the total amount of any demutualisation transfer surpluses accruing to the company during the relevant period (see section 444AG),

DTSO is the total amount of any demutualisation transfer surpluses accruing to any other company (or companies) during the relevant period on a transfer (or transfers) of life assurance business by the company to that other company (or companies).

#### **444AG Section 444AF: “demutualisation transfer surplus”**

- (1) For the purposes of section 444AF and this section, a demutualisation transfer surplus accrues to an insurance company where—
  - (a) life assurance business is transferred to the company by a person (“the transferor”),
  - (b) after the transfer, the company carries on the transferred business otherwise than as mutual business, and
  - (c) the condition in subsection (2) below is satisfied in relation to the transfer.
- (2) The condition is that—
  - (a) immediately before the transfer, the transferor carried on the transferred business as mutual business, or
  - (b) where paragraph (a) above does not apply, some or all of the transferred business was carried on by an insurance company as mutual business at a time on or after 1st January 1990 and before the transfer (“former mutual business”).
- (3) The demutualisation transfer surplus accrues to the company on the date of the transfer.
- (4) The amount of the demutualisation transfer surplus is given by subsection (5) or (6) below.
- (5) Where subsection (2)(a) above applies, the amount of the demutualisation transfer surplus is—
  - (a) where the whole of the transferor's life assurance business was transferred to the company under the transfer, the aggregate of—
    - (i) the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer, and
    - (ii) the amount of any added surplus accruing to the company in connection with the transfer (see subsection (10));
  - (b) otherwise, a just and reasonable portion of that aggregate amount, having regard to how much of the transferor's life assurance business was transferred to the company under the transfer.
- (6) Where subsection (2)(b) above applies, the amount of the demutualisation transfer surplus is—
  - (a) where the whole of the transferor's life assurance business was transferred to the company under the transfer and all of the transferred business is former

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- mutual business, the former mutual surplus of the transferor on the transfer date (see subsection (7));
- (b) otherwise, so much of that former mutual surplus as it is just and reasonable to attribute to the company, having regard in particular to—
- (i) how much of the transferor's life assurance business was transferred to the company under the transfer, and
- (ii) how much of the transferred business is former mutual business.
- (7) For the purposes of subsection (6) above, the former mutual surplus of the transferor on the transfer date is—
- (a) the amount given by subsection (8) below, or
- (b) if less, the amount given by subsection (9) below.
- (8) The amount given by this subsection is the total amount of any demutualisation transfer surpluses accruing to the transferor—
- (a) on or after 1st January 1990, and
- (b) on or before the date of the transfer.
- (9) The amount given by this subsection is the lowest amount of unappropriated surplus of the transferor at the end of any period of account ending—
- (a) on or after the date of the last occasion on which a demutualisation transfer surplus accrued to it as mentioned in subsection (8) above, and
- (b) on or before the date of the transfer.
- (10) For the purposes of this section, added surplus accrues to the company in connection with the transfer if—
- (a) an amount of assets is received by the company in connection with the transfer, no later than six months after the date of the transfer,
- (b) the amount is not brought into account by the company,
- (c) the amount is added to the unappropriated surplus of the company, and
- (d) the amount does not derive from any unappropriated surplus of the transferor;
- and the amount of the added surplus is the amount referred to in paragraphs (a) to (d) above.

#### **444AH Modification of section 444AG etc for Case VI businesses**

- (1) The modification in this section has effect for the purposes mentioned in section 444AF(5)(b) only.
- (2) In relation to any demutualisation transfer surplus accruing to a company in a post-2002 period of account—
- (a) the references in section 444AG(5) to the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer shall be taken to be references to—
- (i) the amount of that unappropriated surplus, or
- (ii) if less, the unappropriated surplus of the transferor at the end of the period of account immediately preceding the first post-2002 period of account of the transferor; and
- (b) the references in sections 444AF and 444AG to the amount of any demutualisation transfer surplus are to have effect accordingly.

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- (3) In this section “post-2002 period of account”, in relation to an insurance company, means a period of account of the company beginning on or after 1st January 2003 and ending on or after 9th April 2003.

**444AI Section 444AF: “reduction in company's unappropriated surplus”**

- (1) For the purposes of section 444AF—
- (a) there is a reduction in the amount of the company's unappropriated surplus over the relevant period if CUS is less than  $(OUS + TSI - TSO)$ ;
  - (b) the amount of that reduction is the amount by which CUS is less than  $(OUS + TSI - TSO)$ .
- (2) In this section—
- CUS is the amount of the company's unappropriated surplus at the end of the relevant period,
- OUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the relevant period,
- TSI is the total amount of any transfer surpluses accruing to the company during the relevant period (see subsections (3) to (7)),
- TSO is the total amount of any transfer surpluses accruing to any other company (or companies) during the relevant period on a transfer (or transfers) of life assurance business by the company to that other company (or companies).
- (3) For the purposes of this section, a transfer surplus accrues to an insurance company where life assurance business is transferred to the company by a person (“the transferor”).
- (4) The transfer surplus accrues to the company on the date of the transfer.
- (5) The amount of the transfer surplus is equal to so much of the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer as is transferred to the company under the transfer.
- (6) But if, immediately before the transfer, the transferor carried on the transferred business as mutual business, the amount of the transfer surplus is the aggregate of—
- (a) the amount given by subsection (5) above, and
  - (b) the amount of any added surplus accruing to the company in connection with the transfer.
- (7) Subsection (10) of section 444AG applies for the purposes of subsection (6) above as it applies for the purposes of that section.

**444AJ Sections 444AF and 444AK: “relevant receipts reduction”**

- (1) For the purposes of sections 444AF and 444AK, the amount of the company's relevant receipts reduction for the relevant period is to be calculated by—
- (a) determining, in the case of each with-profits fund of the company, the amount given by subsection (2) or (6) below for the relevant period, and
  - (b) aggregating each of those amounts.
- (2) The amount, in the case of a fund other than a policy holder participation fund, is—

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- (a) where the gross transfer to non-technical account for the fund for the relevant period (see subsections (3) and (4)) is greater than the post-policy holder surplus for the fund for the relevant period (see subsection (5)), the amount of the difference;
  - (b) otherwise, nil.
- (3) In this section “the gross transfer to non-technical account” means the amount shown in line 13 of Form 58 for the fund.

(4) But if—

- (a) there is a transfer from a with-profits fund of the company to another fund of the company (“the initial transfer”) which is shown in (or included in an amount shown in) line 14 of Form 58 for the with-profits fund,
- (b) there is a transfer from a fund of the company (whether or not the other fund mentioned in paragraph (a) above) to the non-technical account which is shown in (or included in an amount shown in) line 13 of Form 58 for that fund, and
- (c) the transfer to the non-technical account can reasonably be regarded as connected with the initial transfer,

the amount of the gross transfer to non-technical account for the relevant period given by subsection (3) above in the case of the with-profits fund is to be increased by the amount transferred to the non-technical account.

(5) In this section “post-policy holder surplus” means an amount equal to—

## SA – TAP

where—

SA is—

- (a) the amount shown in line 34 of Form 58 for the fund (surplus arising since last valuation), or
- (b) if that amount is a negative amount, nil;

TAP is the amount shown in line 46 of Form 58 for the fund (total allocated to policy holders).

(6) The amount, in the case of a policy holder participation fund, is—

- (a) where TAP is greater than SA, the amount of the difference;
- (b) otherwise, nil;

and for this purpose “SA” and “TAP” have the same meaning as in subsection (5) above.

(7) References in this section to Form 58 are references to that Form in the periodical return of the company for the relevant period.

(8) In this section “policy holder participation fund” means a fund in the case of which an amount equal to the amount shown in line 34 of Form 58 for the fund is allocated to policy holders for the relevant period.

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#### **444AK Mutual surplus: Case VI categories of life assurance business**

- (1) This section applies if at any time in a period of account of an insurance company (“the relevant period”)—
  - (a) the company carries on life assurance business as mutual business, and
  - (b) the company carries on one or more categories of life assurance business chargeable to tax under Case VI of Schedule D.
- (2) If there is a reduction in the amount of the company's unappropriated surplus over the relevant period, there shall be deemed for the purposes of section 83(2) of the Finance Act 1989 to be brought into account for the relevant period as an increase in the value of the assets of the company's long-term insurance fund—
  - (a) the amount of that reduction, or
  - (b) if less, the amount of the company's relevant receipts reduction for the relevant period (see section 444AJ).
- (3) But subsection (2) above shall have effect only for the purposes of computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits for the relevant period of any category of the company's life assurance business chargeable to tax under Case VI of Schedule D.
- (4) If the company prepares for the relevant period one or more such separate revenue accounts as are mentioned in section 83A(2)(b) of the Finance Act 1989—
  - (a) subsection (2) above shall apply separately in relation to each separate revenue account which is recognised for the purposes of section 83 of that Act; and
  - (b) for that purpose, any amount that falls to be determined in order to determine—
    - (i) whether that subsection applies in relation to any such separate revenue account, and
    - (ii) if so, the amount to be brought into account under that subsection in relation to that account,
 shall be determined using only amounts or items which relate to the separate revenue account concerned.
- (5) In applying subsection (2) above in relation to a revenue account or separate revenue account which—
  - (a) is recognised for the purposes of section 83 of that Act, and
  - (b) is one in relation to which sections 432C and 432D apply,
 that subsection shall have effect as if paragraph (b) and the word “or” before it were omitted.
- (6) For the purposes of this section, there is a reduction in the amount of the company's unappropriated surplus over the relevant period if—
  - (a) CUS is less than OUS, and
  - (b) CUS is less than UUS.
- (7) The amount of that reduction is—
  - (a) the amount by which CUS is less than OUS, or
  - (b) if OUS is greater than UUS, the amount by which CUS is less than UUS.
- (8) In this section—

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CUS is the amount of the company's unappropriated surplus at the end of the relevant period,

OUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the relevant period,

UUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the first period of account of the company to begin on or after 1st January 2003 and to end on or after 9th April 2003.

#### 444AL Interpretation of sections 444AF to 444AK

- (1) This section applies for the purposes of sections 444AF to 444AK.
- (2) References to mutual business, in relation to any time, include business which at that time is treated for the purposes of section 432E as mutual business.
- (3) “Unappropriated surplus”, in relation to a period of account of an insurance company, means an unappropriated surplus on valuation as shown in the periodical return of the company for the period of account.
- (4) References to the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer are, where a period of account of the transferor does not end at that time, references to the unappropriated surplus on valuation that would have been shown in a periodical return of the transferor for that period had such a return been drawn up.]

*[<sup>F307</sup> Provisions applying in relation to overseas life insurance companies]*

#### Textual Amendments

**F307** S. 444B and cross heading inserted (27.7.1993) by 1993 c.34, s. 97(1)

#### <sup>F308</sup> 444BM Modification of Act in relation to overseas life insurance companies.

Schedule 19AC (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect.

#### Textual Amendments

**F308** S. 444B and cross heading inserted (27.7.1993) by 1993 c. 34, s. 97(1)

*[<sup>F309</sup> Equalisation reserves]*

#### Textual Amendments

**F309** Ss. 444BA-444BD and preceding cross-heading inserted (29.4.1996) by Finance Act 1996 (c. 8), s. 166, Sch. 32 para. 1

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#### **444BA Equalisation reserves for general business.**

- (1) Subject to the following provisions of this section and to sections 444BB to 444BD, the rules in subsection (2) below shall apply in making any computation, for the purposes of Case I or V of Schedule D, of the profits or losses for any accounting period of an insurance company whose business has at any time been or included business in respect of which it was required, by virtue of [F310equalisation reserve rules], to maintain an equalisation reserve.
- (2) Those rules are—
  - (a) that amounts which, in accordance with [F310equalisation reserve rules], are transferred into the equalisation reserve in respect of the company’s business for the accounting period in question are to be deductible;
  - (b) that amounts which, in accordance with any such regulations, are transferred out of the reserve in respect of the company’s business for that period are to be treated as receipts of that business; and
  - (c) that it must be assumed that all such transfers as are required by [F310equalisation reserve rules] to be made into or out of the reserve in respect of the company’s business for any period are made as required.
- (3) Where an insurance company having any business in respect of which it is required, by virtue of [F310equalisation reserve rules], to maintain an equalisation reserve ceases to trade—
  - (a) any balance which exists in the reserve at that time for the purposes of the Tax Acts shall be deemed to have been transferred out of the reserve immediately before the company ceases to trade; and
  - (b) that transfer out shall be deemed to be a transfer in respect of the company’s business for the accounting period in which the company so ceases and to have been required by [F310equalisation reserve rules].
- (4) Where—
  - (a) an amount is transferred into an equalisation reserve in respect of the business of an insurance company for any accounting period,
  - (b) the rule in subsection (2)(a) above would apply to the transfer of that amount but for this subsection,
  - (c) that company by notice in writing to an officer of the Board makes an election in relation to that amount for the purposes of this subsection, and
  - (d) the notice of the election is given not more than two years after the end of that period,

the rule mentioned in subsection (2)(a) above shall not apply to that transfer of that amount and, instead, the amount transferred (the “unrelieved transfer”) shall be carried forward for the purposes of subsection (5) below to the next accounting period and (subject to subsection (6) below) from accounting period to accounting period.
- (5) Where—
  - (a) in accordance with [F310equalisation reserve rules], a transfer is made out of an equalisation reserve in respect of an insurance company’s business for any accounting period,
  - (b) the rule in subsection (2)(b) above would apply to the transfer but for this subsection, and
  - (c) the accounting period is one to which any amount representing one or more unrelieved transfers has been carried forward under subsection (4) above,



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that rule mentioned in subsection (2)(b) above shall not apply to that transfer except to the extent (if any) that the amount of the transfer exceeds the aggregate of the amounts representing unrelieved transfers carried forward to that period.

- (6) Where in the case of any company—
- (a) any amount representing one or more unrelieved transfers is carried forward to an accounting period in accordance with subsection (4) above, and
  - (b) by virtue of subsection (5) above the rule in subsection (2)(b) above does not apply to an amount representing the whole or any part of any transfer out of an equalisation reserve in respect of the company's business for that period,
- the amount mentioned in paragraph (a) above shall not be carried forward under subsection (4) above to the next accounting period except to the extent (if any) that it exceeds the amount mentioned in paragraph (b) above.
- (7) To the extent that any actual or assumed transfer in accordance with [F310equalisation reserve rules] of any amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes—
- (a) the rule in subsection (2)(a) above shall not apply to that transfer; and
  - (b) the making of that transfer shall be disregarded in determining, for the purposes of the Tax Acts, whether and to what extent there is subsequently any requirement to make a transfer into or out of the reserve in accordance with [F310equalisation reserve rules];
- and this subsection applies irrespective of whether the insurance company in question is a party to the arrangements.
- (8) For the purposes of this section the transfer of an amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes to the extent that the arrangements to which it is attributable are arrangements—
- (a) the sole or main purpose of which is, or
  - (b) the sole or main benefit accruing from which might (but for subsection (7) above) be expected to be,
- the reduction by virtue of this section of any liability to tax.
- (9) Where—
- (a) any transfer made into or out of an equalisation reserve maintained by an insurance company is made in accordance with [F310equalisation reserve rules] in respect of business carried on by that company over a period (“the equalisation period”), and
  - (b) parts of the equalisation period are in different accounting periods,
- the amount transferred shall be apportioned for the purposes of this section between the different accounting periods in the proportions that correspond to the number of days in the equalisation period that are included in each of those accounting periods.
- (10) The Treasury may by regulations provide in relation to any accounting periods ending on or after 1st April 1996 for specified transitional provisions contained in [F310equalisation reserve rules] to be disregarded for the purposes of the Tax Acts in determining how much is required, on any occasion, to be transferred into or out of any equalisation reserve in accordance with [F311the rules].
- [F312(11) In this section, and in sections 444BB to 444BD, “equalisation reserves rules” means the rules in Chapter 6 of the Prudential Sourcebook (Insurers).]

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#### Textual Amendments

- F310** Words in ss. 444BA-444BD substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), **art. 30(1)**
- F311** Words in s. 444BA(10) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), **art. 30(3)**
- F312** S. 444BA(11) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), **art. 30(4)**

#### Modifications etc. (not altering text)

- C97** S. 444BA modified (23.12.1996 with effect in accordance with reg. 1 of the modifying S.I.) by [The Insurance Companies \(Reserves\) \(Tax\) Regulations 1996 \(S.I. 1996/2991\)](#), **regs. 4-12**

### **444BB Modification of s. 444BA for mutual or overseas business and for non-resident companies.**

- (1) The Treasury may by regulations make provision modifying section 444BA so as, in cases mentioned in subsection (2) below—
- (a) to require—
    - (i) sums by reference to which the amount of any transfer into or out of an equalisation reserve falls to be computed, or
    - (ii) the amount of any such transfer,
 to be apportioned between different parts of the business carried on for any period by an insurance company; and
  - (b) to provide for the purposes of corporation tax for the amounts taken to be transferred into or out of an equalisation reserve to be computed disregarding any such sum or, as the case may be, any such part of a transfer as is attributed, in accordance with the regulations, to a part of the business described for the purpose in the regulations.
- (2) Those cases are cases where an insurance company which, in accordance with [<sup>F313</sup>equalisation reserve rules], is required to make transfers into or out of an equalisation reserve in respect of any business carried on by that company for any period is carrying on, for the whole or any part of that period—
- (a) any business the income and gains of which fall to be disregarded in making a computation of the company's profits in accordance with the rules applicable to Case I of Schedule D, or
  - (b) any business by reference to which double taxation relief is afforded in respect of any income or gains.
- (3) Section 444BA shall have effect (subject to any regulations under subsection (1) above) in the case of an equalisation reserve maintained by an insurance company which—
- (a) is not resident in the United Kingdom, and
  - (b) carries on business in the United Kingdom through a [<sup>F314</sup>permanent establishment],

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only if such conditions as may be prescribed by regulations made by the Treasury are satisfied in relation to that company and in relation to transfers into or out of that reserve.

(4) Regulations under this section prescribing conditions subject to which section 444BA is to apply in the case of any equalisation reserve maintained by an insurance company may—

- (a) contain conditions imposing requirements on the company to furnish the Board with information with respect to any matters to which the regulations relate, or to produce to the Board documents or records relating to any such matters; and
- (b) provide that, where any prescribed condition is not, or ceases to be, satisfied in relation to the company or in relation to transfers into or out of that reserve, there is to be deemed for the purposes of the Tax Acts to have been a transfer out of that reserve of an amount determined under the regulations.

(5) Regulations under this section may—

- (a) provide for apportionments under the regulations to be made in such manner, and by reference to such factors, as may be specified or described in the regulations;
- (b) make different provision for different cases;
- (c) contain such supplementary, incidental, consequential and transitional provision as the Treasury may think fit;
- (d) make provision having retrospective effect in relation to accounting periods beginning not more than one year before the time when the regulations are made;

and the powers conferred by this section in relation to transfers into or out of any reserve shall be exercisable in relation to both actual and assumed transfers.

(6) In this section “double taxation relief” means—

- (a) relief under double taxation arrangements which takes the form of a credit allowed against corporation tax, or
- (b) unilateral relief under section 790(1) which takes that form;

and “double taxation arrangements” here means arrangements having effect by virtue of section 788.

#### Textual Amendments

**F313** Words in ss. 444BA-444BD substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(1\)](#)

**F314** Words in s. 444BB(3)(b) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 153\(1\)\(a\)](#)

#### 444BC Modification of s. 444BA for non-annual accounting etc.

- (1) The Treasury may by regulations make provision modifying the operation of section 444BA in relation to cases where an insurance company has, for the purpose of preparing the documents it is required to prepare for the purposes of section [F315]9.3 of the Prudential Sourcebook (Insurers)], applied for any period an accounting method

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described in paragraph 52 or 53 of Schedule 9A to the <sup>M21</sup>Companies Act 1985 (accounting on a non-annual basis).

- (2) Subsection (5) of section 444BB applies for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

**F315** Words in s. 444BC(1) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 30(5)

#### Marginal Citations

**M21** 1985 c. 6.

### 444BD Application of s. 444BA rules to other equalisation reserves.

- (1) The Treasury may by regulations provide for section 444BA to have effect, in such cases and subject to such modifications as may be specified in the regulations, in relation to any equivalent reserves as it has effect in relation to equalisation reserves maintained by virtue of [<sup>F316</sup>equalisation reserve rules].
- (2) For the purposes of this section a reserve is an equivalent reserve if—
- (a) it is maintained, otherwise than by virtue of [<sup>F316</sup>equalisation reserve rules], either—
    - <sup>F317</sup>(i) by an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of insurance in the United Kingdom, or
    - (ii) by a firm which has permission under paragraph 4 of Schedule 4 to that Act (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to effect or carry out contracts of insurance in the United Kingdom, or
    - (iii) in respect of any business which consists of the effecting or carrying out of contracts of insurance and which is carried on outside the United Kingdom by a company resident in the United Kingdom;]
- and
- (b) the purpose for which, or the manner in which, it is maintained is such as to make it equivalent to an equalisation reserve maintained by virtue of [<sup>F316</sup>equalisation reserve rules].
- (3) For the purposes of this section a reserve is also an equivalent reserve if it is maintained in respect of any credit insurance business in accordance with requirements imposed either—
- (a) by or under any enactment, or
  - (b) under so much of the law of any territory as secures compliance with the requirements of Article 1 of the credit insurance directive (equalisation reserves for credit insurance).

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- (4) Without prejudice to the generality of subsection (1) above, the modifications made by virtue of that subsection may—
- (a) provide for section 444BA to apply in the case of an equivalent reserve only where such conditions as may be specified in the regulations are satisfied in relation to the company maintaining the reserve or in relation to transfers made into or out of it; and
  - (b) contain any other provision corresponding to any provision which, in the case of a reserve maintained by virtue of [<sup>F316</sup>equalisation reserve rules], may be made under sections 444BA to 444BC.
- (5) Subsections (4) and (5) of section 444BB shall apply for the purposes of this section as they apply for the purposes of that section.
- (6) Without prejudice to the generality of section 444BB(5), the transitional provision which by virtue of subsection (5) above may be contained in regulations under this section shall include—
- (a) provision for treating the amount of any transfers made into or out of an equivalent reserve in respect of business carried on for any specified period as increased by the amount by which they would have been increased if no transfers into the reserve had been made in respect of business carried on for an earlier period; and
  - (b) provision for excluding from the rule in section 444BA(2)(b) so much of any amount transferred out of an equivalent reserve as represents, in pursuance of an apportionment made under the regulations, the transfer out of that reserve of amounts in respect of which there has been no entitlement to relief by virtue of section 444BA(2)(a).
- (7) In this section—
- [<sup>F318</sup>“credit insurance business” means business which consists of the effecting or carrying out of contracts of insurance against risks of loss to the persons insured arising from—
- (a) the insolvency of debtors of theirs, or
  - (b) from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due;]

“the credit insurance directive” means Council Directive [87/343/EEC](#) of 22nd June 1987 amending, as regards credit insurance and suretyship insurance, First Directive 73/239 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance; <sup>F319</sup> . . .

<sup>F319</sup> . . . . .

#### Textual Amendments

- F316** Words in s. 444BC(1) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(5\)](#)
- F317** S. 444BD(2)(a)(i)-(iii) substituted for s. 444BD(2)(a)(i)(ii) (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(7\)](#)

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- F318** Words in s. 444BD(7) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), **art. 30(8)(a)**
- F319** S. 444BD(7): definition of "EC company" and preceding word repealed (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), **art. 30(8)(b)**

**444C Modification of section 440.**

**F320** .....

**Textual Amendments**

**F320** [Ss. 444C-444E](#) repealed (with effect in accordance with Sch. 8 paras. 55, 57(1) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 29 Pt. 8(5)**, Notes 1, 2

**444D Qualifying distributions, tax credits, etc.**

**F321** .....

**Textual Amendments**

**F321** [Ss. 444C-444E](#) repealed (with effect in accordance with Sch. 8 paras. 55, 57(1) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 29 Pt. 8(5)**, Notes 1, 2

**444E Income from investments attributable to BLAGAB, etc.**

**F322** .....]

**Textual Amendments**

**F322** [Ss. 444C-444E](#) repealed (with effect in accordance with Sch. 8 paras. 55, 57(1) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 29 Pt. 8(5)**, Notes 1, 2

*Provisions applying only to overseas life insurance companies*

**F323** **445** .....

**Textual Amendments**

**F323** S. 445 repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. 103(2)(a)(3)(4), 213, **Sch. 23 Pt. III(9)**, note

**446 Annuity business.**

**F324** (1) .....

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- F325(2) .....
- F325(3) .....
- F326(4) .....

**Textual Amendments**

- F324** S. 446(1) repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. 103(2)(b)(3)(4), 213, **Sch. 23 Pt. III(9)**, note
- F325** S. 446(2)(3) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 para. 7(1)(b), **Sch. 19 Pt. V**, Note 3
- F326** S. 446(4) repealed by Finance Act 1990 (c. 29, SIF 63:1), s. 132, **Sch. 19 Pt. IV**.

- 447**<sup>F327</sup>(1) .....
- F327(2) .....
- F328(3) .....
- F327(4) .....

**Textual Amendments**

- F327** S. 447(1)(2) and (4) repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. 103(2)(c)(3)(4), 213, **Sch. 23 Pt. III(9)**, note
- F328** S. 447(3) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 7(3), 18, **Sch. 19 Pt. V**, Note 3

- <sup>F329</sup>**448** .....

**Textual Amendments**

- F329** S. 448 repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. **103(2)**d), 213, Sch. 23 Pt. III (9), note

- <sup>F330</sup>**449** .....

**Textual Amendments**

- F330** S. 449 repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. **103(2)**(e), 213, Sch. 23 Pt. III (9), note

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*Underwriters*

F331 **450** .....

**Textual Amendments**  
F331 **Ss. 450-457** repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12) notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

F332 **451** .....

**Textual Amendments**  
F332 **Ss. 450-457** repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the repealing Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes. 1 and 5

F333 **452** .....

**Textual Amendments**  
F333 **SS. 450-457** repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

F334 **453** .....

**Textual Amendments**  
F334 **Ss. 450-457** repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **SCh. 23, Pt.III** (12), notes 1 and 5)

F335 **454** .....

**Textual Amendments**  
F335 **Ss. 450-457** repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt.III** (12), notes 1 and 5

F336 **455** .....



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**Textual Amendments**

**F336** Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

<sup>F337</sup>**456** .....

**Textual Amendments**

**F337** Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

<sup>F338</sup>**457** .....

**Textual Amendments**

**F338** Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

*Capital redemption business*

**458 Capital redemption business.**

- (1) <sup>M22</sup>Where any person carries on capital redemption business in conjunction with business of any other class, the capital redemption business shall, for the purposes of the Corporation Tax Acts (including the provisions about corporation tax on chargeable gains) and the Income Tax Acts, be treated as a separate business from any other class of business carried on by that person [<sup>F339</sup>and where section 76 applies by virtue of subsection (5A) of that section, it shall apply separately to capital redemption business].
- (2) In ascertaining whether and to what extent any person has incurred a loss on his capital redemption business for the purposes of section 380 or sections 393 and [<sup>F340</sup>393A(1)]—
  - (a) any profits derived from investments held in connection with the capital redemption business (including franked investment income of <sup>F341</sup> . . . a company resident in the United Kingdom) shall be treated as part of the profits of that business, and
  - (b) in determining whether any, and if so what, relief can be given under section 385(4) in the case of capital redemption business, the loss which may be carried forward under subsection (1) of that section shall be similarly computed.
- <sup>F342</sup>(3) In this section “capital redemption business” means any business in so far as it—
  - <sup>F343</sup>(a) consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts of insurance under which, in return for one or more fixed

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payments, a sum or series of sums of a specified amount become payable at a future time or over a period; and

(b) is not life assurance business.]]

(4) This section shall not apply to any capital redemption business in so far as it consists of carrying out contracts of insurance effected before 1st January 1938.

#### Textual Amendments

**F339** Words in s. 458(1) inserted (with effect in accordance with Sch. 33 para. 4 of the amending Act) by Finance Act 1996 (c. 8), Sch. 33 para. 2; S.I. 1998/3173, art. 2

**F340** Words in s. 458(2) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)-(5), Sch. 15 para. 16

**F341** Words in s. 548(2) repealed (with effect in accordance with Sch. 6 para. 7(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58). Sch. 6 para. 7(1), Sch. 8 Pt. 2(11), Note

**F342** S. 458(3) substituted (with effect in accordance with s. 168(6) of the amending Act) by Finance Act 1996 (c. 8), s. 168(1); S.I. 1998/3173, art. 2

**F343** S. 458(3)(a)(b) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 31

#### Modifications etc. (not altering text)

**C98** S. 458 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)

**C99** S. 458 modified (23.3.1999 with effect in accordance with reg. 1 of the modifying S.I.) by The Insurance Companies (Capital Redemption Business) (Modification of the Corporation Tax Acts) Regulations 1999 (S.I. 1999/498), regs. 1, 3, 7

#### Marginal Citations

**M22** Source—1970 s.324

### [<sup>F344</sup>458A Capital redemption business: power to apply life assurance provisions.

(1) The Treasury may by regulations provide for the life assurance provisions of the Corporation Tax Acts to have effect in relation to companies carrying on capital redemption business as if capital redemption business were, or were a category of, life assurance business.

(2) Regulations under this section may provide that the provisions applied by the regulations are to have effect as respects capital redemption business with such modifications and exceptions as may be provided for in the regulations.

(3) Regulations under this section may—

- (a) make different provision for different cases;
- (b) include such incidental, supplemental, consequential and transitional provision (including provision modifying provisions of the Corporation Tax Acts other than the life assurance provisions) as the Treasury consider appropriate; and
- (c) include retrospective provision.

(4) In this section references to the life assurance provisions of the Corporation Tax Acts are references to the following—

- (a) the provisions of this Chapter so far as they relate to life assurance business or companies carrying on such business; and

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- (b) any other provisions of the Corporation Tax Acts making separate provision by reference to whether or not the business of a company is or includes life assurance business or any category of insurance business that includes life assurance business.

(5) In this section “capital redemption business” has the same meaning as in section 458.]

#### Textual Amendments

**F344** S. 458A inserted (29.4.1996) by Finance Act 1996 (c. 8), s. 168(3)

## CHAPTER II

### FRIENDLY SOCIETIES, TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

#### *Unregistered friendly societies*

#### 459 Exemption from tax.

<sup>M23</sup>An unregistered friendly society [<sup>F345</sup>(that is, a friendly society which is neither an incorporated friendly society nor a registered friendly society)] whose income does not exceed £160 a year shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains).

#### Textual Amendments

**F345** Words in s. 459 inserted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, Sch. 9 para.4; S.I. 1993/236, art.2

#### Marginal Citations

**M23** Source—1970 s.331

#### *Registered friendly societies*

#### 460 Exemption from tax in respect of life or endowment business.

(1) <sup>M24</sup>Subject to subsection (2) below, a [<sup>F346</sup>friendly society] shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits arising from life or endowment business.

(2) Subsection (1) above—

(a) <sup>M25</sup>shall not, subject to section 462, exempt a [<sup>F347</sup>registered friendly society] registered after 31st December 1957 which at any time in the period of three months ending 3rd May 1966 entered into any transaction in return for a single premium, being a transaction forming part of its life or endowment business;

[<sup>F348</sup>(aa) shall not, subject to section 462, exempt an incorporated friendly society which, before its incorporation, was a registered friendly society such as is mentioned in paragraph (a) above;]

(b) <sup>M26</sup>shall not apply to profits arising from pension business;

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- (c) <sup>M27</sup> shall not apply to profits arising from life or endowment business consisting—
- [<sup>F349</sup>(zai) where the profits relate to contracts made on or after the day on which the Finance Act 1995 was passed, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £270 or of the granting of annuities of annual amounts exceeding £156;]
  - [<sup>F350</sup>(ai) where the profits relate to contracts made on or after the day on which the Finance Act 1991 was passed [<sup>F351</sup>but before the day on which the Finance Act 1995 was passed], of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £200 or of the granting of annuities of annual amounts exceeding £156;]
  - (i) where the profits relate to contracts made after [<sup>F352</sup>31st August 1990 but before the day on which the Finance Act 1991 was passed], of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed [<sup>F353</sup>£150] or of the granting of annuities of annual amounts exceeding £156;
  - [<sup>F354</sup>(ia) where the profits relate to contracts made after 31st August 1987 but before 1st September 1990, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £100 [<sup>F355</sup>or of the granting of annuities of annual amounts exceeding £156].]
  - (ii) where the profits relate to contracts made after 13th March 1984 but before 1st September 1987, of the assurance of gross sums exceeding £750 or of the granting of annuities of annual amounts exceeding £156;
  - (iii) where the profits relate to contracts made before 14th March 1984, of the assurance of gross sums exceeding £500 or of the granting of annuities of annual amounts exceeding £104;
- [<sup>F356</sup>(ca) shall not apply to so much of the profits arising from life or endowment business as is attributable to contracts for the assurance of gross sums made on or after 20th March 1991 and expressed at the outset not to be made in the course of tax exempt life or endowment business;]
- [<sup>F357</sup>(cb) shall not apply to profits arising from investments, deposits or other property held as a member of a property investment LLP;][<sup>F356</sup>and]
- (d) <sup>M28</sup> as respects other life or endowment business (“tax exempt life or endowment business”), has effect subject to the following provisions of this Chapter.
- (3) <sup>M29</sup> In determining for the purposes of [<sup>F358</sup>[<sup>F359</sup>subsection (2)(c)(zai), (ai),] (i) or (ia)] above the total premiums payable in any period of 12 months—
- (a) where those premiums are payable more frequently than annually, there shall be disregarded an amount equal to 10 per cent. of those premiums; and
  - (b) so much of any premium as is charged on the ground that an exceptional risk of death [<sup>F360</sup>or disability] is involved shall be disregarded;
- and in applying the limit of £156 in [<sup>F361</sup>[<sup>F359</sup>subsection (2)(c)(zai), (ai),] (i) or (ia)] above, any bonus or addition declared upon an annuity shall be disregarded.
- (4) In applying the limits referred to in subsection (2)(c)(ii) and (iii) above, any bonus or addition which either is declared upon an assurance of a gross sum or annuity

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or accrues upon such an assurance by reference to an increase in the value of any investments shall be disregarded.

[<sup>F362</sup>(4A) Subsection (4B) below applies to contracts for the assurance of gross sums under tax exempt life or endowment business made after 31st August 1987 and before the day on which the [<sup>F363</sup>the Finance Act 1995] was passed.

(4B) Where the amount payable by way of premium under a contract to which this subsection applies is increased by virtue of a [<sup>F364</sup>variation made—

- (a) in the period beginning with 25th July 1991 and ending with 31st July 1992, or
- (b) in the period beginning with the day on which the Finance Act 1995 was passed and ending with 31st March 1996,

the contract shall, for the purposes of subsection (2)(c) above, be treated, in relation to any profits relating to it as varied, as made at the time of the variation.]]

(5) <sup>M30</sup>A [<sup>F365</sup>friendly society] is within this subsection if its rules make no provision for it to carry on life or endowment business consisting of the assurance of gross sums exceeding £2,000 or of the granting of annuities of annual amounts exceeding £416.

(6) <sup>M31</sup>In the case of a [<sup>F365</sup>friendly society] within subsection (5) above—

- (a) subsection (2)(c)(iii) above shall have effect with the substitution of references to £2,000 and £416 respectively for the references to £500 and £104; and
- (b) references in this Chapter to tax exempt life or endowment business shall be construed accordingly.

(7) <sup>M32</sup>Where at any time a [<sup>F365</sup>friendly society] within subsection (5) above amends its rules so as to cease to be within that subsection, any part of its life or endowment business consisting of business which—

- (a) relates to contracts made before that time; and
- (b) immediately before that time was tax exempt life or endowment business,

shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.

(8) Where at any time a [<sup>F365</sup>friendly society] not within subsection (5) above amends its rules so as to bring itself within that subsection, any part of its life or endowment business consisting of business which—

- (a) related to contracts made before that time; and
- (b) immediately before that time was not tax exempt life or endowment business,

shall thereafter continue not to be tax exempt life or endowment business for the purposes of this Chapter.

(9) Where at any time a [<sup>F365</sup>friendly society] not within subsection (5) above acquires by way of transfer of engagements or amalgamation from another [<sup>F365</sup>friendly society] any life or endowment business consisting of business which—

- (a) relates to contracts made before that time; and
- (b) immediately before that time was tax exempt life or endowment business,

that business shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.

(10) Where at any time a [<sup>F365</sup> friendly society] within subsection (5) above acquires by way of transfer of engagements or amalgamation from another [<sup>F365</sup>friendly society] any life or endowment business consisting of business which—

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- (a) relates to contracts made before that time; and
  - (b) immediately before that time was not tax exempt life or endowment business, that business shall thereafter continue not to be tax exempt life or endowment business for the purposes of this Chapter.
- [<sup>F366</sup>(10A) [<sup>F367</sup>Where at any time an insurance business transfer scheme has effect to transfer to a friendly society long-term business,] any life or endowment business which relates to contracts included in the transfer [<sup>F368</sup>, other than any to which subsection (11) or (12) below applied immediately before the transfer had effect,] shall not thereafter be tax exempt life or endowment business for the purposes of this Chapter.]
- [<sup>F369</sup>(10B) In subsection (10A) “insurance business transfer scheme” means 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.]
- (11) <sup>M33</sup>Where at any time a [<sup>F370</sup>friendly society] ceases <sup>F371</sup>. . . by virtue of [<sup>F370</sup>section 91 of the Friendly Societies Act 1992] (conversion into company) to be registered under [<sup>F372</sup>that Act], any part of its life or endowment business consisting of business which—
- (a) relates to contracts made before that time; and
  - (b) immediately before that time was tax exempt life or endowment business, shall [<sup>F373</sup>continue to be exempt from corporation tax (whether on income or chargeable gains) on profits arising from it.]
- (12) <sup>M34</sup>For the purposes of the Corporation Tax Acts any part of a company’s business which continues to be tax exempt life or endowment business by virtue of subsection (11) above shall be treated as a separate business from any other business carried on by the company.

#### Textual Amendments

- F346** Words in s. 460(1) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para. 5(2)**; S.I. 1993/236, **art.2**
- F347** Words in s. 460(2)(a) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para. 5(3)(a)**; S.I. 1993/236, **art.2**
- F348** S. 460(2)(aa) inserted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para. 5(3)(b)**; S.I. 1993/236, **art.2**
- F349** S. 460(2)(c)(zai) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(2)**
- F350** S. 460(2)(ai) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(3)**
- F351** Words in s. 460(2)(c)(ai) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(3)**
- F352** Words in s. 460(2)(c)(i) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(4)**
- F353** 1990 s.49(1)(a) Previouslyly £100
- F354** 1990 s.49(1)(b).
- F355** Words in s. 460(2)(c)(ia) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(5)**
- F356** S. 460(2)(ca) and word "and" substituted for word "and" by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(6)**
- F357** S. 460(2)(cb) inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, **Sch. 25 para. 8(1)**
- F358** Words in s. 460(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(7)(a)**
- F359** Words in s. 460(3) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(4)**
- F360** Words in s. 460(3)(b) inserted (retrospectively) by Finance Act 2003 (c. 14), **s. 172(5)(6)**
- F361** Words in s. 460(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(7)(b)**
- F362** S. 460(4A)(4B) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(8)**
- F363** Words in s. 460(4A) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(5)**

**Status:** Point in time view as at 28/09/2004. This version of this part contains provisions that are not valid for this point in time.

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- F364** Words in s. 460(4B) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(6)**
- F365** Words in s. 460(5)-(10) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para. 5(4)**; S.I. 1993/236, **art. 2**
- F366** 1990 s. 48 and Sch. 9 para. 6 in relation to transfers of business on or after 1 January 1990
- F367** Words in s. 460(10A) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 32(5) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 32(2)**
- F368** Words in s. 460(10A) inserted (retrospectively for specified purposes, and otherwise with effect in accordance with Sch. 12 para. 6(3) of the amending Act) by Finance Act 2007 (c. 11), Sch. 12 paras. 1(2), **6(1)(3)**
- F369** S. 460(10B) inserted (1.12.2001 with effect in accordance with arts. 1(2)(a), 32(5) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 32(3)**
- F370** Words in s. 460(11) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para. 5(5)**; S.I. 1993/236, **art. 2**
- F371** Words in s. 460(11) omitted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by virtue of The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 32(4)(a)**
- F372** Words in s. 460(11) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 32(4)(b)**
- F373** Words in s. 460(11) substituted (retrospectively) by Finance Act 2007 (c. 11), Sch. 12 paras. 1(3), **6(1)**

#### Modifications etc. (not altering text)

- C100** S. 460(2) modified (6.4.1999) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **reg. 31** (as inserted by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 25(5)**)
- C101** S. 460(2) modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 20**; and that modifying reg. 20 is omitted (14.8.2007 with effect in accordance with reg. 1(2) of the revoking S.I.) by virtue of S.I. 2007/2134, **regs. 1(1), 18(b)**

#### Marginal Citations

- M24** Source—1970 s.332(1). 1974 s.27(1)(a)
- M25** Source—1970 s.333(1)
- M26** Source—1970 s.332(2)(aa); 1987 (No.2) Sch.2 2(1)
- M27** Source—1970 s.332(2)(a); 1984 s.73(2); 1987 s.30(2)
- M28** Source—1970 s.332(2)(b)
- M29** Source—1970 s.332(3); 1987 s.30(3)
- M30** Source—1970 s.332(4); 1975 (No.2) s.52(1); 1980 s.57(1)
- M31** Source—1970 s.332(5); 1975 (No.2) s.52(1); 1984 s.73(3)
- M32** Source—1970 s.332(6)—(9); 1975 (No.2) s.52(1)
- M33** Source—1970 s.332(10); 1976 s.48(1)
- M34** Source—1970 s.332(12)(a); 1976 s.48(1)

## 461 Taxation in respect of other business.

- (1) <sup>M35</sup>Subject to the following provisions of this section, a registered friendly society other than a society to which subsection (2) below applies shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits other than those arising from life or endowment business.

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- (2) <sup>M36</sup>This subsection applies to any society registered after 31st May 1973 unless—
- (a) its business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by the [<sup>F374</sup>Board] ; or
  - (b) it was registered before 27th March 1974 and its rules limit the aggregate amount which may be paid by a member by way of contributions and deposits to not more than £1 per month or such greater amount as the [<sup>F374</sup>Board] may authorise for the purposes of this section;
- and also applies to any society registered before 1st June 1973 with respect to which a direction under subsection [<sup>F375</sup>(7)] below is in force.
- (3) <sup>M37</sup>If a society to which subsection (2) above applies, after 26th March 1974 or such later date as may be specified in a direction under this section, makes a payment to a member in respect of his interest in the society and the payment is made otherwise than in the course of life or endowment business and exceeds the aggregate of any sums paid by him to the society by way of contributions or deposits, after deducting from that aggregate the amount of—
- (a) any previous payment so made to him by the society after that date, and
  - (b) any earlier repayment of such sums paid by him,
- the excess shall be treated for the purposes of corporation tax and income tax as a qualifying distribution.
- [<sup>F376</sup>(3A) The exemption conferred by subsection (1) above does not apply to profits arising from investments, deposits or other property held as a member of a property investment LLP.]
- (4) <sup>M38</sup>Where a registered friendly society—
- (a) at any time ceases <sup>F377</sup> . . . by virtue of [<sup>F378</sup>section 91 of the Friendly Societies Act 1992] (conversion into company) to be registered under [<sup>F379</sup>that Act]; and
  - (b) immediately before that time was exempt from income tax or corporation tax on profits arising from any business carried on by it other than life or endowment business,
- the company into which the society is converted shall be so exempt on its profits arising from any part of that business which relates to contracts made before that time so long as there is no increase in the scale of benefits which it undertakes to provide in the course of carrying on that part of its business.
- (5) For the purposes of the Corporation Tax Acts any part of a company's business in respect of the profits from which the company is exempt by virtue of subsection (4) above shall be treated as a separate business from any other business carried on by the company.
- (6) <sup>M39</sup>If—
- (a) a friendly society registered before 1st June 1973 begins after 26th March 1974 to carry on business other than life or endowment business or, in the opinion of [<sup>F380</sup>the Board], begins to carry on business other than life or endowment business on an enlarged scale or of a new character; and
  - (b) it appears to [<sup>F380</sup>the Board], having regard to the restrictions imposed by this section on friendly societies registered later, that for the protection of the revenue it is expedient to do so;



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[<sup>F381</sup>the Board may give a direction to the society under subsection (7) below.]

[<sup>F382</sup>(7) A direction under this subsection is that (and has the effect that) the society to which it is given is to be treated for the purposes of this Act as a society registered after 31st May 1973 with respect to business carried on after the date of the direction.

(8) A society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—

(a) it has not begun to carry on business as mentioned in subsection (6)(a) above; or

(b) the direction is not necessary for the protection of the revenue.

(9) If a registered friendly society in respect of which a direction is in force under subsection (7) above becomes an incorporated friendly society, the direction shall continue to have effect, so that the incorporated friendly society shall be treated for the purposes of this Act as a society registered after 31st May 1973.]

(10) For the purposes of this section a registered friendly society formed on the amalgamation of two or more friendly societies shall be treated as registered before 1st June 1973 if at the time of the amalgamation subsection (2) above did not apply to any of the societies amalgamated, but otherwise shall be treated as registered at that time.

[<sup>F383</sup>(11) For the purposes of this section and section 461C—

(a) any group of persons which was approved for the purposes of this section (as mentioned in subsection (2)(a) above) immediately before 1st December 2001 shall be treated as having been approved for the purposes of this section by the Board on that date;

(b) any greater amount which was authorised for the purposes of this section (as mentioned in subsection (2)(b) above) immediately before 1st December 2001 shall be treated as having been authorised for the purposes of this section by the Board on that date; and

(c) where a direction that subsection (2) above applies to a society was in force immediately before 1st December 2001, a direction in relation to that society shall be treated as having been made under subsection (7) above by the Board on that date.]

#### Textual Amendments

**F374** Words in s. 461(2)(a)(b) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 33\(2\)\(a\)](#)

**F375** Word in s. 461(2) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 33\(2\)\(b\)](#)

**F376** S. 461(3A) inserted (6.4.2001) by [Finance Act 2001 \(c. 9\)](#), s. 76, [Sch 25 para. 8\(2\)](#)

**F377** Words in s. 461(4)(a) omitted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 33\(3\)\(a\)](#)

**F378** Words in s. 461(4)(a) substituted (19.2.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 56, [Sch. 9 para. 6](#); [S.I. 1993/236](#), [art. 2](#)

**F379** Words in s. 461(4)(a) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 33\(3\)\(b\)](#)

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- F380** Words in s. 461(6)(a)(b) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2110/3629\)](#), [art. 33\(4\)\(a\)](#)
- F381** Words in s. 461(6) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 33\(4\)\(b\)](#)
- F382** S. 461(7)-(9) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 33\(5\)](#)
- F383** S. 461(11) added (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 33\(6\)](#)

#### Marginal Citations

- M35** Source—1970 s.332(1); 1974 s.27(1)(a)
- M36** Source—1974 s.27(2)
- M37** Source—1974 s.27(1)(b)
- M38** Source—1970 s.332(11), (12)(b); 1976 s.48(1)
- M39** Source—1974 s.27(3)—(7); 1985 s.41(10); 1987 Sch.15 6

#### [461A <sup>F384</sup>Taxation in respect of other business: incorporated friendly societies qualifying for exemption.

- (1) For the purposes of sections 461B and 461C, a “qualifying society” is an incorporated friendly society which—
- (a) immediately before its incorporation, was a registered friendly society to which section 461(2) did not apply,
  - (b) was formed otherwise than by the incorporation of a registered friendly society or the amalgamation of two or more friendly societies and satisfies subsection (2) below, or
  - (c) was formed by the amalgamation of two or more friendly societies and satisfies subsection (3) below,
- and in respect of which no direction under section 461C(5) is in force.
- (2) A society satisfies this subsection if its business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by the [<sup>F385</sup>Board].
- (3) If at the time of the amalgamation referred to in subsection (1)(c) above—
- (a) section 461(2) applied to none of the registered friendly societies being amalgamated (if any), and
  - (b) all of the incorporated friendly societies being amalgamated (if any) were qualifying societies,
- the society formed by the amalgamation satisfies this subsection.

[ For the purposes of this section and section 461C, any group of persons which was <sup>F386</sup>(4) approved for the purposes of this section (as mentioned in subsection (2) above) by the Friendly Societies Commission immediately before 1st December 2001 shall be treated as having been approved for the purposes of this section by the Board on that date.]]

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### Textual Amendments

**F384** Ss. 461A-461C inserted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para.7**; S.I. 1993/236, **art.2**

**F385** Word in s. 461A(2) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 34(2)**

**F386** S. 461A(4) added (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 34(3)**

### <sup>F387</sup>**461B Taxation in respect of other business: incorporated friendly societies etc.**

- (1) Subject to the following provisions of this section, a qualifying society shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits other than those arising from life or endowment business.
- (2) Subsection (1) above shall not apply to any profits arising or accruing to the society from, or by reason of its interest in, a body corporate which is a subsidiary (within the meaning of the Friendly Societies Act 1992) of the society or of which the society has joint control (within the meaning of that Act).
- [<sup>F388</sup>(2A) Subsection (1) above shall not apply to any profits arising or accruing to the society from or by reason of its membership of a property investment LLP.]
- (3) If an incorporated friendly society which is not a qualifying society makes a payment to a member in respect of his interest in the society and the payment is made otherwise than in the course of life or endowment business and exceeds the aggregate of any sums paid by him to the society by way of contributions or deposits, after deducting from that aggregate the amount of—
  - (a) any previous payment so made to him by the society, and
  - (b) any earlier repayment of such sums paid by him,
 the excess shall be treated for the purposes of corporation tax and income tax as a qualifying distribution.
- (4) In relation to an incorporated friendly society which, immediately before its incorporation, was a registered friendly society to which section 461(2) applied—
  - (a) the references in subsection (3) above to sums paid to the society shall include sums paid to the registered friendly society,
  - (b) the reference in subsection (3)(a) above to any payment made by the society shall include any payment made by the registered friendly society after 26 March 1974 or such later date as was specified in any direction under section 461 [<sup>F389</sup>(7)] relating to it, and
  - (c) the reference in subsection (3)(b) above to any repayment shall include any repayment made by the registered friendly society.
- (5) Where a qualifying society at any time ceases by virtue of section 91 of the Friendly Societies Act 1992 (conversion into company) to be registered under that Act, the company into which the society is converted shall be exempt from income tax or corporation tax on its profits arising from any part of its business, other than life or endowment business, which relates to contracts made before that time.

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- (6) Subsection (5) above shall apply so long as there is no increase in the scale of benefits which the company undertakes to provide in the course of carrying on the relevant part of its business.
- (7) Any part of a company's business to which an exemption under subsection (5) above relates shall be treated for the purposes of the Corporation Tax Acts as a separate business from any other business carried on by the company.

#### Textual Amendments

- F387** Ss. 461A-461C inserted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para.7**; S.I. 1993/236, **art. 2**
- F388** S. 461B(2A) inserted (6.4.2001) by Finance Act 2001 (s. 9), s. 76, Sch. 25 para. 8(3)
- F389** Word in s. 461B(4)(b) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 35**

#### <sup>F390</sup>461C Taxation in respect of other business: withdrawal of “qualifying” status from incorporated friendly society.

- (1) Subject to subsection (2) below, subsections (3) [<sup>F391</sup>and (4)] below apply where a qualifying society—
  - (a) begins to carry on business other than life or endowment business, or
  - (b) in the opinion of the [<sup>F392</sup>Board], begins to carry on business other than life or endowment business on an enlarged scale or of a new character.
- (2) Subsections (3) [<sup>F393</sup>and (4)] below do not apply if—
  - (a) the society's business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of section 461 or 461A by the [<sup>F394</sup>Board], or
  - (b) the society's rules limit the aggregate amount which may be paid by a member by way of contributions and deposits to not more than £1 per month or such greater amount as is authorised for the purposes of section 461.
- (3) If it appears to the [<sup>F395</sup>Board], having regard to the restrictions imposed by section 461 on registered friendly societies registered after 31st May 1973, that for the protection of the revenue it is expedient to do so, the [<sup>F395</sup>Board] may [<sup>F396</sup>give a direction to the society under subsection (4) below.]
- [<sup>F397</sup>(4) A direction under this subsection is that (and has the effect that) the society to which it is given shall cease to be a qualifying society as from the date of the direction.
- (5) A society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—
  - (a) it has not begun to carry on business as mentioned in subsection (1) above;
  - (b) subsections (3) and (4) above do not apply to it by reason of subsection (2) above; or
  - (c) the direction is not necessary for the protection of the revenue.]

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### Textual Amendments

- F390** Ss. 461A–461C inserted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para.7**; S.I. 1993/236, **art. 2**
- F391** Words in s. 461C(1) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 36(2)(a)**
- F392** Word in s. 461C(1) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 36(2)(b)**
- F393** Words in s. 461C(2) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 36(3)(a)**
- F394** Word in s. 461C(2)(a) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 36(3)(b)**
- F395** Words in s. 461C(3) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 36(4)(a)**
- F396** Words in s. 461C(3) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **arts. 36(4)(b)**
- F397** S. 461C(4)(5) substituted for s. 461C(4)-(7) (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 36(5)**

VALID FROM 21/07/2008

### <sup>F398</sup> 461D Transfers of other business

- (1) Where—
- (a) at any time a friendly society (“the transferee”) acquires by way of transfer of engagements or amalgamation from another friendly society (“the transferor”) any business, other than life or endowment business, consisting of business which relates to contracts made before that time, and
  - (b) immediately before that time the transferor was exempt from corporation tax on profits arising from that business,
- the transferee is so exempt after that time.
- (2) But if during an accounting period of the transferee there is an increase in the scale of benefits which it undertakes to provide in the course of carrying on that business, the transferee shall not be exempt from corporation tax by virtue of subsection (1) above for that or any subsequent accounting period.
- (3) Where—
- (a) at any time a friendly society (“the transferee”) acquires by way of transfer of engagements or amalgamation from another friendly society (“the transferor”) any business, other than life or endowment business, consisting of business which relates to contracts made before that time, and

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- (b) immediately before that time the transferor was not exempt from corporation tax on profits arising from that business, the transferee is not so exempt after that time.
- (4) The Treasury may by regulations provide that, where any business of a friendly society is exempt from corporation tax by virtue of subsection (1) above, or not so exempt by virtue of subsection (3) above, the Corporation Tax Acts have effect subject to such modifications (or exceptions) as the Treasury consider appropriate.
- (5) Regulations under subsection (4) above—
- (a) may make different provision for different cases,
  - (b) may include any incidental, supplementary, consequential or transitional provisions which the Treasury consider appropriate, and
  - (c) may include retrospective provision.]

#### Textual Amendments

**F398** S. 461D inserted (with effect in accordance with Sch. 18 para. 3(2) of the amending Act) by Finance Act 2008 (c. 9), Sch. 18 para. 3(1)

#### 462 Conditions for tax exempt business.

- (1)<sup>M40</sup> Subject to subsections (2) to (4) below, section 460(1) shall not apply to so much of the profits arising from tax exempt life or endowment business as is attributable to a policy which, by virtue of paragraph 6(2) of Schedule 15—
- (a) is not a qualifying policy; and
  - (b) would not be a qualifying policy if all policies with other friendly societies were left out of account.
- (2) [<sup>F399M41</sup>Section 460(2)(a) or (aa)] and subsection (1) above shall not withdraw exemption under section 460(1) for profits arising from any part of a life or endowment business relating to contracts made not later than 3rd May 1966.
- (3) If, with respect to a policy issued in respect of an insurance made on or after 1st June 1984 and before 19th March 1985 for the assurance of a gross sum, there is or has been an infringement of any of the conditions in paragraph 3(2) to (11) of Schedule 15, section 460(1) shall not apply to so much as is attributable to that policy of the profits of the [<sup>F400</sup>friendly society or registered branch] concerned which arise from tax exempt life or endowment business.
- (4) Nothing in subsection (3) above shall be taken to affect the status of a policy as a qualifying policy.

#### Textual Amendments

**F399** Words in s. 462(2)(a) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, Sch. 9 par. 8(2) S.I. 1993/236, art.2

**F400** Words in s. 462(3) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, Sch. 9 para. 8(3) S.I. 1993/236, art.2

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#### Marginal Citations

- M40** Source—1970 s.334(1); 1985 s.41(6)  
**M41** Source—1970 s.336; 1985 Sch.10 Part II

### [462A <sup>F401</sup>Election as to tax exempt business.

- (1) Where a registered friendly society has tax exempt life or endowment business which includes contracts—
  - (a) made before 20th March 1991, and
  - (b) expressed at the outset not to be made in the course of such business,the society may by notice to the inspector elect that section 460(1) shall not apply to so much of the profits arising from such business as is attributable to such contracts.
- (2) Where a registered friendly society has tax exempt life or endowment business which includes contracts falling within subsection (3) below, the society may by notice to the inspector elect that section 460(1) shall not apply to so much of the profits arising from such business as is attributable to such contracts.
- (3) A contract falls within this subsection if—
  - (a) at the outset, it is neither expressed to be made in the course of tax exempt life or endowment business nor expressed not to be so made but is assumed by the society not to be so made, and
  - (b) the policy issued in pursuance of it falls within paragraph 21(1)(b) of Schedule 15.
- (4) An election under subsection (2) above shall only be valid if the society satisfies the inspector (or the Commissioners on appeal) that it is possible to identify all the contracts to which the election relates.
- (5) If the inspector decides that he is not satisfied as mentioned in subsection (4) above, he shall give notice of his decision to the society; and section 42(3), (4) and (9) of, and paragraph 1(1) to (1E) of Schedule 2 to, the Management Act shall apply in relation to such a decision as they apply in relation to a decision of an inspector on a claim.
- (6) An election under subsection (1) or (2) above shall have effect for accounting periods ending on or after the day on which the Finance Act 1991 was passed.
- (7) No election under subsection (1) or (2) above may be made after 31st July 1992.
- (8) Where a friendly society has made an election under subsection (1) or (2) above, then, for any accounting period for which the election has effect—
  - (a) section 460(1) shall apply to profits arising from life or endowment business which would have been included in the society's tax exempt life or endowment business had no account been taken of the contracts to which the election relates, and
  - (b) section 462(1), in its application to the society, shall have effect with the insertion after "societies" of "and all policies issued in pursuance of contracts to which an election under section 462A(1) or (2) relates".
- <sup>F402</sup>(9) If a friendly society which (or a branch of which) has made an election under subsection (1) or (2) above becomes an incorporated friendly society, the election shall have effect in relation to the incorporated friendly society as it had effect in relation to the society (or branch) which made the election (and accordingly, in relation to

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accounting periods of the incorporated friendly society, “the society” in subsection (8) (a) and (b) above shall be read as referring to the incorporated friendly society.)]

#### Textual Amendments

**F401** S. 462A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 2**

**F402** S. 462A(9) added (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para.9**; S.I. 1993/236, **art. 2**

### 463 Life or endowment business: application of the Corporation Tax Acts.

- (1) <sup>M42</sup>Subject to section 460(1), the Corporation Tax Acts shall apply to the life or endowment business carried on by [<sup>F403</sup>friendly societies] in the same way as they apply to mutual life assurance business [<sup>F404</sup>(or other [<sup>F405</sup>long-term] business)] carried on by insurance companies, so however that the Treasury may by regulations provide that those Acts as so applied shall have effect subject to such modifications and exceptions as may be prescribed by the regulations, and those regulations may in particular require any part of any business to be treated as a separate business.
- [<sup>F406</sup>(2) The provisions of the Corporation Tax Acts which apply on the transfer of the whole or part of the [<sup>F405</sup>long-term] business of an insurance company shall apply in the same way—
- (a) on the transfer of the whole or part of the business of a friendly society to another friendly society (and on the amalgamation of friendly societies), and
  - (b) on the transfer of the whole or part of the business of a friendly society to a company which is not a friendly society (and on the conversion of a friendly society into such a company),
- so however that the Treasury may by regulations provide that those provisions as so applied shall have effect subject to such modifications and exceptions as may be prescribed by the regulations.
- (3) The Treasury may by regulations provide that the provisions of the Corporation Tax Acts which apply on the transfer of the whole or part of the [<sup>F405</sup>long-term] business of an insurance company to another company shall have effect where the transferee is a friendly society subject to such modifications and exceptions as may be prescribed by the regulations.
- (4) Regulations under this section may make different provision for different cases and may include provision having retrospective effect.]

#### Textual Amendments

**F403** Words in s. 463(1) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para.10**; S.I. 1993/236, **art.2**

**F404** Words in s. 463(1) inserted (with effect in accordance with s. 171(6) of the amending Act) by Finance Act 1996 (c. 8), s. **171(5)**

**F405** Words in s. 463(1)(2)(3) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(2)(i)**

**F406** 1990 s.50(2).



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**Modifications etc. (not altering text)**

**C102** See 1990 s.50(1)—s.463 was renumbered as s.463(1).

**C103** For regulations see Part III Vol.5 (under “Friendly Societies”).

**Marginal Citations**

**M42** Source—1970 s.335(1)

**464 Maximum benefits payable to members.**

- (1) <sup>M43</sup>Subject to subsections (2) and (3) below, a member of a [<sup>F407</sup>friendly society or registered branch] shall not be entitled to have at any time outstanding contracts with any one or more such societies or branches (taking together all such societies or branches throughout the United Kingdom) for the assurance of—
- (a) more than £750 by way of gross sum under tax exempt life or endowment business;
  - (b) more than £156 by way of annuity under tax exempt life or endowment business.

In any case where the member’s outstanding contracts were all made before 14th March 1984 this subsection shall have effect with the substitution for “£750” and “£156” of “£2,000” and “£416” respectively.

- (2) Subsection (1)(a) above shall not apply as respects sums assured under contracts made after 31st August 1987.
- (3) With respect to contracts for the assurance of gross sums under tax exempt life or endowment business, a member of a [<sup>F407</sup>friendly society or registered branch] shall not be entitled to have outstanding with any one or more such societies or branches (taking together all such societies or branches throughout the United [<sup>F408</sup>Kingdom])—
- <sup>F409</sup>(zza) [ contracts under which the total premiums payable in any period of 12 months exceed £270; or]
  - <sup>F410</sup>(za) [ contracts [<sup>F411</sup>made before the day on which the Finance Act 1995 was passed and] under which the total premiums payable in any period of 12 months exceed £200; or]]
    - (a) contracts [<sup>F412</sup>made before the day on which the Finance Act 1991 was passed and] under which the total premiums payable in any period of 12 months exceed £150; or
    - (b) contracts made before 1st September 1990 under which the total premiums payable in any period of 12 months exceed £100,
- unless all those contracts were made before 1st September 1987.
- (4) In applying the [<sup>F408</sup>limits] in subsection (3) above, the premiums under any contract for an annuity which was made before 1st June 1984 by a new society shall be brought into account as if the contract were for the assurance of a gross sum.
- [<sup>F413</sup>(4A) Subsection (4B) below applies to contracts for the assurance of gross sums under tax exempt life or endowment business made after 31st August 1987 and before the day on which [<sup>F414</sup>the Finance Act 1995] was passed.

- (4B) Where the amount payable by way of premium under a contract to which this subsection applies is increased by virtue of a [<sup>F415</sup>variation made—

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- (a) in the period beginning with 25th July 1991 and ending with 31st July 1992, or
- (b) in the period beginning with the day on which the Finance Act 1995 was passed and ending with 31st March 1996,

the contract shall, for the purposes of subsection (3) above, be treated, in relation to times when the contract has effect as varied, as made at the time of the variation.]]

- (5) In applying the limits in this section there shall be disregarded—
- (a) any bonus or addition which either is declared upon assurance of a gross sum or annuity or accrues upon such an assurance by reference to an increase in the value of any investments;
  - (b) any approved annuities as defined in section 620(9) or any policy of insurance or annuity contract by means of which the benefits to be provided under an occupational pension scheme as defined in [F416]section 1 of the Pension Schemes Act 1993] are secured;
  - (c) any increase in a benefit under a friendly society contract, as defined in section 6 of the M44Decimal Currency Act 1969, resulting from the adoption of a scheme prescribed or approved in pursuance of subsection (3) of that section; and
  - (d) so far as concerns the total premiums payable in any period of 12 months—
    - (i) 10 per cent. of the premiums payable under any contract under which the premiums are payable more frequently than annually; and
    - (ii) £10 of the premiums payable under any contract made before 1st September 1987 by a [F417]friendly society other than] a new society; and
    - (iii) so much of any premium as is charged on the ground that an exceptional risk of death is involved.
- (6) In applying the limits in this section in any case where a member has outstanding with one or more society or branch one or more contracts made after 13th March 1984 and one or more contracts made on or before that date, any contract for an annuity which was made before 1st June 1984 by a new society shall be regarded not only as a contract for the annual amount concerned but also as a contract for the assurance of a gross sum equal to 75 per cent. of the total premiums which would be payable under the contract if it were to run for its full term or, as the case may be, if the member concerned were to die at the age of 75 years.
- (7) A [F418]friendly society or registered branch] may require a member to make and sign a statutory declaration that the total amount assured under outstanding contracts entered into by that member with any one or more [F418]friendly societies or registered branches] (taking together all such societies or branches throughout the United Kingdom) does not exceed the limits applicable by virtue of this section and that the total premiums under those contracts do not exceed those limits.

#### Textual Amendments

- F407** Words in s. 464(1)(3) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, Sch. 9 para. 11(2); S.I. 1993/236, art. 2
- F408** 1990 s.49(3), (4) Previously "Kingdom) contracts under which the total premiums payable in any period of 12 months exceed £100 unless all those contracts were entered into before 1st September 1987" and "limit" respectively
- F409** S. 464(3)(zza) inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 10 para. 2(2)
- F410** S. 464(3)(za) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, Sch. 9 para. 3(2)

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- F411** Words in s. 464(3)(za) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 2(3)**
- F412** Words in s. 464(3)(a) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 3(3)**
- F413** S. 464(4A)(4B) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 3(4)**
- F414** Words in s. 464(4A) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 2(4)**
- F415** Words in s. 464(4B) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 2(5)**
- F416** Words in s. 464(5)(b) substituted (7.2.1994) by 1993 c. 48, ss. 190, 193(2)(3), **Sch. 8 para. 20(1)** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**
- F417** Words in s. 464(5)(d)(ii) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para. 11(3)**; S.I. 1993/236, **art. 2**
- F418** Words in s. 464(7) substituted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para. 11(4)**; S. I. 1993/236, **art. 2**

#### Modifications etc. (not altering text)

- C104** S. 464: power to amend conferred (7.2.1994) by 1993 c. 48, **ss. 162**, 193(2)(3) (with ss. 6(8), 164); S. I. 1994/86, **art. 2**

#### Marginal Citations

- M43** Source—FSA 1974 s.64(1), (2), (2A), (6); 1985 s.41(1), (2); 1984 s.73(5), (6); 1976/598; FSA 1984 s.2; 1987 s.30(4), (5), (7)
- M44** 1969 c. 19.

## 465 Old societies.

- (1) <sup>M45</sup>In this section “old society” means a friendly society which is not a new society.
- (2) This section applies if, on or after 19th March 1985, an old society—
- begins to carry on tax exempt life or endowment business; or
  - in the opinion of the Board begins to carry on such business on an enlarged scale or of a new character.
- (3) If it appears to the Board, having regard to the restrictions placed on qualifying policies issued by new societies by paragraphs 3(1)(b) <sup>F419</sup> . . . and 4(3)(b) of Schedule 15, that for the protection of the revenue it is expedient to do so, the Board may give a direction to the old society under subsection (4) below.
- (4) A direction under this subsection is that (and has the effect that) the old society to which it is given is to be treated for the purposes of this Act as a new society with respect to business carried on after the date of the direction.
- (5) An old society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—
- it has not begun to carry on business as mentioned in subsection (2) above; or
  - that the direction is not necessary for the protection of the revenue.
- [<sup>F420</sup>(6) If a registered friendly society in respect of which a direction is in force under subsection (4) above becomes an incorporated friendly society, the direction shall continue to have effect, so that the incorporated friendly society shall be treated for the purposes of this Act as a new society.]

#### Textual Amendments

- F419** Words in s. 465(3) repealed by Finance Act 1991 (c. 31, SIF 63:1), s. 123, **Sch. 19 Pt. V**, Note 7

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**F420** S. 465(6) added (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, Sch. 9 para.12 ; S.I. 1993/236, art.2

#### Marginal Citations

**M45** Source—1985 Sch.10 Part III

### [465A <sup>F421</sup>Assets of branch of registered friendly society to be treated as assets of society after incorporation.

- (1) This section applies where any assets of a branch of a registered friendly society have been identified in a scheme under section 6(5) of the Friendly Societies Act 1992 (property, rights etc. excluded from transfer to the society on its incorporation).
- (2) In relation to any time after the incorporation of the society, the assets shall be treated for the purposes of the Tax Acts as assets of the society (and, accordingly, any tax liability arising in respect of them shall be a liability of the society rather than of the branch).
- (3) Where, by virtue of this section, tax in respect of any of the assets becomes chargeable on and is paid by the society, the society may recover from the trustees in whom those assets are vested the amount of the tax paid.]

#### Textual Amendments

**F421** S. 465A inserted (19.12.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, Sch. 9 para.13, 22; S.I. 1993/236, art.2

### 466 Interpretation of Chapter II.

[<sup>F422</sup>(1) In this Chapter “life or endowment business” means, subject to subsections (1A) and (1B) below,—

- (a) any business [<sup>F423</sup>of effecting or carrying out contracts of insurance which fall within paragraphs I, II or III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;]
- (b) pension business;
- (c) any other life assurance business;
- (d) any business within [<sup>F424</sup>paragraph IV of Part II] of that Schedule, if—
  - (i) the contract is one made before 1st September 1996; or
  - (ii) the contract is one made on or after 1st September 1996 and the effecting and carrying out of the contract also constitutes business within [<sup>F425</sup>paragraphs I, II or III of Part II] of that Schedule.

(1A) Life or endowment business does not include the issue, in respect of a contract made before 1st September 1996, of a policy affording provision for sickness or other infirmity (whether bodily or mental), unless—

- (a) the policy also affords assurance for a gross sum independent of sickness or other infirmity;
- (b) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and
- (c) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum.

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(1B) Life or endowment business does not include the assurance of any annuity the consideration for which consists of sums obtainable on the maturity, or on the surrender, of any other policy of assurance issued by the friendly society, being a policy of assurance forming part of the tax exempt life or endowment business of the friendly society.]

(2) In this Chapter—

[<sup>F426</sup>“friendly society”, without qualification, means (except in section 459) an incorporated friendly society or a registered friendly society;

“incorporated friendly society” means a society incorporated under the Friendly Societies Act 1992;]

[<sup>F427</sup>“insurance company” shall be construed in accordance with section 431;]

“life assurance business” means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life, not being industrial assurance business;

[<sup>F428</sup>“[<sup>F429</sup>long-term] business” shall be construed in accordance with section 431;]

[<sup>F430</sup>“new society” means—

(a) a registered friendly society which was registered after 3rd May 1966 or which was registered in the period of three months ending on that date but which at no time earlier than that date carried on any life or endowment business, or

(b) an incorporated friendly society other than one which, before its incorporation, was a registered friendly society not within paragraph (a) above;]

“pension business” shall be construed in accordance with section 431;

“policy”, in relation to life or endowment business, includes an instrument evidencing a contract to pay an annuity upon human life;

[<sup>F431</sup>“registered branch” means the same as in the Friendly Societies Act 1992 (and includes any branch that by virtue of section 96(3) of that Act is to be treated as a registered branch);

“registered friendly society” means the same as in the Friendly Societies Act 1992 (and includes any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society);]

<sup>F432</sup> . . .

“tax exempt life or endowment business” has, subject to subsections (7) to [<sup>F433</sup>(10A)] of section 460, the meaning given by subsection (2)(d) of that section, that is to say, it means (subject to those subsections) life or endowment business other than business profits arising from which are excluded from subsection (1) of that section by subsection (2)(b) or (c) of that section (read, where appropriate, with subsection (6) of that section);

and references in sections 460 to 465 and this subsection to a friendly society [<sup>F434</sup>include, in the case of a registered friendly society, references to any branch of that society].

(3) <sup>M46</sup>It is hereby declared that for the purposes of this Chapter (except where provision to the contrary is made) a [<sup>F435</sup>friendly society] formed on the amalgamation of two or more friendly societies is to be treated as different from the amalgamated societies.

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- (4) A registered friendly society formed on the amalgamation of two or more friendly societies shall, for the purposes of this Chapter, be treated as registered not later than 3rd May 1966 if at the time of the amalgamation—
- (a) all the friendly societies amalgamated were registered friendly societies eligible for the exemption conferred by section 460(1); and
  - (b) at least one of them was not a new society;
- or, if the amalgamation took place before 19th March 1985, the society was treated as registered not later than 3rd May 1966 by virtue of the proviso to section 337(4) of the 1970 Act.
- [<sup>F436</sup>(5) An incorporated friendly society formed on the amalgamation of two or more friendly societies shall, for the purposes of this Chapter, be treated as a society which, before its incorporation, was a registered friendly society registered not later than 3rd May 1966 if at the time of the amalgamation—
- (a) all the friendly societies amalgamated were registered friendly societies eligible for the exemption conferred by section 460(1); and
  - (b) at least one of them was not a new society.]

#### Textual Amendments

- F422** S. 466(1)-(1B) substituted for s. 466(1) (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [s. 171\(1\)](#)
- F423** Words in s. 466(1)(a) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 37\(a\)](#)
- F424** Words in s. 466(1)(d) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 37\(b\)\(i\)](#)
- F425** Words in s. 466(1)(d)(ii) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 37\(b\)\(ii\)](#)
- F426** Definitions in s. 466(2) inserted (19.2.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 56, [Sch. 9 para. 14\(4\)](#); S.I. 1993/236, [art. 2](#)
- F427** S. 466(2): definition of "insurance company" inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [s. 171\(2\)\(a\)](#)
- F428** S. 466(2): definition of "long term business" inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [s. 171\(2\)\(b\)](#)
- F429** S. 466(2): word in definition of "long term business" substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2000/3629\)](#), [art. 52\(2\)\(j\)](#)
- F430** Definition in s. 466(2) substituted (19.2.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 56, [Sch. 9 para. 14\(5\)](#); S.I. 1993/236, [art. 2](#)
- F431** Definitions in s. 466(2) inserted (19.2.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 56, [Sch. 9 para. 14\(6\)](#); S.I. 1993/236, [art. 2](#)
- F432** Definition of "registrar" in s. 466(2) repealed (1.1.1994) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 120(2), [Sch. 22 Pt. I](#); S.I. 1993/2213, [Sch.6](#) APPENDIX
- F433** S. 466(2): word in definition of "tax exempt life or endowment business" substituted (retrospectively) by [Finance Act 2007 \(c. 11\)](#), [Sch. 12 paras. 3, 6\(1\)](#)
- F434** Words in s. 466(2) substituted (19.2.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 56, [Sch. 9 para. 14\(7\)](#); S.I. 1993/236, [art. 2](#)
- F435** Words in s. 466(3) substituted (19.2.1993) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 56, [Sch. 9 para. 14\(8\)](#); S.I. 1993/236, [art. 2](#)

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**F436** S. 466(5) added (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para. 14(9)**; S.I. 1993/236, **art. 2**

**Modifications etc. (not altering text)**

**C105** S. 466(2) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 17**

**C106** S. 466(2) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 15**; S.I. 2004/3369, **art. 2(1)**

**Marginal Citations**

**M46** Source—1970 s.337(4); 1985 s.41(7)(e)

*Trade unions and employers' associations*

**467 Exemption for trade unions and employers' associations.**

- (1) <sup>M47</sup>A trade union which is precluded by Act of Parliament or by its rules from assuring to any person a sum exceeding [<sup>F437</sup>£4,000] by way of gross sum or [<sup>F438</sup>£825] by way of annuity shall on making a claim be entitled—
- (a) to exemption from income tax and corporation tax in respect of its income which is not trading income and which is applicable and applied for the purpose of provident benefits;
  - (b) to exemption from tax in respect of chargeable gains which are applicable and applied for the purpose of provident benefits.
- (2) In this section “provident benefits” includes any payment, expressly authorised by the rules of the trade union, which is made to a member during sickness or incapacity from personal injury or while out of work, or to an aged member by way of superannuation, or to a member who has met with an accident, or has lost his tools by fire or theft, and includes a payment in discharge or aid of funeral expenses on the death of a member or the [<sup>F439</sup>spouse] of a member or as provision for the children of a deceased member.
- (3) In determining for the purposes of this section whether a trade union is by Act of Parliament or its rules precluded from assuring to any person a sum exceeding [<sup>F440</sup>£825] by way of annuity, there shall be disregarded any approved annuities (as defined in section 620(9)).
- [<sup>F441</sup>(3A) The Treasury may by order substitute for any figure for the time being specified in this section such greater figure as may be specified in the order; and any amendment made in exercise of the power conferred by this subsection shall have effect in relation to such income or gains as may be specified in the order.]
- (4) In this section “trade union” means—
- (a) <sup>M48</sup>any trade union the name of which is entered in the list of trade unions maintained by the [<sup>F442</sup>Certification Officer] under [<sup>F443</sup>section 2 of the Trade Union and Labour Relations (Consolidation) Act 1992];
  - (b) any employers' association the name of which is entered in the list of employers' associations maintained by the [<sup>F442</sup>Certification Officer] under [<sup>F444</sup>section 123 of the Trade Union and Labour Relations (Consolidation) Act 1992] and which on 30th September 1971 was a registered trade union for the purposes of section 338 of the 1970 Act;

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- [<sup>F445</sup>(ba) any trade union the name of which is entered in the list of trade unions maintained by the Certification Officer for Northern Ireland under Article 5 of the Industrial Relations (Northern Ireland) Order 1992;
- (bb) any employers' association the name of which is entered in the list of employers' associations maintained by the Certification Officer for Northern Ireland under Article 5 of the Industrial Relations (Northern Ireland) Order 1992 and which immediately before the coming into operation of that Article was a trade union for the purposes of this section; and]
- (c) <sup>M49</sup>the Police Federation for England and Wales, the Police Federation for Scotland, the Police Federation for Northern Ireland and any other organisation of persons in police service which has similar functions.

#### Textual Amendments

- F437** Words in s. 467(1) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 74(2)(a),(6)
- F438** Words in s. 467(1) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 74(2)(b),(6)
- F439** 1988(F) s.35 and Sch.3 para.17 for chargeable period beginning on or after 6 April 1990. Previously "wife".
- F440** Words in s. 467(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 74(3)(6)
- F441** S. 467(3A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 74(4)
- F442** Words in s. 467(4)(a)(b) substituted (*retrospectively*) by Finance Act 1991 (c. 31, SIF 63:1), s. 74(5)(a),(7)
- F443** Words in s. 467(4)(a) substituted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, Sch. 2 para. 37(a)
- F444** Words in s. 467(4)(b) substituted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, Sch. 2 para. 37(b)
- F445** S. 467(4)(ba)(bb) substituted (1.7.1992) for s. 467(4)(ba) by S.I. 1992/808, art. 2; S.R. 1992/212, art. 2(2)(a)

#### Modifications etc. (not altering text)

- C107** See 1970 s.338 for amounts applicable in earlier years.
- C108** See Employment Protection Act 1975 (c.71) ss.7, 125(1) and Sch.16 Part III para.1—list now maintained by the Certification Officer.

#### Marginal Citations

- M47** Source—1970 s.338(1)—(3); 1982 s.36(1); 1974 s.28(1)(b); 1987 s.31
- M48** Source—1974 s.28(1)(a)
- M49** Source—1977 s.47

## CHAPTER III

### UNIT TRUST SCHEMES, DEALERS IN SECURITIES ETC.

#### *Unit trust schemes*

#### 468 Authorised unit trusts.

- (1) <sup>M50</sup>In respect of income arising to the trustees of an authorised unit trust, and for the purposes of the provisions relating to relief for capital expenditure, the Tax Acts shall have effect as if—



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- (a) the trustees were a company resident in the United Kingdom; and
  - (b) the rights of the unit holders were shares in the company;
- [<sup>F446</sup>but paragraph (b) above is without prejudice to the making of distributions which are interest distributions (within the meaning of section 468L) to unit holders]
- [<sup>F447</sup>(1A) In relation to any authorised unit trust the rate of corporation tax for the financial year 1996 and subsequent financial years shall be deemed to be the rate at which income tax at the lower rate is charged for the year of assessment which begins on 6th April in the financial year concerned [<sup>F448</sup>and sections 13 [<sup>F449</sup>, 13AA and 13AB] shall not apply].]
- (2) <sup>F450</sup> .....
- (3) References in the Corporation Tax Acts to a body corporate shall be construed in accordance with [<sup>F451</sup>subsection (1) above], and section [<sup>F452</sup>234A] shall apply with any necessary modifications.
- (4) <sup>F453</sup> .....
- (5) <sup>F454</sup> .....
- (6) [<sup>F455</sup> Subject to subsections (7) to (9) below] in this section—
- “authorised unit trust” means, as respects an accounting period, a unit trust scheme in the case of which an order under section [<sup>F456</sup> 243 of the Financial Services and Markets Act 2000] is in force during the whole or part of that accounting period;
- <sup>F457</sup> .....
- “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme; and
  - “unit trust scheme” has the same meaning as in section 469.
- [<sup>F458</sup>(7) Each of the parts of an umbrella scheme shall be regarded for the purposes of this Chapter as an authorised unit trust and the scheme as a whole shall not be so regarded.
- (8) In this section, “umbrella scheme” means a unit trust scheme—
- (a) which provides arrangements for separate pooling of the contributions of the participants and the profits or income out of which payments are to be made to them;
  - (b) under which the participants are entitled to exchange rights in one pool for rights in another; and
  - (c) in the case of which an order under section [<sup>F456</sup>243 of the Financial Services and Markets Act 2000] is in force;
- and any reference to a part of an umbrella scheme is a reference to such of the arrangements as relate to a separate pool.
- (9) In relation to a part of an umbrella scheme, any reference—
- (a) to investments subject to the trusts of an authorised unit trust, shall have effect as a reference to such of the investments as under the arrangements form part of the separate pool to which the part of the umbrella scheme relates; and
  - (b) to a unit holder, shall have effect as a reference to a person for the time being having rights in that separate pool.]

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### Textual Amendments

- F446** Words in s. 468(1) inserted (with effect in accordance with [Sch. 14 para. 7](#) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 14 para. 3\(2\)](#)
- F447** [S. 468\(1A\)](#) inserted (with effect in accordance with [Sch. 6 paras. 10\(2\), 28](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 6 para. 10\(1\)](#)
- F448** Words in s. 468(1A) inserted (with effect in accordance with [s. 28\(6\)](#) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 28\(3\)](#)
- F449** Words in s. 468(1A) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 28\(3\)](#)
- F450** [S. 468\(2\)](#) repealed (with effect in accordance with [Sch. 14 para. 7](#) of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 14 para. 3\(3\)](#), [Sch. 25 Pt. 5\(13\)](#), Note
- F451** Words in s. 468(3) substituted (with effect in accordance with [Sch. 14 para. 7](#) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 14 para. 3\(4\)](#)
- F452** Words in s. 468(3) substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 32\(3\)\(4\)](#)
- F453** [S. 468\(4\)](#) repealed (28.9.2004 with effect in accordance with art. 1(2) of the repealing S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 2, Sch. para. 20
- F454** [S. 468\(5\)](#) repealed by [Finance Act 1990 \(c. 29\)](#), [s. 52](#), [Sch. 19 Pt. 4](#), Note 7
- F455** Words in s. 468(6) inserted (with effect in accordance with [s. 113\(4\)-\(11\)](#) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 113\(1\)](#)
- F456** Words in s. 468(6)(8) substituted (1.12.2001) by [Financial Services and Markets Act 2000 \(c. 8\)](#), [s. 431\(2\)](#), [Sch. 20 para. 4\(3\)](#); S.I. 2001/3538, [art. 2\(1\)](#)
- F457** [S. 468\(6\)](#): definition of "distribution period" repealed (with effect in accordance with [Sch. 14 para. 7](#) of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 14 para. 3\(5\)](#), [Sch. 26 Pt. 5\(13\)](#), Note
- F458** [S. 468\(7\)-\(9\)](#) added (with effect in accordance with [s. 113\(4\)-\(11\)](#) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 113\(2\)](#)

### Modifications etc. (not altering text)

- C109** [S. 468](#) modified (28.4.1997) by The Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154), regs. 1, 9, 10 (as amended (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 166](#))
- C110** *Definition employed for the purposes of s.46(7)—insurance companies: annual deemed disposal of holdings of unit trusts etc.*

### Marginal Citations

- M50** Source—1970 ss.354, 358; 1980 s.60; 1987 s.38, 40(1); 1987 (No.2) s.40(1)

## [<sup>F459</sup> **468AA** Authorised unit trusts: futures and options.

**F460** .....]

### Textual Amendments

- F459** [S. 468AA](#) inserted by [Finance Act 1990 \(c. 29\)](#), [s. 81\(1\)\(5\)](#)
- F460** [S. 468AA](#) repealed (with effect in accordance with [s. 83\(3\)](#) of the repealing Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 27 para. 6](#), [Sch. 40 Pt. 3\(13\)](#), Note (with [Sch. 28](#))

## [<sup>F461</sup> **468A** Certified unit trusts.

**F462** .....]

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**Textual Amendments**

**F461** Ss. 468A-468C inserted by Finance Act 1989 (c. 26), s. 78

**F462** Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, Sch. 19 Pt. 4, Note 7

<sup>F463</sup>**468BCertified unit trusts: corporation tax.**

**F464** .....

**Textual Amendments**

**F463** Ss. 468A-468C inserted by Finance Act 1989 (c. 26), s. 78

**F464** Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, Sch. 19 Pt. 4, Note 7

<sup>F465</sup>**468CCertified unit trusts: distributions.**

**F466** .....

**Textual Amendments**

**F465** Ss. 468A-468C inserted by Finance Act 1989 (c. 26), s. 78

**F466** Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, Sch. 19 Pt. 4, Note 7

[<sup>F467</sup>**468DFunds of funds: distributions.**

**F468** .....]

**Textual Amendments**

**F467** S. 468D inserted by Finance Act 1989 (c. 26), s. 79

**F468** Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, Sch. 19 Pt. 4, Note 7

[<sup>F469</sup>**468EAuthorised unit trusts: corporation tax.**

**F470** .....]

**Textual Amendments**

**F469** Ss. 468E-468G inserted by Finance Act 1990 (c. 29), s. 51

**F470** S. 468E repealed (with effect in accordance with Sch. 6 paras. 10(3), 28 of the repealing Act) by Finance Act 1996 (c. 8), Sch. 41 Pt. 5(1), Note 1

[<sup>F471</sup>**468EE Corporation tax: cases where lower rate applies.**

**F472** .....]

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#### Textual Amendments

**F471** S. 468EE inserted (3.5.1994) by Finance Act 1994 (c. 9), s. 111(2)

**F472** S. 468EE repealed (with effect in accordance with Sch. 6 paras. 10(3), 28 of the repealing Act) by Finance Act 1996 (c. 8), Sch. 41 Pt. 5(1), Note 1

### <sup>F473</sup> 468FAuthorised unit trusts: distributions.

<sup>F474</sup> .....

#### Textual Amendments

**F473** Ss. 468E-468G inserted by Finance Act 1990 (c. 29), s. 51

**F474** S. 468F repealed (with effect in accordance with Sch. 14 para. 7 of the repealing Act) by Finance Act 1994 (c. 9), Sch. 14 para. 4, Sch. 26 Pt. 5(13), Note

### <sup>F475</sup> 468GDividends paid to investment trusts.

<sup>F476</sup> .....

#### Textual Amendments

**F475** Ss. 468E-468G inserted by Finance Act 1990 (c. 29), s. 51

**F476** S. 468G repealed (with effect in accordance with Sch. 14 para. 7 of the repealing Act) by Finance Act 1994 (c. 9), Sch. 14 para. 4, Sch. 26 Pt. 5(13), Note

### <sup>F477</sup> *Distributions of authorised unit trusts: general*

#### Textual Amendments

**F477** Ss. 468H-468R and cross-headings inserted (with effect in accordance with Sch. 14 para. 7 of the amending Act) by Finance Act 1994 (c. 9), Sch. 14 para. 2

### 468H Interpretation.

- (1) This section has effect for the interpretation of sections 468I to 468R.
- (2) The making of a distribution by an authorised unit trust to a unit holder includes investing an amount on behalf of the unit holder in respect of his accumulation units.
- (3) In relation to an authorised unit trust—
  - (a) “distribution period” means a period by reference to which the total amount available for distribution to unit holders is ascertained; and
  - (b) “distribution accounts” means accounts showing how that total amount is computed.
- (4) The distribution date for a distribution period of an authorised unit trust is—
  - (a) the date specified by or in accordance with the terms of the trust for any distribution for that distribution period; or

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- (b) if no date is so specified, the last day of that distribution period.
- (5) <sup>F478</sup> .....
- (6) Sections 468I [<sup>F479</sup> to 468Q] do not apply to an authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).

#### Textual Amendments

**F478** S. 468(5) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(1)(a), **Sch. 8 Pt. 2(11)**, Note

**F479** Words in s. 468H(6) substituted (with effect in accordance with s. 36, Sch. 6 para. 8(9) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 6 para. 8(1)(b)**

#### 468I Distribution accounts.

- (1) The total amount shown in the distribution accounts as available for distribution to unit holders shall be shown as available for distribution in one of the ways set out below.
- (2) It may be shown as available for distribution as dividends <sup>F480</sup> . . . .
- (3) <sup>F481</sup> .....
- (4) It may be shown as available for distribution as yearly interest.
- (5) <sup>F481</sup> .....
- [<sup>F482</sup>(5A) <sup>F481</sup> .....]
- (6) Amounts deriving from income under Schedule A may not be included in any amount shown in the distribution accounts as available for distribution as yearly interest.
- (7) <sup>F481</sup> .....

#### Textual Amendments

**F480** Words in s. 468I(2) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(2)(a), **Sch. 8 Pt. 2(11)**, Note

**F481** Ss. 468I(3)(5)(5A)(7) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(2)(b), **Sch. 8 Pt. 2(11)**, Note

**F482** S. 468I(5A) inserted (with effect in accordance with Sch. 7 para. 11(2) of the amending Act) by Finance Act 1997 (c. 16), **Sch. 7 para. 11(1)**

#### Modifications etc. (not altering text)

**C111** S. 468I modified (28.4.1997) by The Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154), **regs. 1, 9, 12**

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### *Dividend and foreign income distributions*

#### **468J Dividend distributions.**

- (1) Subsection (2) below applies where the total amount <sup>F483</sup> . . . shown in the distribution accounts as available for distribution to unit holders is shown as available for distribution as dividends <sup>F483</sup> . . . .
- (2) The Tax Acts shall have effect as if the total amount <sup>F484</sup> . . . were dividends on shares paid on the distribution date by the company referred to in section 468(1) to the unit holders in proportion to their rights.
- (3) <sup>F485</sup> . . . . .
- (4) In the following provisions of this Chapter “a dividend distribution” means a dividend treated as paid by virtue of subsection (2) above.

#### **Textual Amendments**

**F483** Words in s. 468J(1) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(3)(a), **Sch. 8 Pt. 2(11)**, Note

**F484** Words in s. 468J(2) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(3)(b), **Sch. 8 Pt. 2(11)**, Note

**F485** S. 468J(3) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(3)(c), **Sch. 8 Pt. 2(11)**, Note

#### **468K Foreign income distributions.**

<sup>F486</sup> . . . . .

#### **Textual Amendments**

**F486** S. 468K repealed (with effect in accordance with s. 36, Sch. 6 para. 8(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(4), **Sch. 8 Pt. 2(11)**

### *Interest distributions*

#### **468L Interest distributions.**

- (1) Subsection (2) below applies where the total amount shown in the distribution accounts as available for distribution to unit holders is shown as available for distribution as yearly interest.
- [<sup>F487</sup>(1A) For the purposes of this Chapter no amount shall be shown as so available unless the authorised unit trust in question satisfies the qualifying investments test throughout the distribution period.]
- (2) The Tax Acts shall have effect (subject to what follows) as if the total amount were payments of yearly interest made on the distribution date by the company referred to in section 468(1) to the unit holders in proportion to their rights.

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- (3) In the following provisions of this Chapter “an interest distribution” means a payment of yearly interest treated as made by virtue of subsection (2) above.
- (4) The obligation under section 349(2) to deduct a sum in its application to an interest distribution is subject to [F488section 468M] (and, in its application to an interest distribution to a unit holder in respect of his accumulation units, is an obligation to deduct a sum out of the amount being invested on the unit holder’s behalf).
- (5) [F489Nothing in subsection (2) above or Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall require any amount relating to an interest distribution to be brought into account for the purposes of that Chapter otherwise than by virtue of paragraph 4(4) of Schedule 10 to that Act; but the interest distributions of an authorised unit trust for a distribution period] shall be allowed as a deduction against the profits of the authorised unit trust for the accounting period in which the last day of that distribution period falls.
- (6) The deduction mentioned in subsection (5) above may be made—
  - (a) in computing the total profits for the accounting period, after the deduction of any expenses deductible in computing profits apart from section 75 and either before or after the deduction under that section of [F490expenses of management]; or
  - (b) against total profits as reduced by any other relief from tax or against total profits not so reduced.
- (7) Where in any accounting period the amount deductible by virtue of subsection (5) above exceeds the amount from which the deduction is made—
  - (a) the excess may be carried forward to the succeeding accounting period; and
  - (b) the amount so carried forward shall be treated as if it were deductible in that succeeding accounting period by virtue of subsection (5) above.
- [F491(8) For the purposes of this section an authorised unit trust satisfies the qualifying investments test throughout a distribution period (“the relevant period”) if at all times in that period, the market value of the qualifying investments exceeds 60 per cent. of the market value of all the investments of that trust.
- (9) Subject to subsection (13) below, in this section “qualifying investments”, in relation to an authorised unit trust, means the investments of that trust which are of any of the following descriptions—
  - (a) money placed at interest;
  - (b) securities;
  - (c) shares in a building society;
  - (d) qualifying entitlements to a share in the investments of another authorised unit trust;
  - [F492(e) qualifying shares in an open-ended investment company;]
  - [F493(f) derivative contracts whose underlying subject matter consists wholly of any one or more of the matters referred to in paragraphs (a) to (e) above;
  - (g) contracts for differences whose underlying subject matter consists wholly of interest rates or creditworthiness or both of those matters.]
- (10) For the purposes of subsection (9) above an entitlement to a share in the investments of another authorised unit trust is a qualifying entitlement at any time in the relevant

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period if, and only if, the other authorised unit trust would itself (on the relevant assumption) satisfy the qualifying investments test throughout that period.

(11) For the purposes of subsection (10) above the relevant assumption is that the only investments of the other authorised unit trust which are to be regarded as qualifying investments are those falling within paragraphs (a) to (c) [<sup>F494</sup>, (f) and (g)] of subsection (9) above.

(12) In this section “security” does not include shares in a company; and references in this section to investments of an authorised unit trust are references to investments subject to the trusts of that authorised unit trust but do not include references to cash awaiting investment.

[ For the purposes of subsection (9) above shares in an open-ended investment company  
<sup>F495</sup>(12A) are qualifying shares at any time in the relevant period if, and only if, throughout that period the aggregate market value of those investments of the company falling within paragraphs (a) to (c) of that subsection exceeds 60 per cent. of the market value of all its investments.

(12B) In subsection (12A) above references to investments of an open-ended investment company are references to investments comprised in the scheme property of that company, but do not include references to cash awaiting investment.

(12C) In this section—

“collective investment scheme” has the meaning given by section [<sup>F496</sup>235 of the Financial Services and Markets Act 2000];

“open-ended investment company” means, subject to subsection (12D) below, an open-ended investment company within the meaning given by section [<sup>F497</sup>236 of the Financial Services and Markets Act 2000] which is incorporated in the United Kingdom;

“scheme property” of an open-ended investment company means, subject to subsection (12E)(b) below, the property subject to the collective investment scheme constituted by the company.

(12D) Each of the parts of an umbrella company shall be regarded for the purposes of subsections (9) and (12A) above as an open-ended investment company and the umbrella company as a whole shall not be so regarded and shall not be regarded as a company.

(12E) In relation to a part of an umbrella company—

(a) references in subsections (12A) and (12B) above to investments of an open-ended investment company shall have effect as references to such of the investments as under the arrangements referred to in subsection (12F) below form part of the separate pool to which that part of the umbrella company relates;

(b) the reference in subsection (12B) above to the scheme property of an open-ended investment company shall have effect as if it were a reference to such property subject to the collective investment scheme constituted by the umbrella company as is comprised in the separate pool to which that part of the umbrella company relates;

(c) a person for the time being having rights in that part shall be regarded as the owner of shares in the open-ended investment company which that part is deemed to be by virtue of subsection (12D) above, and not as the owner of shares in the umbrella company itself.



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- (12F) In subsections (12D) and (12E) above “umbrella company” means a company—
- (a) which falls within the definition of “open-ended investment company” in section [F498236 of the Financial Services and Markets Act 2000] ,
  - (b) which is incorporated in the United Kingdom,
  - (c) whose instrument of incorporation provides for arrangements for such pooling as is mentioned in section [F499235(3)(a)] of that Act in relation to separate parts of the scheme property of the company, and
  - (d) the owners of shares in which are entitled to exchange rights in one part for rights in another;

and any reference to a part of an umbrella company is a reference to such of the arrangements as relate to a separate pool.

- (12G) For the purposes of subsections (12E) and (12F) above, “owner of shares” in relation to an open-ended investment company means—
- (a) the beneficial owner of the shares, or
  - (b) where the shares are held on trust (other than a bare trust), the trustees of the trust, or
  - (c) where the shares are comprised in the estate of a deceased person, the deceased’s personal representatives.]

- [ For the purposes of this section—
- <sup>F500</sup>(12H) “contract for differences” has the same meaning as in paragraph 12 of Schedule 26 to the Finance Act 2002;
- “derivative contract” means—
- (a) a contract which is a derivative contract within the meaning of that Schedule, or
  - (b) a contract which is, in the accounting period in question, treated as if it were a derivative contract by virtue of paragraph 36 of that Schedule (contracts relating to holdings in unit trust schemes, open-ended investment companies and offshore funds);
- “underlying subject matter” has the same meaning as in paragraph 11 of that Schedule.]

- (13) The Treasury may by order amend subsection (9) above so as to extend or restrict the descriptions of investments of an authorised unit trust that are qualifying investments.

- (14) An order made by the Treasury under subsection (13) above may—
- (a) make different provision for different cases; and
  - (b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit;

and, without prejudice to the generality of paragraph (b) above, such an order may make such incidental modifications of subsection (11) above as the Treasury may think fit.]

#### Textual Amendments

**F487** S. 468L(1A) inserted (with effect in accordance with Sch. 6 para. 11(3) of the amending Act) by Finance Act 1996 (c. 8), Sch. 6 para. 11(1)

**F488** Words in s. 468L(4) substituted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), s. 203(2)

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- F489** Words in s. 468L(5) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14**, para. 26 (with Sch. 15)
- F490** Words in s. 468L(6)(a) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 2, Sch. para. 21
- F491** S. 468L(8)-(14) inserted (with effect in accordance with Sch. 6 para. 11(3) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 10 para. 11(2)**
- F492** S. 468L(9)(e) added (25.2.1997) by The Authorised Unit Trusts (Interest Distributions) (Qualifying Investments) Order 1997 (S.I. 1997/212), **art. 3**
- F493** S. 468L(9)(f)(g) inserted (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 27 para. 7(2)** (with Sch. 28)
- F494** Words in s. 468L(11) inserted (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 27 para. 7(3)** (with Sch. 28)
- F495** S. 468L(12A)-(12G) inserted (25.2.1997) by The Authorised Unit Trusts (Interest Distributions) (Qualifying Investments) Order 1997 (S.I. 1997/212), **art. 4**
- F496** Words in s. 468L(12C) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 38(2)(a)**
- F497** Words in s. 468L(12C) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 38(2)(b)**
- F498** Words in s. 468L(12F)(a) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 38(3)(a)**
- F499** Words in s. 468L(12F)(c) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 38(3)(b)**
- F500** S. 468L(12H) inserted (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 27 para. 7(4)** (with Sch. 28)

**Modifications etc. (not altering text)**

- C112** S. 468L modified (28.4.1997) by The Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154), **regs. 1, 9, 13**

**[<sup>F501</sup>468M] Cases where no obligation to deduct tax**

- (1) Where an interest distribution is made for a distribution period to a unit holder, any obligation to deduct under section 349(2) does not apply to the interest distribution if—
- (a) the unit holder is a company or the trustees of a unit trust scheme, or
  - (b) either the residence condition or the reputable intermediary condition is on the distribution date fulfilled with respect to the unit holder.
- (2) Section 468O makes provision about the circumstances in which the residence condition or the reputable intermediary condition is fulfilled with respect to a unit holder.]

**Textual Amendments**

- F501** S. 468M substituted for ss. 468M, 468N (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), **s. 203(3)**

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**Modifications etc. (not altering text)**

- C113** Ss. 468M, 468O, 468PA applied (with modifications) (7.8.2003 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Income Tax \(Authorised Unit Trusts\) \(Interest Distributions\) Regulations 2003 \(S.I. 2003/1830\)](#), **regs. 1(1), 7**
- C114** S. 468M(1)(a) applied (with modifications) (7.8.2003 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Income Tax \(Authorised Unit Trusts\) \(Interest Distributions\) Regulations 2003 \(S.I. 2003/1830\)](#), **regs. 1(1), 3, 4**

**468O Residence condition [<sup>F502</sup>and reputable intermediary condition].**

- (1) For the purposes of [<sup>F503</sup>section 468M], the residence condition is fulfilled with respect to a unit holder if—
- (a) there is a valid declaration made by him that he is not ordinarily resident in the United Kingdom; or
  - (b) he holds the rights as a personal representative of a unit holder and—
    - (i) before his death the deceased made a declaration valid at the time of his death that he was not ordinarily resident in the United Kingdom; or
    - (ii) the personal representative has made a declaration that the deceased, immediately before his death, was not ordinarily resident in the United Kingdom.

[<sup>F504</sup>(1A) For the purposes of section 468M, the reputable intermediary condition is fulfilled with respect to a unit holder if—

- (a) the interest distribution is paid on behalf of the unit holder to a company,
- (b) the company either is subject to the EC Money Laundering Directive, or to equivalent non-EC provisions, or is an associated company resident in a regulating country or territory of a company which is so subject, and
- (c) the trustees of the authorised unit trust have reasonable grounds for believing that the unit holder is not ordinarily resident in the United Kingdom.

(1B) For the purposes of subsection (1A)(b) above—

- (a) a company is subject to the EC Money Laundering Directive if it is a credit institution or financial institution as defined by Article 1 of Directive [91/308/EEC](#), as amended by Directive [2001/97/EC](#),
- (b) a company is subject to equivalent non-EC provisions if it is required by the law of any country or territory which is not a member State to comply with requirements similar to those which, under Article 3 of that Directive (as so amended), member States must ensure are complied with by credit institutions and financial institutions,
- (c) a company is to be treated as another's associated company if it would be so treated for the purposes of Part 11 (see section 416), and
- (d) a country or territory is a regulating country or territory if it either is a member State or imposes requirements similar to those which, under Article 3 of that Directive (as so amended), member States must ensure are complied with by credit institutions and financial institutions.

(1C) If Directive [91/308/EEC](#) ceases to have effect, or is further amended, the Treasury may by order make consequential amendments in subsections (1A) and (1B) above.]

(2) <sup>F505</sup> .....

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- (3) <sup>F505</sup> .....
- (4) <sup>F505</sup> .....

**Textual Amendments**

**F502** Words in s. 468O sidenote inserted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), s. 203(7)

**F503** Words in s. 468O(1) substituted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), s. 203(5)

**F504** S. 468(1A)-(1C) inserted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), s. 203(6)

**F505** S. 468O(2)-(4) repealed (with effect in accordance with Sch. 43 Pt. 5(3) Note of the repealing Act) by Finance Act 2003 (c. 14), Sch. 43 Pt. 5(3)

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**Modifications etc. (not altering text)**

**C115** Ss. 468O, 468P applied (with modifications) (27.9.1994) by The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 1994 (S.I. 1994/2318), regs. 1, 3-6

**C116** S. 468O applied (with modifications) (7.8.2003 with effect in accordance with reg. 1(2) of the affecting S.I.) by The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 2003 (S.I. 2003/1830), regs. 1(1), 3, 5

**C117** Ss. 468M, 468O, 468PA applied (with modifications) (7.8.2003 with effect in accordance with reg. 1(2) of the affecting S.I.) by The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 2003 (S.I. 2003/1830), regs. 1(1), 7

**468P Residence declarations.**

- (1) A declaration made for the purposes of section [<sup>F506</sup>468O(1)] must—
  - (a) be in such form as may be required or authorised by the Board;
  - (b) be made in writing to the trustees of the authorised unit trust in question; and
  - (c) contain any details or undertakings required by [<sup>F507</sup>subsection (2) or (3)] below.
- (2) A declaration made as mentioned in section 468O(1)(a) or (b)(i) must contain—
  - (a) the name and principal residential address of the person making it; and
  - (b) an undertaking that he will notify the trustees if he becomes ordinarily resident in the United Kingdom.
- (3) A declaration made as mentioned in section 468O(1)(b)(ii) must contain the name of the deceased and his principal residential address immediately before his death.
- (4) <sup>F508</sup> .....
- (5) For the purposes of determining whether an interest distribution should be made with or without any deduction, the trustees may not treat a declaration as valid if—
  - (a) they receive a notification in compliance with an undertaking under subsection (2) <sup>F509</sup> . . . above that the person in question has become ordinarily resident <sup>F509</sup> . . . in the United Kingdom; or
  - (b) they come into possession of information by some other means which indicates that the person in question is or may be ordinarily resident <sup>F509</sup> . . . in the United Kingdom;

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but, subject to that, they are entitled to treat the declaration as valid.

- (6) The trustees shall, on being required to do so by a notice given by an officer of the Board, make available for inspection by such an officer any declarations made to them under this section or any specified declaration or description of declarations.
- (7) Where a notice has been given to the trustees under subsection (6) above, the declarations shall be made available within such time as may be specified in the notice and the person carrying out the inspection may take copies of or extracts from them.
- (8) <sup>F510</sup> .....
- (9) <sup>F510</sup> .....

#### Textual Amendments

- F506** Words in s. 468P(1) substituted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), s. 203(8)(a)
- F507** Words in s. 468P(1)(c) substituted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), s. 203(8)(b)
- F508** S. 468P(4) repealed (with effect in accordance with Sch. 43 Pt. 5(3) Note of the repealing Act) by Finance Act 2003 (c. 14), Sch. 43 Pt. 5(3)
- F509** Words in s. 468P(5) repealed (with effect in accordance with Sch. 43 Pt. 5(3) Note of the repealing Act) by Finance Act 2003 (c. 14), Sch. 43 Pt. 5(3)
- F510** S. 468P(8)(9) repealed (with effect in accordance with Sch. 43 Pt. 5(3) Note of the repealing Act) by Finance Act 2003 (c. 14), Sch. 43 Pt. 5(3)

#### Modifications etc. (not altering text)

- C118** Ss. 468O, 468P applied (with modifications) (27.9.1994) by The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 1994 (S.I. 1994/2318), regs. 1, 3-6
- C119** S. 468P applied (with modifications) (7.8.2003 with effect in accordance with reg. 1(2) of the affecting S.I.) by The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 2003 (S.I. 2003/1830), regs. 1(1), 3, 6

### [<sup>F511</sup> **Section 468O(1A): consequences of reasonable but incorrect belief**

Where—

- (a) an interest distribution is made to a unit holder by the trustees of an authorised unit trust,
- (b) the trustees, in reliance on the reputable intermediary condition being fulfilled with respect to the unit holder, do not comply with the obligation under section 349(2) to make a deduction from the interest distribution,
- (c) that obligation would apply but for that condition being so fulfilled, and
- (d) (contrary to the belief of the trustees) the unit holder is in fact ordinarily resident in the United Kingdom,

section 350 and Schedule 16 have effect as if that obligation applied.]

#### Textual Amendments

- F511** Ss. 468PA, 468PB inserted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), s. 203(9)

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#### **Modifications etc. (not altering text)**

**C120** Ss. 468M, 468O, 468PA applied (with modifications) (7.8.2003 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Income Tax \(Authorised Unit Trusts\) \(Interest Distributions\) Regulations 2003 \(S.I. 2003/1830\)](#), [regs. 1\(1\)](#), 7

#### **[<sup>F511</sup>468PB Regulations supplementing sections 468M to 468PA**

- (1) The Board may by regulations make provision for giving effect to sections 468M to 468PA.
- (2) The regulations may, in particular, include provision modifying the application of those sections in relation to interest distributions made to or received under a trust.
- (3) The regulations may, in particular, include provision for the giving by officers of the Board of notices requiring trustees of authorised unit trusts to supply information and make available books, documents and other records for inspection on behalf of the Board.
- (4) The regulations may—
  - (a) make provision in relation to times before they are made,
  - (b) make different provision for different cases, and
  - (c) make such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.]

#### **Textual Amendments**

**F511** Ss. 468PA, 468PB inserted (with effect in accordance with [s. 203\(14\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 203\(9\)](#)

### *Distributions to corporate unit holder*

#### **468Q Dividend distribution to corporate unit holder.**

- (1) Subsection (2) below applies where—
  - (a) a dividend distribution for a distribution period is made to a unit holder by the trustees of an authorised unit trust; and
  - (b) on the distribution date for that distribution period the unit holder is within the charge to corporation tax.
- (2) For the purpose of computing corporation tax chargeable in the case of the unit holder the unfranked part of the dividend distribution shall be deemed—
  - (a) to be an annual payment and not a dividend distribution <sup>F512</sup> . . . or an interest distribution; and
  - (b) to have been received by the unit holder after deduction of income tax at the lower rate for the year of assessment in which the distribution date falls, from a corresponding gross amount.
- (3) This is how to calculate the unfranked part of the dividend distribution—

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$$U = \frac{A \times C}{D}$$

Where—

U = the unfranked part of the dividend distribution to the unit holder;

A = the amount of the dividend distribution;

<sup>F513</sup> .....

[<sup>F514</sup>C = such amount of the gross income as does not derive from franked investment income, as reduced by an amount equal to the trustees' net liability to corporation tax in respect of the gross income;]

[<sup>F515</sup>D = the amount of the gross income, as reduced by an amount equal to the trustees' net liability to corporation tax in respect of the gross income;]

[<sup>F516</sup>(3A) Any reference in this section to the trustees' net liability to corporation tax in respect of the gross income is a reference to the amount of the liability of the trustees of the authorised unit trust to corporation tax in respect of that gross income less the amount (if any) of any reduction of that liability which is given or falls to be given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1).]

(4) <sup>F517</sup> .....

(5) Where the unit holder is on the distribution date the manager of the scheme, subsection (2) above shall not apply in so far as the rights in respect of which the dividend distribution is made are held by him in the ordinary course of his business as manager of the scheme.

[<sup>F518</sup>(5A) Where, in relation to a dividend distribution, any tax is deemed to have been deducted by virtue of the application of subsection (2)(b) above, the amount to which the unit holder is entitled by way of repayment of that tax shall not exceed the amount of the unit holder's portion of the trustees' net liability to corporation tax in respect of the gross income.

(5B) For the purposes of subsection (5A) above the unit holder's portion shall be determined by reference to the proportions in which unit holders have rights in the authorised unit trust in the distribution period in question.

(5C) The trustees of the authorised unit trust shall in the appropriate statement sent to the unit holder under section 234A include a statement showing their net liability to corporation tax in respect of the gross income.]

(6) For the purposes of this section the references to the gross income are references to the gross income entered in the distribution accounts for the purpose of computing the total amount available for distribution to unit holders for the distribution period in question.

#### Textual Amendments

**F512** Words in s. 468Q(2)(a) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(6)(a), Sch. 8 Pt. 2(11), Note

**F513** Words in s. 468Q(3) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(6)(b)(ii), Sch. 8 Pt. 2(11), Note

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- F514** Words in s. 468Q(3) substituted (with effect in accordance with Sch. 3 para. 27(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 3 para. 27(2)(a)**
- F515** Words in s. 468Q(3) substituted (with effect in accordance with Sch. 3 para. 27(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 3 para. 27(2)(b)**
- F516** S. 468Q(3A) inserted (with effect in accordance with Sch. 3 para. 27(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 3 para. 27(3)**
- F517** S. 468Q(4) repealed (with effect in accordance with s. 36, Sch. 6 para. 8(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(6)(c), **Sch. 8 Pt. 2(11)**, Note
- F518** S. 468Q(5A)-(5C) inserted (with effect in accordance with Sch. 3 para. 27(5) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 3 para. 27(4)**

**468R Foreign income distribution to corporate unit holder.**

**F519** .....

**Textual Amendments**

**F519** S. 468R repealed (with effect in accordance with s. 36, Sch. 6 para. 8(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 8(7), **Sch. 8 Pt. 2(11)**, Note

**469 Other unit trusts.**

- (1) This section applies to—
  - (a) <sup>M51</sup>any unit trust scheme [<sup>F520</sup>that is neither an authorised unit trust nor an umbrella scheme]; <sup>F521</sup> . . .
  - (b) <sup>F521</sup> .....

except where the trustees of the scheme are not resident in the United Kingdom.

- (2) Income arising to the trustees of the scheme shall be regarded for the purposes of the Tax Acts as income of the trustees (and not as income of the unit holders) [<sup>F522</sup>and, in the case of income to which section 1A applies, chargeable to income tax at the basic rate, instead of at the [<sup>F523</sup>rate applicable in accordance with subsection (1A) of that section]]; and the trustees (and not the unit holders) shall be regarded as the persons to or on whom allowances or charges are to be made under the provisions of those Acts relating to relief for capital expenditure.

[<sup>F524</sup>(2A) Section 231(1) shall not apply where the recipient of the distribution there mentioned is the trustees of the scheme.

(2B) Section 233(1) shall not apply where the person there mentioned is the trustees of the scheme.]

<sup>F525</sup>(3) For the purposes of the Tax Acts the unit holders shall be treated as receiving annual payments (made by the trustees under deduction of tax) in proportion to their rights.

- (4) The total amount of those annual payments in respect of any distribution period shall be the amount which, after deducting income tax at the basic rate in force for the year of assessment in which the payments are treated as made, is equal to the aggregate amount shown in the accounts of the scheme as income available for payment to unit holders or for investment.



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- (5) The date on which the annual payments are treated as made shall be the date or latest date provided by the terms of the scheme for any distribution in respect of the distribution period in question, except that, if—
- (a) the date so provided is more than 12 months after the end of the period; or
  - (b) no date is so provided,
- the date on which the payments are treated as made shall be the last day of the period.
- [<sup>F526</sup>(5A) Subsection (5B) below applies where for any year of assessment—
- (a) the trustees are (or, apart from this subsection, would be) chargeable under section 350 with tax on payments treated as made by them under subsection (3) above, and
  - (b) there is an uncredited surplus in the case of the scheme.
- (5B) Where this subsection applies, the amount on which the trustees would otherwise be so chargeable shall be reduced—
- (a) if the surplus is greater than that amount, to nil, or
  - (b) if it is not, by an amount equal to the surplus.
- (5C) For the purposes of subsections (5A) and (5B) above whether there is an uncredited surplus for a year of assessment in the case of a scheme (and, if so, its amount) shall be ascertained by—
- (a) determining, for each earlier year of assessment in which the income on which the trustees were chargeable to tax by virtue of subsection (2) above exceeded the amount treated by subsection (3) above as annual payments received by the unit holders, the amount of the excess,
  - (b) aggregating the amounts determined in the case of the scheme under paragraph (a) above, and
  - (c) deducting from that aggregate the total of any reductions made in the case of the scheme under subsection (5B) above for earlier years of assessment.
- (5D) The references in subsection (5C)(a) above to subsections (2) and (3) above include references to subsections (2) and (3) of section 354A of the 1970 Act.]
- (6) In this section “distribution period” [<sup>F527</sup> means a period beginning on or after 1st April 1987 over which income from the investments subject to the trusts is aggregated for the purposes of ascertaining the amount available for distribution to unit holders, but]—
- (a) if the scheme does not make provision for distribution periods, then for the purposes of this section its distribution periods shall be taken to be successive periods of 12 months the first of which began with the day on which the scheme took effect; and
  - (b) if the scheme makes provision for distribution periods of more than 12 months, then for the purposes of this section each of those periods shall be taken to be divided into two (or more) distribution periods, the second succeeding the first after 12 months (and so on for any further periods).
- [<sup>F528</sup>(6A) In this section “umbrella scheme” has the same meaning as in section 468.]
- (7) In this section “unit trust scheme” has the same meaning as in the [<sup>F529</sup>Financial Services and Markets Act 2000], except that the Treasury may by regulations provide that any scheme of a description specified in the regulations shall be treated as not being a unit trust scheme for the purposes of this section.

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- (8) Regulations under this section may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.
- (9) Sections 686 [<sup>F530</sup>, 686A] and 687 shall not apply to a scheme to which this section applies [<sup>F531</sup>except as respects income to which section 686 is treated as applying by virtue of paragraph 7 of Schedule 5AA.]
- (10) Section 720(5) shall not apply in relation to profits or gains treated as received by the trustees of a scheme to which this section applies if or to the extent that those profits or gains represent accruals of interest (within the meaning of Chapter II of Part XVII) which are treated as income in the accounts of the scheme.
- (11) This section shall have effect in relation to distribution periods beginning on or after 6th April 1987.

#### Textual Amendments

- F520** Words in s. 469(1)(a) substituted (with effect in accordance with s. 113(4)-(11) of the amending Act) by Finance Act 1994 (c. 9), s. 113(3)(a)
- F521** S. 469(1)(b) and preceding word repealed (with effect in accordance with Sch. 41 Pt. 5(1) Note 2 of the repealing Act) by Finance Act 1996 (c. 8), Sch. 41 Pt. 5(1)
- F522** Words in s. 469(2) inserted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by Finance Act 1996 (c. 8), Sch. 6 para. 12
- F523** Words in s. 469(2) substituted (with effect in accordance with Sch. 4 para. 12(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 4 para. 12(2)
- F524** S. 469(2A)(2B) inserted (with effect in accordance with Sch. 4 para. 12(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 4 para. 12(3)
- F525** Words in s. 469(3) repealed (with effect in accordance with Sch. 41 Pt. 5(1) Note 2 of the repealing Act) by Finance Act 1996 (c. 8), Sch. 41 Pt. 5(1)
- F526** S. 469(5A)-(5D) inserted by Finance Act 1988 (c. 39), s. 71
- F527** Words in s. 469(6) substituted (with effect in accordance with Sch. 14 para. 7 of the amending Act) by Finance Act 1994 (c. 9), Sch. 14 para. 5
- F528** S. 469(6A) inserted (with effect in accordance with s. 113(4)-(11) of the amending Act) by Finance Act 1994 (c. 9), s. 113(3)(b)
- F529** Words in s. 469(7) substituted (1.12.2001) by Financial Services and Markets Act 2000 (c. 8), s. 431(2), Sch. 20 para. 4(4); S.I. 2001/3538, art. 2(1)
- F530** Words in s. 469(9) inserted (with effect in accordance with Sch. 4 para. 12(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 4 para. 12(4)
- F531** Words in s. 469(9) inserted (with effect in accordance with s. 80(6) of the amending Act) by Finance Act 1997 (c. 16), s. 80(5)

#### Modifications etc. (not altering text)

- C121** S. 469 extended (27.7.1993) by 1993 c. 37, s. 12, Sch. 2 Pt. I para. 22(1)(2)
- C122** For regulations see Part III Vol. 5

#### Marginal Citations

- M51** Source—1970 s.354A; 1987 s.39; 1987 (No.2) s.40(1)

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**[<sup>F532</sup>469A Court common investment funds.**

- (1) The Tax Acts shall have effect in relation to any common investment fund established under section 42 of the <sup>M52</sup>Administration of Justice Act 1982 (common investment funds for money paid into court) as if—
- (a) the fund were an authorised unit trust;
  - (b) the person who is for the time being the investment manager of the fund were the trustee of that authorised unit trust; and
  - (c) [<sup>F533</sup>the persons with qualifying interests] were the unit holders in that authorised unit trust.

[ For the purposes of subsection (1)(c) above, the persons with qualifying interests are—

- <sup>F534</sup>(1A) (a) in relation to shares in the fund held by the Accountant General, the persons whose interests entitle them, as against him, to share in the fund’s investments;
- (b) in relation to shares in the fund held by any other person authorised by the Lord Chancellor to hold such shares on behalf of others (an “authorised person”)—
- (i) if there are persons whose interests entitle them, as against the authorised person, to share in the fund’s investments, those persons;
  - (ii) if not, the authorised person;
- (c) in relation to shares in the fund held by persons authorised by the Lord Chancellor to hold such shares on their own behalf, those persons.]

- (2) In this section “the Accountant General” means <sup>F535</sup>. . . the Accountant General of the Supreme Court of Judicature in England and Wales or the Accountant General of the Supreme Court of Judicature of Northern Ireland.

- (3) <sup>F536</sup> . . . . .]

**Textual Amendments**

- F532** S. 469A inserted (with effect in accordance with s. 68(3)-(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 68\(1\)](#)
- F533** Words in s. 469A(1)(c) substituted (with effect in accordance with s. 183(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 183\(2\)](#)
- F534** S. 469A(1A) inserted (with effect in accordance with s. 183(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 183\(3\)](#)
- F535** Words in s. 469A(2) repealed (with effect in accordance with Sch. 43 Pt. 3(17) Note of the repealing Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(17\)](#)
- F536** S. 469A(3) repealed (with effect in accordance with Sch. 43 Pt. 3(17) Note of the repealing Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(17\)](#)

**Marginal Citations**

- M52** 1982 c.53.

**470 Transitional provisions relating to unit trusts.**

- (1) <sup>F537</sup> . . . . .
- <sup>F538</sup>(2) . . . . .
- (3) <sup>F537</sup> . . . . .

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#### Textual Amendments

**F537** S. 470(1)(3) repealed (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. 3\(23\)](#)

**F538** S. 470(2) ceased to have effect (29.4.1988) by virtue of s. 470(3) below and [S.I. 1988/745](#), [art. 2](#)

### *Dealers in securities, banks and insurance businesses*

#### **471 Exchange of securities in connection with conversion operations, nationalisation etc.**

**F539** .....

#### Textual Amendments

**F539** S. 471 repealed (with effect in accordance with s. 101(3) of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), s. 101(1), [Sch. 27 Pt. 3\(23\)](#), Note 1

#### **472 Distribution of securities issued in connection with nationalisation etc.**

**F540** .....

#### Textual Amendments

**F540** S. 472 repealed (with effect in accordance with s. 101(4) of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), s. 101(2), [Sch. 27 Pt. 3\(23\)](#), Note 2

#### **[<sup>F541</sup>472A] Trading profits etc. from securities: taxation of amounts taken to reserves**

- (1) This section applies in relation to securities—
  - (a) which are held by a person carrying on a banking business, an insurance business or a business consisting wholly or partly in dealing in securities; and
  - (b) which are such that a profit on their sale would form part of the trading profits of that business.
- (2) Profits and losses arising from such securities that in accordance with generally accepted accounting practice are—
  - (a) calculated by reference to the fair value of the securities, and
  - (b) recognised in that person’s statement of recognised gains and losses or statement of changes in equity,
 shall be brought into account in computing the profits or losses of a business in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) Subsection (2) does not apply—
  - (a) to an amount to the extent that it derives from or otherwise relates to an amount brought into account under that subsection in an earlier period of account, or
  - (b) to an amount recognised for accounting purposes by way of correction of a fundamental error.
- (4) In this section, “securities”—

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- (a) includes shares and any rights, interests or options that by virtue of section 99, 135(5) or 136(5) of the Taxation of Chargeable Gains Act 1992 are treated as shares for the purposes of sections 126 to 136 of that Act; but
- (b) does not include a loan relationship (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996).]

**Textual Amendments**

**F541** S. 472A inserted (with effect in accordance with s. 54(2) of the amending Act) by Finance Act 2004 (c. 12), s. 54 (as amended (retrospectively) by Finance Act 2005 (c.7), Sch. 4 para. 50, Sch. 11 Pt. 2(7))

**473 Conversion etc. of securities held as circulating capital.**

- (1)<sup>M53</sup>Subsections (3) and (4) below shall have effect where a transaction to which this section applies occurs in relation to any securities (“the original holding”)—
  - (a) to which a person carrying on a banking business, an insurance business or a business consisting wholly or partly in dealing in securities is beneficially entitled; and
  - (b) which are such that a profit on their sale would form part of the trading profits of that business.
- (2) This section applies to any transaction which<sup>F542</sup> . . . —
  - (a) [<sup>F543</sup>results] in the original holding being equated with a new holding by virtue of sections [<sup>F544</sup>126 to 136 of the 1992] Act (capital gains tax roll-over relief in cases of conversion etc.); or
  - (b) [<sup>F545</sup>is] treated by virtue of section [<sup>F544</sup>134] of that Act (compensation stock) as an exchange for a new holding which does not involve a disposal of the original holding;

<sup>F546</sup> . . . . .

[<sup>F547</sup>(2A) This section does not apply to securities in respect of which unrealised profits or losses, calculated by reference to the fair value of the securities at the end of a period of account, are taken into account in the period of account in which the transaction mentioned in subsection (2) above occurs.

(2B) Subsection (2A) above shall be disregarded in determining for the purposes of section 66 of the Finance Act 2002 (election to continue postponement of mark to market) whether an asset was held by a person on 1st January 2002.]

- (3) Subject to subsection (4) below, in making any computation in accordance with the provisions of this Act applicable to Case I of Schedule D of the profits or losses of the business—
  - (a) the transaction shall be treated as not involving any disposal of the original holding, and
  - (b) the new holding shall be treated as the same asset as the original holding.
- (4) Where under the transaction the person concerned receives or becomes entitled to receive any consideration in addition to the new holding, subsection (3) above shall have effect as if references to the original holding were references to the proportion of it which the market value of the new holding at the time of the transaction bears

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to the aggregate of that value and the market value at that time (or, if it is cash, the amount) of the consideration.

- (5) <sup>F548</sup> .....
- (6) In this section “securities” includes shares, any security within the meaning of section <sup>F549</sup>132 of the 1992 Act] and any rights, interests or options which by virtue of section <sup>F549</sup>[<sup>F550</sup>135(5), 136(5)], 147 or 99] of that Act are treated as shares for the purposes of sections <sup>F549</sup>[126 to 136] of that Act.
- (7) In determining for the purposes of subsection (2)(a) above whether a transaction <sup>F543</sup>[results] in the original holding being equated with a new holding by virtue of section <sup>F551</sup>[135 or 136 of the 1992] Act the reference in section <sup>F551</sup>[137(1)] of that Act to capital gains tax shall be construed as a reference to income tax.

**Textual Amendments**

- F542** Words in s. 473(2) repealed (with effect in accordance with s. 67(4)(a) of the repealing Act) by Finance Act 2002 (c. 23), s. 67(1)(a), **Sch. 40 Pt. 3(8)**, Note
- F543** Words in s. 473(2)(a)(7) substituted (with effect in accordance with s. 67(4)(a) of the amending Act) by Finance Act 2002 (c. 23), **s. 67(1)(b)**
- F544** Words in 473(2)(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(27)(a)** (with ss. 60, 101(1), 171, 201(3))
- F545** Word in s. 473(2)(b) substituted (with effect in accordance with s. 67(4)(a) of the amending Act) by Finance Act 2002 (c. 23), **s. 67(1)(c)**
- F546** Words in s. 473(2) repealed (with effect in accordance with s. 101(3) of the repealing Act) by Finance Act 1998 (c. 36), **Sch. 27 Pt. 3(23)**, Note 1
- F547** S. 473(2A)(2B) inserted (with effect in accordance with s. 67(4)(a) of the amending Act) by Finance Act 2002 (c. 23), **s. 67(2)**
- F548** S. 473(5) repealed (with effect in accordance with s. 164(5) of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(24)**, Note
- F549** Words in s. 473(6) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(27)(b)** (with ss. 60, 101(1), 171, 201(3))
- F550** Words in s. 473(6) substituted (with effect in accordance with Sch. 9 para. 8(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 9 para. 4(4)**
- F551** Words in s. 473(7) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(27)(c)** (with ss. 60, 101(1), 171, 201(3))

**Marginal Citations**

- M53** Source—1977 s.46; 1979(C) Sch.7

**474 Treatment of tax-free income.**

- (1) <sup>F552</sup> .....
- (2) <sup>F553</sup> .....
- <sup>F554</sup> [( <sup>F552</sup> .....)]

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### Textual Amendments

- F552** S. 474(1)(3) repealed (with effect in accordance with Sch. 7 para. 32-35, Sch. 41 Pt. 5(2) Note of the repealing Act) by [Finance Act 1996 \(c. 8\)](#). Sch. 7 para. 18, Sch. 41 Pt. 5(2)
- F553** S. 474(2) repealed (with effect in accordance with s. 154(9) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), Sch. 28 para. 2, [Sch. 41 Pt. 5\(18\)](#), Note
- F554** S. 474(3) inserted (with effect in accordance with [Sch. 8 para. 55](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 25\(2\)](#)

## 475 Tax-free Treasury securities: exclusion of interest on borrowed money.

- [<sup>F555</sup>(1) This section has effect where a banking business, an insurance business or a business consisting wholly or partly in dealing in securities—
- (a) is carried on in the United Kingdom by a person not ordinarily resident there; and
  - (b) in computing for any of the purposes of the Tax Acts the profits arising from, or loss sustained, in the business, any amount which would otherwise be brought into account is disregarded by virtue of a condition subject to which any 3½% War Loan 1952 or after was issued;
- and for this purpose insurance business includes insurance business of any category.]
- (2) Up to the amount determined under this section (“the amount ineligible for relief”), interest on money borrowed for the purposes of the business—
- (a) shall be excluded in any computation under the Tax Acts of the profits (or losses) arising from the business<sup>F556</sup> . . . , and
  - [<sup>F557</sup>(b) shall not be brought into account by way of any debit given for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships).]
- (3) Subject to subsection (4) below, in determining the amount ineligible for relief, account shall be taken of all money borrowed for the purposes of the business which is outstanding in the accounting or basis period, up to the total cost of the [<sup>F558</sup>3½% War Loan 1952 or after] held for the purpose of the business in that period.
- (4) Where the person carrying on the business is a company, account shall not be taken of any borrowed money carrying interest which, apart from subsection (2) above, does not fall to be included in the computations under paragraph (a) of that subsection [<sup>F559</sup>or to be brought into account by way of a debit given for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships).]
- (5)<sup>F560</sup> . . . The amount ineligible for relief shall be equal to a year’s interest on the amount of money borrowed which is to be taken into account under subsection (3) above at a rate equal to the average rate of interest in the accounting or basis period on money borrowed for the purposes of the business, except that in the case of a period of less than 12 months interest shall be taken for that shorter period instead of for a year.
- (6)<sup>F561</sup> . . . . .
- (7)<sup>F561</sup> . . . . .
- (8) For the purposes of this section the cost of a holding of [<sup>F558</sup>3½% War Loan 1952 or after] which has fluctuated in the accounting or basis period shall be the average cost of acquisition of the initial holding, and of any subsequent acquisitions in the accounting

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or basis period, applied to the average amount of the holding in the accounting or basis period,<sup>F562</sup> . . . .

(9) In this section “accounting or basis period” means the company’s accounting period or the period by reference to which the profits or gains arising in the year of assessment are to be computed.

**Textual Amendments**

**F555** S. 475(1) substituted (with effect in accordance with s. 154(9) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 28 para. 3(1)**

**F556** Words in s. 475(2)(a) repealed (with effect in accordance with Sch. 8 para. 55 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 8 para. 25(1)(b), **Sch. 29 Pt. 8(5)**, Note 1

**F557** S. 475(2)(b) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 27(1)** (with Sch. 15)

**F558** Words in s. 475(3)(8) substituted (with effect in accordance with s. 154(9) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 28 para. 3(2)**

**F559** Words in s. 475(4) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 27(2)** (with Sch. 15)

**F560** Words in s. 475(5) repealed (with effect in accordance with s. 154(9) of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(18)**, Note

**F561** S. 475(6)(7) repealed (with effect in accordance with s. 154(9) of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(18)**, Note

**F562** Words in s. 475(8) repealed (with effect in accordance with s. 154(9) of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(18)**, Note

## CHAPTER IV

### BUILDING SOCIETIES, BANKS, SAVINGS BANKS, INDUSTRIAL AND PROVIDENT SOCIETIES AND OTHERS

**476 Building societies: regulations for payment of tax.**

F563 . . . . .

**Textual Amendments**

**F563** S. 476 repealed by Finance Act 1990 (c. 29), Sch. 5 para. 2, **Sch. 19 Pt. 4**, Note 8

**477 Investments becoming or ceasing to be relevant building society investments.**

F564 . . . . .

**Textual Amendments**

**F564** S. 477 repealed by Finance Act 1990 (c. 29), Sch. 5 para. 3, **Sch. 19 Pt. 4**, Note 8



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**[<sup>F565</sup>477A Building societies: regulations for deduction of tax.**

- (1) The Board may by regulations make provision with respect to any year of assessment requiring any building society—
- (a) in such cases as may be prescribed by the regulations to deduct out of any dividend or interest paid or credited in the year in respect of shares in, or deposits with or loans to, the society a sum representing the amount of income tax on it, and
  - (b) to account for and pay any amount required to be deducted by the society by virtue of this subsection.

[ Regulations under subsection (1) above may not make provision with respect to any <sup>F566</sup>(1A) dividend or interest paid or credited, on or after the day on which the Finance Act 1991 was passed, in respect of a security (other than a qualifying certificate of deposit [<sup>F567</sup>and other than a qualifying deposit right]) which was quoted, or capable of being [<sup>F568</sup>listed], on a recognised stock exchange at the time the dividend or interest became payable.

- (2) Regulations under subsection (1) above may—
- (a) make provision with respect to the furnishing of information by building societies or their investors, including, in the case of societies, the inspection of books, documents and other records on behalf of the Board;
  - (b) contain such incidental and consequential provisions as appear to the Board to be appropriate, including provisions requiring the making of returns.

[ Without prejudice to the generality of subsection (2)(a) above, regulations under <sup>F569</sup>(2A) subsection (1) above may make provision with respect to the furnishing of information to or by building societies corresponding to any provision that is made by, or may be made under, section 482 with respect to the furnishing of information to or by deposit-takers.]

- (3) For any year of assessment to which regulations under subsection (1) above apply, dividends or interest payable in respect of shares in, or deposits with or loans to, a building society shall be dealt with for the purposes of corporation tax as follows—
- [<sup>F570</sup>(a) [<sup>F571</sup>to the extent that it would not otherwise fall to be so regarded,] liability to pay the dividends or interest shall be treated for the purposes of Chapter II of Part IV of the Finance Act 1996 as a liability arising under a loan relationship of the building society;
  - (aa) if the dividends or interest are payable to a company, [<sup>F572</sup>then, to the extent that they would not otherwise fall to be so regarded,] they shall be treated for those purposes as payable to that company in pursuance of a right arising under a loan relationship of that company;]
  - (b) no part of any such dividends or interest paid or credited in the year of assessment shall be treated as a distribution of the society or as franked investment income of any company resident in the United Kingdom.

[ <sup>F574</sup>.....  
<sup>F573</sup>(3A)  
(3B) <sup>F574</sup>.....  
(3C) <sup>F574</sup>.....]

- (4) Subsection (3)(a) above shall apply to any terminal bonus paid by the society under a certified contractual savings scheme as if it were a dividend on a share in the society.

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- (5) Notwithstanding anything in sections 64, 66 and 67, for any year of assessment to which regulations under subsection (1) above apply income tax chargeable under Case III of Schedule D shall, in the case of any relevant sum, be computed on the full amount of the income arising in the year of assessment.
- (6) For the purposes of subsection (5) above a sum is relevant if it is a sum in respect of which a liability to deduct income tax—
- (a) is imposed by regulations under subsection (1) above, or
  - (b) would be so imposed if a certificate were not supplied, in accordance with the regulations, to the effect that the person beneficially entitled to the sum is unlikely to be liable to pay any amount by way of income tax for the year of assessment in which the sum is paid.
- (7) Notwithstanding anything in sections 348 to 350, for any year of assessment to which regulations under subsection (1) above apply income tax shall not be deducted upon payment to the society of any interest on advances, being interest payable in that year.
- (8) <sup>F575</sup> .....
- (9) In this section “dividend” has the meaning given by regulations under subsection (1) above, but any sum which is paid by a building society by way of dividend and which is not paid under deduction of income tax shall be treated for the purposes of Schedule D as paid by way of interest.]
- [<sup>F576</sup>(10) In this section—
- “qualifying certificate of deposit” has the same meaning as in section 349, and
- <sup>F577</sup> “qualifying deposit right” has the meaning given by section 349(4), reading “paid” as “paid or credited”, and]
- “security” includes share.

#### Textual Amendments

- F565** S. 477A inserted (with effect in accordance with Sch. 5 para. 4(2) of the amending Act) by Finance Act 1990 (c. 29), **Sch. 5 para. 4(1)**
- F566** S. 477A(1A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 52(1), **Sch. 11 para. 2(2)**
- F567** Words in s. 477A(1A)(3A) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 34, Sch. 8 paras. 3(2), **6**
- F568** Word in s. 477A(1A) substituted (with effect in accordance with Sch. 38 para. 6(7) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 6(1)(2)(g)**
- F569** S. 477A(2A) inserted (28.7.2000) by Finance Act 2000 (c. 17), s. **111(4)**
- F570** S. 477A(3)(a)(aa) substituted for s. 477A(3)(a) (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 28(1)** (with Sch. 15)
- F571** Words in s. 477A(3)(a) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 47(2)**
- F572** Words in s. 477A(3)(aa) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 47(3)**
- F573** S. 477A(3A)-(3C) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. **52(2)(3)**
- F574** S. 477(3A)-(3C) repealed with effect in accordance with s. 105(1) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 14 para. 28(2), **Sch. 41 Pt. 5(3)**, Note (with Sch. 15)
- F575** S. 477(8) repealed (with effect in accordance with s. 38(3)(4) of the repealing Act) by Finance Act 1999 (c. 16), **Sch. 20 Pt. 3(7)**, Note 4
- F576** S. 477A(10) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 52(1), **Sch. 11 para. 2(3)**

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**F577** S. 477A(10): definition of "qualifying deposit right" inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 34, Sch. 8 paras. 3(3), 6

#### Modifications etc. (not altering text)

**C123** See 1990 Sch.5 para.16(1), (2), (3)—regulations may also require building societies to account for tax on transitional sums.

**C124** See 1990 Sch.5 para.16(1), (4), (5)—for the year 1991-92, the words from "actual"

to the end of the paragraph are replaced by

"appropriate amount"; and the following subs. is inserted after subs.(3):—“(3A) In subsection (3)(a) above the reference to the appropriate amount is to the actual amount paid or credited in the accounting period of any such dividends or interest together with—(a) in the case of dividends or interest paid or credited in the year 1990-91, any amount accounted for and paid by the society in respect thereof as representing income tax, and (b) in the case of dividends or interest paid or credited in the year 1991-92, any amount of income tax accounted for and paid by the society in respect thereof.”

#### [<sup>F578</sup>477B Building societies: incidental costs of issuing qualifying shares.

(1) In computing for the purposes of corporation tax the income of a building society from the trade carried on by it, there shall be allowed as a deduction, if subsection (2) below applies, the incidental costs of obtaining finance by means of issuing shares in the society which are qualifying shares.

[ A deduction shall not be allowed by virtue of subsection (1) above to the extent that the <sup>F579</sup>(1A) costs in question fall to be brought into account as debits for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships).]

(2) This subsection applies if any amount payable in respect of the shares by way of dividend or interest is deductible in computing for the purposes of corporation tax the income of the society from the trade carried on by it.

(3) In subsection (1) above, “the incidental costs of obtaining finance” means expenditure on fees, commissions, advertising, printing and other incidental matters (but not including stamp duty), being expenditure wholly and exclusively incurred for the purpose of obtaining the finance (whether or not it is in fact obtained), or of providing security for it or of repaying it.

(4) This section shall not be construed as affording relief—

- (a) for any sums paid in consequence of, or for obtaining protection against, losses resulting from changes in the rate of exchange between different currencies, or
- (b) for the cost of repaying qualifying shares so far as attributable to their being repayable at a premium or to their having been issued at a discount.

(5) In this section—

“dividend” has the same meaning as in section 477A, and

“qualifying share” has the same meaning as in section [<sup>F580</sup>117(4) of the 1992 Act].

#### Textual Amendments

**F578** S. 477B inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 51, Sch. 10 para. 3(1)(2)

**F579** S. 477B(1A) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), Sch. 25 para. 48

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**F580** Words in s. 477B(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(28)** (with ss. 60, 101(1), 171, 201(3))

#### **478 Building societies: time for payment of tax.**

**F581** .....

##### **Textual Amendments**

**F581** S. 478 repealed (with effect in accordance with s. 199(2) of the repealing Act) by Finance Act 1994 (c. 9), **Sch. 26 Pt. 5(23)**, Note 4; S.I. 1998/3173, **art. 2**

#### **479 Interest paid on deposits with banks etc.**

**F582** .....

##### **Textual Amendments**

**F582** S. 479 repealed by Finance Act 1990 (c. 29), Sch. 5 para. 5, **Sch. 19 Pt. 4**, Note 8

#### **480 Deposits becoming or ceasing to be composite rate deposits.**

**F583** .....

##### **Textual Amendments**

**F583** S. 480 repealed by Finance Act 1990 (c. 29), Sch. 5 para. 6, **Sch. 19 Pt. 4**, Note 8

#### **[<sup>F584</sup>480] Relevant deposits: deduction of tax from interest payments.**

- (1) Any deposit-taker making a payment of interest in respect of a relevant deposit shall, on making the payment, deduct out of it a sum representing the amount of income tax on it for the year of assessment in which the payment is made.
- (2) Any payment of interest out of which an amount is deductible under subsection (1) above shall be a relevant payment for the purposes of Schedule 16 whether or not the deposit-taker making the payment is resident in the United Kingdom.
- (3) Schedule 16 shall apply in relation to any payment which is a relevant payment by virtue of subsection (2) above—
  - (a) with the substitution for any reference to a company of a reference to a deposit-taker,
  - (b) as if paragraph 5 applied only in relation to payments received by the deposit-taker and falling to be taken into account in computing his income chargeable to corporation tax, and
  - (c) as if in paragraph 7 the reference to section 7(2) included a reference to sections 11(3) and 349(1).

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- (4) In relation to any deposit-taker who is not a company, Schedule 16 shall have effect as if—
- (a) paragraph 5 were omitted, and
  - (b) references to accounting periods were references to periods for which the deposit-taker makes up his accounts.
- (5) For the purposes of this section, crediting interest shall be treated as paying it.]

#### Textual Amendments

**F584** Ss. 480A-480C inserted (with effect in accordance with Sch. 5 para. 7(2) of the amending Act) by Finance Act 1990 (c. 29), Sch. 5 para. 7(1)

#### Modifications etc. (not altering text)

**C125** Ss. 480A-482 modified (with effect in accordance with s. 56 of the modifying Act) by Finance Act 2005 (c. 7), Sch. 2 para. 6

**C126** See S.I. 1990 No. 2232.

#### [<sup>F585</sup> **480B Relevant deposits: exception from section 480A.**

- (1) The Board may by regulations provide that section 480A(1) shall not apply as regards a payment of interest if such conditions as may be prescribed by the regulations are fulfilled.
- (2) In particular, the regulations may include—
- (a) provision for a certificate to be supplied to the effect that the person beneficially entitled to a payment is unlikely to be liable to pay any amount by way of income tax for the year of assessment in which the payment is made;
  - (b) provision for the certificate to be supplied by that person or such other person as may be prescribed by the regulations;
  - (c) provision about the time when, and the manner in which, a certificate is to be supplied;
  - (d) provision about the form and contents of a certificate.
- (3) Any provision included under subsection (2)(d) above may allow the Board to make requirements, in such manner as they see fit, as to the matters there mentioned.
- (4) For the purposes of this section, crediting interest shall be treated as paying it.]

#### Textual Amendments

**F585** Ss. 480A-480C inserted (with effect in accordance with Sch. 5 para. 7(2) of the amending Act) by Finance Act 1990 (c. 29), Sch. 5 para. 7(1)

#### Modifications etc. (not altering text)

**C127** Ss. 480A-482 modified (with effect in accordance with s. 56 of the modifying Act) by Finance Act 2005 (c. 7), Sch. 2 para. 6

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**[<sup>F586</sup>480 Relevant deposits: computation of tax on interest.**

Notwithstanding anything in sections 64, 66 and 67, income tax chargeable under Case III of Schedule D on interest in respect of a relevant deposit shall be computed on the full amount of the income arising in the year of assessment.]

**Textual Amendments**

**F586** Ss. 480A-480C inserted (with effect in accordance with Sch. 5 para. 7(2) of the amending Act) by Finance Act 1990 (c. 29), Sch. 5 para. 7(1)

**481 “Deposit-taker”, “deposit” and “relevant deposit”.**

(1) In this section “the relevant provisions” means sections 479 and 480, this section and section 482 <sup>F587</sup>.

[<sup>F588</sup>(1A) In this section “the relevant provisions” also means sections 480A and 480C.]

(2) In the relevant provisions “deposit-taker” means any of the following—

(a) the Bank of England;

[<sup>F589</sup>(b) any person falling within section 840A(1)(b) whose permission under Part 4 of the Financial Services and Markets Act 2000 includes permission to accept deposits which are relevant deposits;

(ba) any company within the meaning of the Companies Act 1985 <sup>M54</sup>—

(i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979 <sup>M55</sup> or section 103(3) of the Banking Act 1987; and

(ii) which is exempt from the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 in relation to the acceptance of deposits which are relevant deposits;]

(c) <sup>F590</sup> .....

[<sup>F591</sup>(ca) any local authority;]

<sup>F592</sup>(d) any company to which property and rights belonging to a trustee savings bank were transferred by section 3 of the <sup>M56</sup>Trustee Savings Bank Act 1985;

<sup>F592</sup>(e) any bank formed under the <sup>M57</sup>Savings Bank (Scotland) Act 1819; and

(f) any person or class of person who receives deposits in the course of his business or activities and which is for the time being prescribed by order made by the Treasury for the purposes of this paragraph.

(3) <sup>M58</sup>In the relevant provisions “deposits” means a sum of money paid on terms under which it will be repaid with or without interest and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person to whom it is made.

(4) For the purposes of the relevant provisions a deposit is a relevant deposit if, but only if—

(a) the person who is beneficially entitled to any interest in respect of the deposit is an individual or, where two or more persons are so entitled, all of them are individuals; or

(b) in Scotland, the person who is so entitled is a partnership all the partners of which are individuals; or

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- (c) the person entitled to any such interest receives it as a personal representative in his capacity as such; <sup>F593</sup> or
- (d) any interest in respect of the deposit is income arising to the trustees of a discretionary or accumulation trust in their capacity as such;]

and the deposit is not prevented from being a relevant deposit by <sup>F594</sup>any of subsections (5) to (5B)] below.

<sup>F595</sup>(4A) For the purposes of the relevant provisions a trust is a discretionary or accumulation trust if it is such that some or all of any income arising to the trustees would fall (unless treated as income of the settlor <sup>F596</sup>. . . ) to be comprised for the year of assessment in which it arises in income to which section 686 applies.]

(5) A deposit is not a relevant deposit if—

- (a) a qualifying certificate of deposit has been issued in respect of it or it is a qualifying time deposit;
- (b) it is a debt on a debenture (“debenture” having the meaning given in section 744 of the <sup>M59</sup>Companies Act 1985) issued by the deposit-taker;
- (c) it is a loan made by a deposit-taker in the ordinary course of his business or activities;
- (d) it is a debt on a security which is listed on a recognised stock exchange;
- (e) it is a general client account deposit;
- (f) it forms part of a premiums trust fund (within the meaning of <sup>F597</sup>section 184 of the Finance Act 1993) of an underwriting or former underwriting member] of Lloyd’s;
- (g) <sup>F598</sup> . . . . .
- (h) in the case of a deposit-taker resident in the United Kingdom for the purposes of income tax or corporation tax, it is held at a branch of his situated outside the United Kingdom;
- (j) in the case of a deposit-taker who is not so resident, it is held otherwise than at a branch of his situated in the United Kingdom; or
- (k) the appropriate person has declared in writing to the deposit-taker liable to pay interest in respect of the deposit <sup>F599</sup> . . . —
  - (i) <sup>F600</sup> in a case falling within subsection (4)(a) or (b) above, that] at the time when the declaration is made, the person who is beneficially entitled to the interest is not, or, as the case may be, all the persons who are so entitled are not, ordinarily resident in the United Kingdom;
  - (ii) in a case falling within subsection (4)(c) above <sup>F601</sup>, that] the deceased was, immediately before his death, not ordinarily resident in the United Kingdom.
  - <sup>F602</sup>(iii) in a case falling within subsection (4)(d) above, that, at the time when the declaration is made, the trustees are not resident in the United Kingdom and do not have any reasonable grounds for believing that any of the beneficiaries of the trust is an individual who is ordinarily resident in the United Kingdom or a company which is resident in the United Kingdom.]

<sup>F603</sup>(5A) In a case where—

- (a) there is an arrangement falling within section 56A,
- (b) the deposit is with a deposit-taker,

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- (c) no certificate of deposit, as defined in section 56(5), has been issued in respect of the right at the time the interest mentioned in section 480A or 480C is paid, and
- (d) the conditions set out in paragraphs (a) and (b) in the definition of “qualifying certificate of deposit” in section 482(6) apply,

the deposit is not a relevant deposit.]

[<sup>F604</sup>(5B) In a case falling within subsection (4)(d) above, a deposit shall not be taken to be a relevant deposit in relation to a payment of interest in respect of that deposit if—

- (a) the deposit was made before 6th April 1995; and
- (b) the deposit-taker has not, at any time since that date but before the making of the payment, been given a notification by the Board or any of the trustees in question that interest in respect of that deposit is income arising to the trustees of a discretionary or accumulation trust.]

- (6) <sup>M60</sup>The Treasury may by order make amendments in this section and sections [<sup>F605</sup>480A, 480C] 479(2) to (7), 480 <sup>F606</sup> and 482 providing for deposits of a kind specified in the order to be or, as the case may be, not to be relevant deposits in relation to all deposit-takers or such deposit-takers or classes of deposit-takers as may be so specified.

#### Textual Amendments

- F587** Words "sections 479 and 480" repealed by 1990 s.132 and Sch.19 Part IV on and after 6 April 1991
- F588** 1990 s. 30 and Sch. 5 para. 8(2)
- F589** S. 481(2)(b)(ba) substituted for s. 481(2)(b) (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 39\(2\)](#)
- F590** S. 481(2)(c) repealed (26.3.2001) by [The Postal Services Act 2000 \(Consequential Modifications No. 1\) Order 2001 \(S.I. 2001/1149\)](#), [art. 1\(2\)](#), [Sch. 2](#)
- F591** 1990 s. 30 and Sch. 5 para. 8(3) as regards interest paid or credited on or after 6 April 1991
- F592** Subs (d) and (e) omitted by 1990 s.30 and Sch. 5 para. 8(3)(5) and s.132 and Sch.19 Part IV as regards interest paid or credited on or after 6 April 1991
- F593** S. 481(4)(d) and word inserted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(1\)](#) (with [s. 86\(14\)](#))
- F594** Words in s. 481(4) substituted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(1\)](#) (with [s. 86\(14\)](#))
- F595** S. 481(4A) inserted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(2\)](#) (with [s. 86\(14\)](#))
- F596** Words in s. 481(4A) repealed (with effect in accordance with Sch. 7 para. 12(4) of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(7\)](#), Note 1
- F597** Words in s. 481(5)(f) substituted (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, [ss. 183\(2\)](#), 184(3)
- F598** S. 481(5)(g) omitted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 39\(3\)](#)
- F599** Word in s. 481(5)(k) repealed (with effect in accordance with [s. 86\(10\)](#) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(3\)\(a\)](#), [Sch. 29 Pt. 8\(11\)](#), Note
- F600** Words in s. 481(5)(k)(i) inserted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(3\)\(b\)](#) (with [s. 86\(14\)](#))
- F601** Word in s. s. 481(5)(k)(ii) inserted (with effect in accordance with [s. 86\(10\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 86\(3\)\(c\)](#) (with [s. 86\(14\)](#))



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- F602** S. 481(5)(k)(iii) inserted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(3)(d) (with s. 86(14))
- F603** S. 481(5A) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 34, Sch. 8 paras. 4, 6
- F604** S. 481(5B) inserted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(4) (with s. 86(14))
- F605** 1990 s. 30 and Sch. 5 para. 8(4)
- F606** Words "479(2) to (7), 480" repealed by 1990 s.132 and Sch.19 Part IV on and after 6 April 1991

#### Marginal Citations

- M54** 1985 c. 6.
- M55** 1979 c. 37; section 48(3) was repealed, together with other sections, by section 108(2) of, and Part 1 of Schedule 7 to, the Banking Act 1987 (c. 22).
- M56** 1985 c. 58.
- M57** 1819 c. 62.
- M58** Source—1984 Sch.8 3(1)-(3); 1985 s.38(3), (4)
- M59** 1985 c. 6.
- M60** Source—1984 Sch.8 3A(1); 1985 s.38(7)

## 482 Supplementary provisions.

- (1) <sup>M61</sup>For the purposes of sections 479, 480 and <sup>F607</sup>481 and this section, any amount which is credited as interest in respect of a relevant deposit shall be treated as a payment of interest.
- (2) <sup>M62</sup>A declaration under section 481(5)(k) shall—
- [<sup>F608</sup>(a) if made under sub-paragraph (i) or (iii), contain an undertaking by the person making it that where—
- (i) the individual or any of the individuals in respect of whom it is made becomes ordinarily resident in the United Kingdom,
  - (ii) the trustees or any company in respect of whom it is made become or becomes resident in the United Kingdom, or
  - (iii) an individual who is ordinarily resident in the United Kingdom or a company which is resident in the United Kingdom becomes or is found to be a beneficiary of a trust to which the declaration relates,
- the person giving the undertaking will notify the deposit-taker accordingly; and]
- (b) in any case, be in such form as may be prescribed or authorised, and contain such information as may reasonably be required, by the Board.
- [<sup>F609</sup>(2A) A declaration under section 481(5)(k)(i) must contain—
- (a) in a case falling within section 481(4)(a), the name and principal residential address of the individual who is beneficially entitled to the interest or, where two or more individuals are so entitled, of each of them;
  - (b) in a case falling within section 481(4)(b), the name and principal residential address of each of the partners.]
- (3) <sup>M63</sup>A deposit-taker shall, on being so required by notice given to him by an inspector, make all declarations which have been made to him under section 481(5) available for inspection by the inspector or by a named officer of the Board.
- (4) Where a notice has been given to a deposit-taker under subsection (3) above, the declarations shall be made available within such time as may be specified in the notice,

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and the person to whom they are to be made available may take copies of or extracts from them.

- (5) A deposit-taker shall treat every deposit made with him as a relevant deposit unless satisfied that it is not a relevant deposit, but where he has satisfied himself that a deposit is not a relevant deposit he shall be entitled to continue to so treat it until such time as he is in possession of information which can reasonably be taken to indicate that the deposit is or may be a relevant deposit.

[<sup>F610</sup>(5A) The persons who are to be taken for the purposes of section 481(5)(k)(iii) and subsection (2) above to be the beneficiaries of a discretionary or accumulation trust shall be every person who, as a person falling wholly or partly within any description of actual or potential beneficiaries, is either—

- (a) a person who is, or will or may become, entitled under the trust to receive the whole or any part of any income under the trust; or
- (b) a person to or for the benefit of whom the whole or any part of any such income may be paid or applied in exercise of any discretion conferred by the trust;

and for the purposes of this subsection references, in relation to a trust, to income under the trust shall include references to so much (if any) of any property falling to be treated as capital under the trust as represents amounts originally received by the trustees as income.]

(6) In section 481(5)—

“appropriate person”, in relation to a deposit, means any person who is beneficially entitled to any interest in respect of the deposit or entitled to receive any such interest [<sup>F611</sup> in his capacity as a personal representative or as a trustee of a discretionary or accumulation trust] or to whom any such interest is payable;

“general client account deposit” means a deposit, held by the deposit-taker in a client account (other than one which is identified by the deposit-taker as one in which sums are held only for one or more particular clients of the person whose account it is) in respect of which that person is required by provision made under any enactment to make payments representing interest to some or all of the clients for whom, or on whose account, he received the sums deposited in the account;

“qualifying certificate of deposit” means a certificate of deposit, as defined in section 56(5), which is issued by a deposit-taker and under which—

- (a) the amount payable by the deposit-taker, exclusive of interest, is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made); and
- (b) the obligation of the deposit-taker to pay that amount arises after a period of not less than seven days beginning with the date on which the deposit is made; and

“qualifying time deposit” means a deposit which is made by way of loan for an amount which is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made) and on terms which—

- (a) prevent repayment of the deposit before the expiry of the period of seven days beginning with the date on which the deposit is made, but which require repayment at the end of a specified period;
- (b) do not make provision for the transfer of the right to repayment; and
- (c) prevent partial withdrawals of, or additions to, the deposit.

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In relation to deposits made before 20th May 1986 this subsection shall have effect with the substitution for “seven” of “ 28 ” (in both places).

(7) For the purposes of section 481(5)(h) and (j) a deposit is held at a branch of a deposit-taker if it is recorded in his books as a liability of that branch.

(8) <sup>M64</sup>A certificate of deposit, as defined in section 56(5), which was issued before 13th March 1984 on terms which provide for interest to be payable on the deposit at any time after 5th April 1985 (whether or not interest is payable on it before that date) shall, if it is not a qualifying certificate of deposit, be treated for the purposes of section 481(5) as if it were a qualifying certificate of deposit.

(9) <sup>M65</sup>Any deposit which was made before 6th July 1984 but which is not a qualifying time deposit shall, where it is made on terms which—

- (a) do not make provision for the transfer of the right to repayment;
- (b) prevent partial withdrawals of, or additions to, the deposit; and
- (c) require—

(i) the deposit-taker to repay the sum at the end of a specified period which ends after 5th April 1985; or

(ii) in a case where interest is payable only at the time of repayment of the deposit, the deposit-taker to repay the sum on demand or on notice; be treated for the purposes of section 481(5) as if it were a qualifying time deposit.

(10) A <sup>M66</sup>an order under section 481(2)(f) may prescribe a person or class of person in relation to all relevant deposits or only in relation to relevant deposits of a kind specified in the order.

(11) The Board may by regulations make provision—

- (a) <sup>F612</sup>.....

[<sup>F613</sup>(aa) with respect to the furnishing of information by depositors or deposit-takers, including, in the case of deposit-takers, the inspection of books, documents and other records on behalf of the Board; and]

[<sup>F614</sup>(ab) with respect to—

(i) the manner and form in which a notification for the purposes of section 481(5B) is to be given or may be withdrawn, and

(ii) the circumstances in which the deposit-taker is to be entitled to delay acting on such a notification,

and]

- (b) generally for giving effect to sections 479 to 481 and this section.

[<sup>F615</sup>(11A) In subsection (11)(aa) above the reference to depositors is to persons who are appropriate persons (within the meaning given by subsection (6) above) in relation to deposits.]

(12) <sup>M67</sup>Regulations under subsection (11) above or an order under section 481(6) may contain such incidental and consequential provision as appears to the Board or the Treasury, as the case may be, to be appropriate.

#### Textual Amendments

**F607** Words "479, 480 and" repealed by 1990 s. 132 and Sch.19 Part IV on and after 6 April 1991

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- F608** S. 482(2)(a) substituted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(5) (with s. 86(14))
- F609** S. 482(2A) inserted (with effect in accordance with s. 111(6)(c) of the amending Act) by Finance Act 2000 (c. 17), s. 111(3)(a)
- F610** S. 482(5A) inserted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(6) (with s. 86(14))
- F611** Words in s. 482(6) substituted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(7) (with s. 86(14))
- F612** S. 482(11)(a) repealed (with effect in accordance with s. 111(6)(c) of the repealing Act) by Finance Act 2000 (c. 17), s. 111(3)(b), Sch. 40 Pt. 2(17), Note 3
- F613** 1990 s. 30 and Sch. 5 para. 9(4)
- F614** S. 482(11)(ab) inserted (with effect in accordance with s. 86(10) of the amending Act) by Finance Act 1995 (c. 4), s. 86(8) (with s. 86(14))
- F615** 1990 s. 30 and Sch.5 para.9(5)

**Modifications etc. (not altering text)**

- C128** See 1990 s. 30 and Sch. 5 para. 9(2)(6)— words "less than seven days" replaced by "more than 5 years" as regards interest paid or credited on or after 6 April 1991
- C129** See 1990 s. 30 and Sch. 5 para. 9(3)(6)— sub (a) replaced by the following as regards interest paid or credited on or after 6 April 1991:— "(a) require repayment of the deposit at a specified time falling before the end of the period of five years beginning with the date on which the deposit is made;"
- C130** See 1990 s.132 and Sch.19 Part IV - proviso repealed on and after 6 April 1991.

**Marginal Citations**

- M61** Source—1984 Sch. 8 1(2)
- M62** Source—1984 Sch.8 3(4), (4A); 1985 s.38(5)
- M63** Source—1984 Sch.8 3(5)-(9); 1985 s.38(6); 1986 No.771
- M64** Source—1984 Sch.8 6(2)
- M65** Source—1984 Sch.8 6(3)
- M66** Source—1984 Sch.8 2(2); 1985 s.38(2)
- M67** Source—1984 Sch.8 3A(3); 1985 s.38(7)

**[<sup>F616</sup>482A Audit powers in relation to non-residents.**

<sup>F617</sup> .....]

**Textual Amendments**

- F616** S. 482A inserted by Finance Act 1991 (c. 31, SIF 63:1), s.75
- F617** S. 482A repealed (with effect in accordance with s. 145(11), Sch. 40 Pt. 5 Note of the repealing Act) by Finance Act 2000 (c. 17), s. 145(10), Sch. 40 Pt. 5

**483 Determination of reduced rate for building societies and composite rate for banks etc.**

- <sup>F618</sup>(1) .....
- <sup>F618</sup>(2) .....
- <sup>F618</sup>(3) .....

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- (4) If the order made under section 26 of the Finance Act 1984 in the year 1987-88 is made in pursuance of subsection (4) of that section, that order shall, notwithstanding that that subsection is not re-enacted by this Act, apply for the purposes of sections 476 and 479 for the year 1988-89.

<sup>F618</sup>(5) .....

**Textual Amendments**

**F618** S. 483(1)-(3)(5) repealed by [Finance Act 1990 \(c. 29\), Sch. 5 para. 12, Sch. 19 Part IV](#), Note 8

**484 Savings banks: exemption from tax.**

<sup>F619</sup> .....

**Textual Amendments**

**F619** S. 484 repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\), Sch. 14 para 29, Sch. 41 Pt. 5\(3\)](#), Note (with Sch. 15)

**485 Savings banks: supplemental.**

<sup>F620</sup> .....

**Textual Amendments**

**F620** S. 485 repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\), Sch. 14 para. 29, Sch. 41 Pt. 5\(3\)](#), Note (with Sch. 15)

**486 Industrial and provident societies and co-operative associations.**

- (1) <sup>M68</sup>Notwithstanding anything in the Tax Acts, share interest or loan interest paid by a registered industrial and provident society shall not be treated as a distribution; [<sup>F621</sup>but interest payable by such a society (whether as share interest or loan interest) shall be treated for the purposes of corporation tax as interest under a loan relationship of the society.]
- (2) Notwithstanding anything in sections 348 to 350, any share interest or loan interest paid by a registered industrial and provident society, except any to which subsection (3) below applies, shall be paid without deduction of income tax.
- (3) This subsection applies to any share interest or loan interest payable to a person whose usual place of abode is not within the United Kingdom, and in any such case section 349(2) shall apply to the payment as it applies to a payment of yearly interest, and income tax shall be deducted accordingly.
- (4) Any share interest or loan interest paid by a registered industrial and provident society shall be chargeable under Case III of Schedule D.
- (5) Where at any time, by virtue of this section, the income of a person from any source, not having previously been chargeable by direct assessment on that person, becomes

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- so chargeable, section 66(3) shall apply as if the source of that income were a new source of income acquired by that person at that time.
- (6) Every registered industrial and provident society shall, within three months after the end of any accounting period of the society, deliver to the inspector a return showing—
- (a) the name and place of residence of every person to whom the society has by virtue of this section paid without deduction of income tax sums amounting to more than £15 in that period; and
  - (b) the amount so paid in that period to each of those persons.
- (7) If for any accounting period a return under subsection (6) above is not duly made by a registered industrial and provident society, share and loan interest paid by the society in that period shall [<sup>F622</sup>not be brought into account in that period for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships).]
- (8) If in the course of, or as part of, a union or amalgamation of two or more registered industrial and provident societies, or a transfer of engagements from one registered industrial and provident society to another, there is a disposal of an asset by one society to another, both shall be treated for the purposes of corporation tax in respect of chargeable gains as if the asset were acquired from the society making the disposal for a consideration of such amount as would secure that neither a gain nor a loss would accrue to that society on the disposal.
- (9) Subsections (1) and (8) above shall have effect as if references to a registered industrial and provident society included any co-operative association established and resident in the United Kingdom, and having as its object or primary object to assist its members in the carrying on of agricultural or horticultural businesses on land occupied by them in the United Kingdom or in the carrying on of businesses consisting in the catching or taking of fish or shellfish.
- (10) It is hereby declared that, in computing, for the purposes of any provision of the Tax Acts relating to [<sup>F623</sup>profits] chargeable under Case I of Schedule D (“the tax computation”), any [<sup>F623</sup>profits] of—
- (a) any registered industrial and provident society which does not sell to persons not members thereof; or
  - (b) any registered industrial and provident society the number of the shares in which is not limited by its rules or practice;
- there are to be deducted as expenses any sums which—
- (i) represent a discount, rebate, dividend or bonus granted by the company to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the company, being transactions which are taken into account in the tax computation; and
  - (ii) are calculated by reference to those amounts or to the magnitude of those transactions and not by reference to the amount of any share or interest in the capital of the company.
- (11) No dividends or bonus deductible in computing income as mentioned in subsection (10) above shall be regarded as a distribution.
- (12) In this section—
- “co-operative association” means a body of persons having a written constitution from which the Minister is satisfied, having regard to the provision made as to the manner in which the income of the body is to be

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applied for the benefit of its members and all other relevant provisions, that the body is in substance a co-operative association;

“the Minister” means—

the [<sup>F624</sup>Secretary of State], as regards England and Wales;

the Secretary of State, as regards Scotland; and

the Department of Agriculture for Northern Ireland, as regards Northern Ireland;

“registered industrial and provident society” means a society registered or deemed to be registered under the <sup>M69</sup>Industrial and Provident Societies Act 1965 or under the <sup>M70</sup>Industrial and Provident Societies Act (Northern Ireland) 1969;

“share interest” means any interest, dividend, bonus or other sum payable to a shareholder of the society by reference to the amount of his holding in the share capital of the society;

“loan interest” means any interest payable by the society in respect of any mortgage, loan, loan stock or deposit;

and references to the payment of share interest or loan interest include references to the crediting of such interest.

#### Textual Amendments

**F621** Words in s. 486(1) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 30(a)** (with Sch. 15)

**F622** Words in s. 486(7) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 30(b)** (with Sch. 15)

**F623** Words in s. 486(10) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), **Sch. 7 para. 1**

**F624** Words in s. 486(12) substituted (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), art. 1(2), **Sch. 1 para. 31**

#### Modifications etc. (not altering text)

**C131** See 1988(F) Sch.8 para.1—*re-basing to 1982.*

**C132** S. 486(8) excluded (with effect in accordance with s. 131(4) of the affecting Act) by Finance Act 1995 (c. 4), **s. 131(1)(2)(b)**

**C133** S. 486(8) excluded by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 117A(7)(8)(b)**, 117B(5)(6) (b) (as inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 62 (with **Sch. 15**))

#### Marginal Citations

**M68** Source—1970 s.340, 345; CUA 1979 s.25(2)

**M69** 1965 c. 12.

**M70** 1969 c. 24 (N.I.).

## 487 Credit unions.

(1) <sup>M71</sup>Subject to subsection (2) below, in computing for the purposes of corporation tax the income of a credit union for any accounting period—

- (a) neither the activity of the credit union in making loans to its members nor in placing on deposit or otherwise investing from time to time its surplus funds shall be regarded as the carrying on of a trade or part of a trade; and

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- [<sup>F625</sup>(b) no credits shall be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a credit union as respects which a member of the union stands in the position of a debtor as respects the debt in question.]
- (2) Paragraph (b) of subsection (1) above shall not apply to an accounting period of a credit union for which the credit union is obliged to make a return under section 486(6) and has not done so within three months after the end of that accounting period or such longer period as the inspector shall allow.
- (3) [<sup>F626</sup>An annuity or other annual payment (not being a payment of share interest or loan interest) which is] paid or payable by a credit union in any accounting period shall [<sup>F627</sup>not] be deductible in computing for the purposes of corporation tax the income of the credit union for that period from any trade carried on by it or be treated for those purposes as a charge on income.
- [<sup>F628</sup>(3A) No debits shall be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a credit union as respects which a member of the union stands in the position of a creditor as respects the debt in question.]
- (4) A credit union shall not be regarded as [<sup>F629</sup>a company with investment business] for the purposes of section 75 above or [<sup>F630</sup>Part 2 of the Capital Allowances Act (plant and machinery allowances)].
- (5) In this section—
- “credit union” means a society registered as a credit union under the <sup>M72</sup>Industrial and Provident Societies Act 1965 or the <sup>M73</sup>Credit Unions (Northern Ireland) Order 1985;
- “share interest” and “loan interest” have the same meaning as in section 486;
- “surplus funds”, in relation to a credit union, means funds not immediately required for its purposes;
- and references to the payment of share interest or loan interest include references to the crediting of such interest.

#### Textual Amendments

- F625** S. 487(1)(b) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 31(1)** (with Sch. 15)
- F626** Words in s. 487(3) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 31(2)(a)** (with Sch. 15)
- F627** Word in s. 487(3) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 31(2)(b)** (with Sch. 15)
- F628** S. 487(3A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 31(3)** (with Sch. 15)
- F629** Words in s. 487(4) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 2, Sch. para. 22
- F630** Words in s. 487(4) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 40**



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#### Marginal Citations

- M71** Source—1970 s.340A; CUA 1979 s.25(1)  
**M72** 1965 c. 12.  
**M73** S.I. 1985/1205 (N.I. 12.).

### 488 Co-operative housing associations.

- (1) Where a housing association makes a claim in that behalf for any year or part of a year of assessment during which the association was approved for the purposes of this section—
  - (a) <sup>M74</sup>rent to which the association was entitled from its members for the year or part shall be disregarded for tax purposes; and
  - (b) any yearly interest payable by the association for the year or part shall be treated for tax purposes [<sup>F631</sup>in relation to the association as if there were no interest so payable].
  - (c) <sup>F632</sup> .....
- (2) Where the property, or any of the properties, to which any such interest as is mentioned in paragraph (b) of subsection (1) above relates is for any period not subject to a tenancy—
  - (a) that paragraph shall not apply in relation to so much of the interest as is attributable to the property not subject to a tenancy, <sup>F633</sup> . . .
  - (b) <sup>F633</sup> .....
- (3) <sup>F634</sup> .....
- (4) Where a claim under subsection (1) above has effect, any adjustment of the liability to tax of <sup>F635</sup> . . . the association which is required in consequence of the claim may be made by an assessment or by repayment or otherwise, as the case may require.
- (5) Where a housing association makes a claim in that behalf for an accounting period or part of an accounting period during which it was approved for the purposes of this section, the housing association shall be exempt from corporation tax on chargeable gains accruing to it in the accounting period or part on the disposal by way of sale of any property which has been or is being occupied by a tenant of the housing association.
- (6) References in this section to the approval of an association shall be construed as references to approval—
  - (a) by the Secretary of State in the case of a housing association in Great Britain;
  - (b) by the Head of the Department of the Environment for Northern Ireland in the case of a housing association in Northern Ireland;and an association shall not be approved unless the approving authority is satisfied—
  - (i) that the association is, or is deemed to be, duly registered under the <sup>M75</sup>Industrial and Provident Societies Act 1965 or the <sup>M76</sup>Industrial and Provident Societies Act (Northern Ireland) 1969, and is a housing association within the meaning of the <sup>M77</sup>Housing Associations Act 1985 or [<sup>F636</sup>Article 3 of the Housing (Northern Ireland) Order 1992];
  - (ii) that the rules of the association restrict membership to persons who are tenants or prospective tenants of the association, and preclude the granting

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or assignment (or, in Scotland, the granting or assignation) of tenancies to persons other than members; and

- (iii) that the association satisfies such other requirements as may be prescribed by <sup>F637</sup>the Secretary of State as respects Great Britain, or the Head of the Department for Social Development for Northern Ireland as respects Northern Ireland], and will comply with such conditions as may for the time being be so prescribed.

- (7) An approval given for the purposes of this section shall have effect as from such date (whether before or after the giving of the approval) as may be specified by the approving authority and shall cease to have effect if revoked.

<sup>F638</sup>(7A) The Secretary of State may delegate any of his functions under subsections (6) and (7)—

- (a) to the Housing Corporation, in the case of a body registered as a social landlord in the register maintained by the Housing Corporation under Part I of the Housing Act 1996, <sup>F639</sup> . . . . .  
 (b) <sup>F639</sup> . . . . .

to such extent and subject to such conditions as he may specify.]

- (8) The Secretary of State as respects Great Britain, or the Head of the Department of the Environment for Northern Ireland as respects Northern Ireland, may make regulations for the purpose of carrying out the provisions of this section; and, from the coming into operation of regulations under this subsection prescribing requirements or conditions for the purposes of subsection (6)(iii) above, “prescribed” in subsection (6)(iii) above shall mean prescribed by or under such regulations.

The power to make regulations under this subsection shall be exercisable by the Secretary of State by statutory instrument and by the Head of the Department of the Environment for Northern Ireland by statutory rule for the purposes of the <sup>M78</sup>Statutory Rules (Northern Ireland) Order 1979.

<sup>F640</sup>(9) A claim under this section may be made at any time not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.]

Section 42 of the Management Act shall not apply to a claim under this section.

(10) Subject to subsection (11) below, <sup>F641</sup>no claim shall be made under this section unless] during the year or accounting period, or part thereof, to which the claim relates—

- (a) no property belonging to the association making the claim was let otherwise than to a member of the association;  
 (b) no property let by the association, and no part of such property, was occupied, whether solely or as joint occupier, by a person not being a member of the association;  
 (c) the association making the claim satisfies the conditions specified in subsection (6)(i) and (ii) above and has complied with the conditions prescribed under subsection (6)(iii) for the time being in force; and  
 (d) any covenants required to be included in grants of tenancies by those conditions have been observed.

For the purposes of paragraph (b) above occupation by any other person in accordance with the will, or the provisions applicable on the intestacy, of a deceased member,

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shall be treated during the first six months after the death as if it were occupation by a member.

<sup>F642</sup>(11) A housing association may make a claim under this section notwithstanding anything in subsection (10) above, if the association reasonably considers that the requirements of that subsection are substantially complied with.

(11A) If as a result of an enquiry—

- (a) [<sup>F643</sup>into a company tax return], in which a claim under this section by a housing association is included, or
- (b) under paragraph 5 of Schedule 1A to that Act into a claim under this section by a housing association, or an amendment of such a claim,

an amendment is made to the association's [<sup>F644</sup>return] or, as the case may be, to the claim, the liability of [<sup>F645</sup>the association] to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise.]

(12) <sup>F646</sup> .....

#### Textual Amendments

- F631** Words in s. 488(1)(b) substituted (with effect in accordance with Sch. 4 para. 18(2) of the amending Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(2)(a)
- F632** S. 488(1)(c) repealed (with effect in accordance with Sch. 4 para. 18(2) of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(2)(b), Sch. 20 Pt. 3(7), Note 2
- F633** S. 488(2)(b) and preceding word repealed (with effect in accordance with Sch. 4 para. 18(2) of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(3), Sch. 20 Pt. 3(7), Note 2
- F634** S. 488(3) repealed (with effect in accordance with s. 38(2)(3) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 27 Pt. 3(4), Note
- F635** Words in s. 488(4) repealed (with effect in accordance with Sch. 4 para. 18(2) of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(4), Sch. 20 Pt. 3(7), Note 2
- F636** Words in s. 488(6) substituted (15.9.1992) by S.I. 1992/1725 (N.I. 15), arts. 1(2), 107, Sch. 8 para. 5
- F637** Words in s. 488(6)(iii) substituted (29.7.2004) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004 (S.I. 2004/2030), arts. 1(1), 5
- F638** S. 488(7A) inserted (1.10.1996) by Housing Act 1996 (c. 52), s. 232(3), Sch. 3 para. 8(2); S.I. 1996/2402, art. 3 (with Sch.)
- F639** S. 488(7A)(b) and preceding word repealed (1.11.1998) by Government of Wales Act 1998 (c. 38), ss. 140, 158, Sch. 16 para. 56, Sch. 18 Pt. 6; S.I. 1998/2244, art. 5
- F640** S. 488(9) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 28(2)
- F641** Words in s. 488(10) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 28(3)
- F642** S. 488(11)(11A) substituted for s. 488(11) (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 20 para. 28(4)
- F643** Words in s. 488(11A)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by Finance Act 1998 (c. 36), Sch. 19 para. 48(2)(a); S.I. 1998/3173, art. 2
- F644** Words in s. 488(11A) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by Finance Act 1998 (c. 36), Sch. 19 para. 48(2)(b); S.I. 1998/3173, art. 2
- F645** Words in s. 488(11A) substituted (with effect in accordance with Sch. 4 para. 18(2) of the amending Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(5)
- F646** S. 488(12) repealed (with effect in accordance with Sch. 4 para. 18(2) of the repealing Act) by Finance Act 1999 (c. 16), Sch. 4 para. 15(6), Sch. 20 Pt. 3(7), Note 2

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#### **Modifications etc. (not altering text)**

- C134** S. 488: functions transferred (1.7.1999 with effect in accordance with art. 1(2) of the affecting S.I.) by [The National Assembly for Wales \(Transfer of Functions\) Order 1999 \(S.I. 1999/672\)](#), art. 2, **Sch. 1**
- C135** See reference to approved housing associations in 1988(F) s.43(3) and 44.
- C136** S. 488(7A) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, **Sch. para. 1**; S.I. 2008/3068, **arts. 1(2), 2(1)(b)**

#### **Marginal Citations**

- M74** Source—1970 s.341; 1972 Sch.11 6
- M75** 1965 c. 12.
- M76** 1969 c.24 (N.I.).
- M77** 1985 c. 68.
- M78** S.I. 1979/1573 (N.I.12.).

### **489 Self-build societies.**

- (1) <sup>M79</sup>Where a self-build society makes a claim in that behalf for any year or part of a year of assessment during which the society was approved for the purposes of this section, rent to which the society was entitled from its members for the year or part shall be disregarded for tax purposes.
  - (2) Where a claim under subsection (1) above has effect, any adjustment of the society's liability to tax which is required in consequence of the claim may be made by an assessment or by repayment or otherwise, as the case may require.
  - (3) Where a self-build society makes a claim in that behalf for an accounting period or part during which it was approved for the purposes of this section, the society shall be exempt from corporation tax on chargeable gains accruing to it in the accounting period or part thereof on the disposal of any land to a member of the society.
  - (4) References in this section to the approval of a self-build society are references to its approval by the Secretary of State, and the Secretary of State shall not approve a self-build society for the purposes of this section unless he is satisfied—
    - (a) that the society is, or is deemed to be, duly registered under the <sup>M80</sup>Industrial and Provident Societies Act 1965; and
    - (b) that the society satisfies such other requirements as may be prescribed by or under regulations under subsection (6) below and will comply with such conditions as may for the time being be so prescribed.
  - (5) An approval given for the purposes of this section shall have effect as from such date (whether before or after the giving of the approval) as may be specified by the Secretary of State and shall cease to have effect if revoked by him.
- [<sup>F647</sup>(5A) The Secretary of State may delegate any of his functions under subsections (4) and (5) to—
- (a) the Housing Corporation, where the society has its registered office in England for the purposes of the Industrial and Provident Societies Act 1965, <sup>F648</sup> . . .
  - (b) <sup>F648</sup> . . . . .
- to such extent and subject to such conditions as he may specify.]
- (6) The Secretary of State may by statutory instrument make regulations for the purpose of carrying out the provisions of this section; and a statutory instrument containing

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any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.

[<sup>F649</sup>(7) A claim under this section may be made at any time not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.]

(8) Subject to subsection (9) below, [<sup>F650</sup>no claim shall be made under this section unless] during the year or accounting period, or part thereof, to which the claim relates—

- (a) no land owned by the society was occupied, in whole or in part and whether solely or as joint occupier, by a person who was not, at the time of his occupation, a member of the society; and
- (b) the society making the claim satisfies the condition specified in paragraph (a) of subsection (4) above and has complied with the conditions prescribed under paragraph (b) of that subsection and for the time being in force;

and for the purposes of paragraph (a) above, occupation by any other person in accordance with the will, or the provisions applicable on the intestacy, of a deceased member, shall be treated during the first six months after the death as if it were occupation by a member.

[<sup>F651</sup>(9) A self-build society may make a claim under this section notwithstanding anything in subsection (8) above, if the society reasonably considers that the requirements of that subsection are substantially complied with.

(9A) If as a result of an enquiry—

- (a) [<sup>F652</sup>into a company tax return], in which a claim under this section by a self-build society is included, or
- (b) under paragraph 5 of Schedule 1A to that Act into a claim under this section by a self-build society or an amendment of such a claim,

an amendment is made to the society's [<sup>F653</sup>return] or, as the case may be, to the claim, the society's liability to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise.]

(10) A claim under this section shall be in such form and contain such particulars as may be prescribed by the Board.

(11) In this section—

“self-build society” has the same meaning as in the <sup>M81</sup>Housing Associations Act 1985 or, in Northern Ireland, Part VII of the <sup>M82</sup>Housing (Northern Ireland) Order 1981; and

“rent” includes any sums to which a self-build society is entitled in respect of the occupation of any of its land under a licence or otherwise.

(12) In the application of this section to Northern Ireland—

- (a) any reference in subsections (4) and (5) above to the Secretary of State shall be construed as a reference to the Department of the Environment for Northern Ireland;
- (b) the reference in subsection (4)(a) to the <sup>M83</sup>Industrial and Provident Societies Act 1965 shall be construed as a reference to the <sup>M84</sup>Industrial and Provident Societies Act (Northern Ireland) 1969; and
- (c) for subsection (6) there shall be substituted the following subsection—

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“(6) the Department of the Environment for Northern Ireland may by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 make regulations for the purpose of carrying out the provisions of this section; and a statutory rule containing any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

#### Textual Amendments

- F647** S. 489(5A) inserted (1.10.1996) by [Housing Act 1996 \(c. 52\)](#), s. 232(3), **Sch. 3 para. 8(3)**; S.I. 1996/2402, **art. 3** (with Sch.)
- F648** S. 489(5A)(b) and preceding word repealed (1.11.1998) by [Government of Wales Act 1998 \(c. 38\)](#), ss. 140, 158, Sch. 16 para. 57, **Sch. 18 Pt. 6**; S.I. 1998/2244, **art. 5**
- F649** S. 489(7) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 29(2)**
- F650** Words in s. 489(8) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 29(3)**
- F651** S. 489(9)(9A) substituted for s. 489(9) (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 20 para. 29(4)**
- F652** Words in s. 489(9A)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 19 para. 49(a)**; S.I. 1998/3173, **art. 2**
- F653** Word in s. 489(9A) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 19 para. 49(b)**; S.I. 1998/3173, **art. 2**

#### Modifications etc. (not altering text)

- C137** S. 489: functions transferred (1.7.1999 with effect in accordance with art. 1(2) of the affecting S.I.) by [The National Assembly for Wales \(Transfer of Functions\) Order 1999 \(S.I. 1999/672\)](#), art. 2, **Sch. 1**
- C138** See 1976(D)—*exemption of certain housing associations from development land tax*. 1976(D) repealed from 19 March 1985.
- C139** See reference to approved self-build societies in 1988(F) s.43(3) and s.44.
- C140** S. 489(5A) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, **Sch. para. 1**; S.I. 2008/3068, **arts. 1(2), 2(1)(b)**

#### Marginal Citations

- M79** Source—1970 s.341A
- M80** 1965 c. 12.
- M81** 1985 c. 68.
- M82** S.I. 1981/156 (N.I. 3).
- M83** 1965 c. 12.
- M84** 1969 c. 24 (N.I.).

## 490 Companies carrying on a mutual business or not carrying on a business.

- (1) <sup>M85</sup> Subject to subsection (2) below, where a company carries on any business of mutual trading or mutual insurance or other mutual business the provisions of the Tax Acts relating to distributions shall apply to distributions made by the company notwithstanding that they are made to persons participating in the mutual activities of that business and derive from those activities, but shall so apply only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income <sup>F654</sup> . . . . <sup>F655</sup> . . . .

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- (2) In the case of a company carrying on any mutual life assurance business, the provisions of the Tax Acts relating to distributions shall not apply to distributions made to persons participating in the mutual activities of that business and derived from those activities<sup>F656</sup> . . . .
- (3) Subject to subsections (1) and (2) above, the fact that a distribution made by a company carrying on any such business is derived from the mutual activities of that business and the recipient is a person participating in those activities shall not affect the character which the payment or other receipt has for purposes of corporation tax or income tax in the hands of the recipient.
- (4) Where a company does not carry on, and never has carried on, a trade or a business of holding investments, and is not established for purposes which include the carrying on of a trade or of such a business, the provisions of the Tax Acts relating to distributions shall apply to distributions made by the company only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income<sup>F657</sup> . . . .
- (5)<sup>F658</sup> . . . . .

#### Textual Amendments

- F654** Words in s. 490(1) repealed (with effect in accordance with Sch. 3 para. 28(3) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 28(2), **Sch. 27 Pt. 3(2)**, Note
- F655** Words in s. 490(1) repealed (with effect in accordance with Sch. 6 para. 9(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 9(2), **Sch. 8 Pt. 2(11)**, Note
- F656** Words in s. 490(2) repealed (with effect in accordance with Sch. 18 Pt. 6(6) Note of the repealing Act) by Finance Act 1997 (c. 16), **Sch. 18 Pt. 6(6)**
- F657** Words in s. 490(4) repealed (with effect in accordance with Sch. 6 para. 9(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 9(3), **Sch. 8 Pt. 2(11)**, Note
- F658** S. 490(5) repealed (with effect in accordance with Sch. 6 para. 9(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 9(4), **Sch. 8 Pt. 2(11)**, Note

#### Modifications etc. (not altering text)

- C141** S. 490 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)

#### Marginal Citations

- M85** Source—1970 s.346

### 491 Distribution of assets of body corporate carrying on mutual business.

- (1)<sup>M86</sup> Where any person receives any money or money's worth—
  - (a) forming part of the assets of a body corporate, other than assets representing capital; or
  - (b) forming part of the consideration for the transfer of the assets of a body corporate, other than assets representing capital, as part of a scheme of amalgamation or reconstruction which involves the winding up of the body corporate; or
  - (c) consisting of the consideration for a transfer or surrender of a right to receive anything falling under paragraph (a) or (b) above, being a receipt not giving rise to any charge to tax on the recipient apart from this section,

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and the body corporate has at any time carried on a trade which consists of or includes the conducting of any mutual business (whether confined to members of the body corporate or not), and is being or has been wound up or dissolved, the provisions of this section shall apply to the receipt.

- (2) If a transfer or surrender of a right under subsection (1)(c) above is not at arm's length, the person making the transfer or surrender shall, for the purposes of this section, be deemed then to have received consideration equal to the value of the right.
- (3) If in respect of a payment of any amount made to the body corporate for the purposes of its mutual business any deduction has been allowed for the purposes of tax in computing the [<sup>F659</sup>profits] or losses of a trade, then—
  - (a) if at the time of the receipt the recipient is the person, or one of the persons, carrying on that trade, the amount or value of the receipt shall be treated for the purposes of tax as a trading receipt of that trade; and
  - (b) if at the time of the receipt the recipient is not the person, or one of the persons, carrying on that trade, but was the person, or one of the persons, carrying on that trade when any payment was made to the body corporate for the purposes of its mutual business in respect of which a deduction was allowed for the purposes of tax in computing the [<sup>F659</sup>profits] or losses of the trade, the receipt shall, subject to subsection (6) below, be charged under Case VI of Schedule D for the chargeable period in which the receipt falls on an amount equal to the amount or value of the receipt.
- (4) Subsection (3)(a) above applies notwithstanding that, as a result of a change in the persons carrying on the trade, the [<sup>F659</sup>profits] are under section 113 or 337(1) determined as if it had been permanently discontinued and a new trade set up and commenced.
- (5) Where an individual is chargeable to tax by virtue of subsection (3)(b) above and the [<sup>F659</sup>profits] of the trade there mentioned fell to be treated as earned income for the purposes of the Income Tax Acts, the sums in respect of which he is so chargeable shall also be treated for those purposes as earned income.
- (6) If the trade mentioned in subsection (3)(b) above was permanently discontinued before the time of the receipt, then in computing the charge to tax under subsection (3)(b) above there shall be deducted from the amount or value of the receipt—
  - (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade had not been discontinued, would have been deducted in computing for tax purposes the [<sup>F659</sup>profits] or losses of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits as so computed, and
  - (b) any capital allowance to which the person who carried on the trade was entitled immediately before the discontinuance and to which effect has not been given by way of relief before discontinuance.
- (7) Relief shall not be given under subsection (6) above or under section 105(1) in respect of any loss, expense, debit or allowance if and so far as it has been so given by reference to another charge to tax under this section or under section 103.
- (8) For the purposes of subsection (1) above assets representing capital consist of—
  - (a) assets representing any loan or other capital subscribed, including income derived from any investment of any part of that capital, but not including



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- profits from the employment of that capital for the purposes of the mutual business of the body corporate;
- (b) assets representing any [<sup>F659</sup>profits] charged to tax as being [<sup>F659</sup>profits] of any part of the trade carried on by the body corporate which does not consist of the conducting of any mutual business;
- (c) (so far as not comprised in paragraphs (a) and (b) above) assets representing taxed income from any investments.
- (9) In this section “mutual business” includes any business of mutual insurance or mutual trading.
- (10) Subsections (3) to (7) above shall apply with any necessary modifications—
- (a) to a profession or vocation; and
- (b) to the occupation of woodlands the profits or gains of which are assessable under Schedule D;
- as they apply to a trade.
- (11) It is hereby declared that the description of trades in subsection (1) above does not include any trade all the [<sup>F659</sup>profits] of which are chargeable to tax and, in particular, does not include such a trade carried on by any registered industrial and provident society.

#### Textual Amendments

**F659** Words in s. 491(3)(4)(5)(6)(8)(b)(11) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a), [Sch. 7 para. 1](#)

#### Modifications etc. (not altering text)

**C142** See 1988(F) Sch.14 Part V—*repeal of (b) from 6 April 1993.*

#### Marginal Citations

**M86** Source—1970 s.347

## CHAPTER V

#### Modifications etc. (not altering text)

**C143** [Pt. 12 Ch. 5](#) modified (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), [s. 98](#)

## PETROLEUM EXTRACTION ACTIVITIES

#### Modifications etc. (not altering text)

**C144** [Pt. 12 Ch. 5](#) applied (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [Sch. 8 para. 1\(4\)](#)

### 492 Treatment of oil extraction activities etc. for tax purposes.

- (1) Where a person carries on as part of a trade—

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- (a) any oil extraction activities; or
- (b) any of the following activities, namely, the acquisition, enjoyment or exploitation of oil rights; or
- (c) activities of both those descriptions,

those activities shall be treated for all purposes of income tax, and for the purposes of the charge of corporation tax on income, as a separate trade, distinct from all other activities carried on by him as part of the trade.

- (2) Relief in respect of a loss incurred by a person shall not be given under section 380 or 381 against income arising from oil extraction activities or from oil rights (“ring fence income”) except to the extent that the loss arises from such activities or rights.
- (3) Relief in respect of a loss incurred by a person shall not be given under section [F660]393A(1) against his ring fence profits except to the extent that the loss arises from oil extraction activities or from oil rights.
- (4) In any case where—
  - (a) in any chargeable period a person incurs a loss in activities (“separate activities”) which, for that or any subsequent chargeable period, are treated by virtue of subsection (1) above as a separate trade for the purposes specified in that subsection; and
  - (b) in any subsequent chargeable period any of his trading income is derived from activities (“related activities”) which are not part of the separate activities but which, apart from subsection (1) above, would together with those activities constitute a single trade,

then, notwithstanding anything in that subsection, the amount of the loss may be set off, in accordance with section 385 or 393(1), against so much of his trading income in any subsequent chargeable period as is derived from the related activities.

- (5) Subject to subsection (7) below, a capital allowance which is to be given to any person by discharge or repayment of tax shall not to any extent be given effect under [F661]section 258 of the Capital Allowances Act] by deduction from or set off against his ring fence income.
- (6) Subject to subsection (7) below, a capital allowance which is to be given to any person by discharge or repayment of tax shall not to any extent be given effect under [F662]section 259 or 260 of the Capital Allowances Act] by deduction from or set off against his ring fence profits.
- (7) Subsection (5) or (6) above shall not apply to a capital allowance which falls to be made to a company for any accounting period in respect of an asset used in the relevant accounting period by a company associated with it and so used in carrying on oil extraction activities. For the purposes of this subsection, the relevant accounting period is that in which the allowance in question first falls to be made to the company (whether or not it can to any extent be given effect in that period under [F663]section 259 of the Capital Allowances Act].
- (8) On a claim for group relief made by a claimant company in relation to a surrendering company, group relief shall not be allowed against the claimant company’s ring fence profits except to the extent that the claim relates to losses incurred by the surrendering company that arose from oil extraction activities or from oil rights.

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#### Textual Amendments

- F660** Words in s. 492(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)(4)(5), **Sch. 15 para. 17**
- F661** Words in s. 492(5) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 41(1)**
- F662** Words in s. 492(6) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 41(2)**
- F663** Words in s. 492(7) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 41(3)**

#### Modifications etc. (not altering text)

- C145** S. 492(1)(a)(b) applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **s. 198(5)(b)** (with ss. 60, 101(1), 171, 201(3))

### 493 Valuation of oil disposed of or appropriated in certain circumstances.

- (1) Where a person disposes of any oil in circumstances such that the market value of that oil in a particular month falls to be taken into account under section 2 of the <sup>M87</sup>Oil Taxation Act 1975 (“the 1975 Act”), otherwise than by virtue of paragraph 6 of Schedule 3 to that Act, in computing for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to him in any chargeable period from an oil field (or as would so fall but for section 10 of that Act), then—

- (a) for all purposes of income tax, and
- (b) for the purposes of the charge of corporation tax on income,

the disposal of the oil and its acquisition by the person to whom it was disposed of shall be treated as having been for a consideration equal to the market value of the oil as so taken into account under section 2 of that Act (or as would have been so taken into account under that section but for section 10 of that Act).

- (2) Where a person makes a relevant appropriation of any oil without disposing of it and does so in circumstances such that the market value of that oil in a particular month falls to be taken into account under section 2 of the 1975 Act in computing for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to him in any chargeable period from an oil field (or would so fall but for section 10 of that Act), then for all the purposes of income tax and for the purposes of the charge of corporation tax on income, he shall be treated—

- (a) as having, at the time of the appropriation—
  - (i) sold the oil in the course of the separate trade consisting of activities falling within section 492(1)(a) or (b); and
  - (ii) bought it in the course of the separate trade consisting of activities not so falling; and
- (b) as having so sold and bought it at a price equal to its market value as so taken into account under section 2 of the 1975 Act (or as would have been so taken into account under that section but for section 10 of that Act).

In this subsection “relevant appropriation” has the meaning given by section 12(1) of the 1975 Act.

- (3) Where—
- (a) a person disposes otherwise than in a sale at arm’s length (as defined in paragraph 1 of Schedule 3 to the 1975 Act) of oil acquired by him in the course

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of oil extraction activities carried on by him or by virtue of oil rights held by him, and

(b) subsection (1) above does not apply in relation to the disposal,

then, for all purposes of income tax and for the purposes of the charge of corporation tax on income, the disposal of the oil and its acquisition by the person to whom it was disposed of shall be treated as having been for a consideration equal to the market value of the oil in the calendar month in which the disposal was made.

(4) If a person appropriates oil acquired by him in the course of oil extraction activities carried on by him or by virtue of oil rights held by him and the appropriation is to refining or to any use except for production purposes of an oil field, within the meaning of Part I of the 1975 Act, then, unless subsection (2) above applies, for all purposes of income tax and for the purposes of the charge of corporation tax on income—

(a) he shall be treated as having, at the time of the appropriation, sold and bought the oil as mentioned in subsection (2)(a)(i) and (ii) above; and

(b) that sale and purchase shall be deemed to have been at a price equal to the market value of the oil in the calendar month in which it was appropriated.

(5) For the purposes of subsections (3) and (4) above—

(a) “calendar month” means a month of the calendar year; and

(b) paragraph 2 of Schedule 3 to the 1975 Act shall apply as it applies for the purposes of Part I of that Act, but with the following modifications, that is to say—

(i) for sub-paragraph (2)(f) there shall be substituted—

“(f) the contract is for the sale of the whole quantity of oil of which the market value falls to be ascertained for the purposes of section 493(3) or (4) of the Income and Corporation Taxes Act 1988 and of no other oil; and for the avoidance of doubt it is hereby declared that the terms as to payment which are to be implied in the contract shall be those which are customarily contained in contracts for sale at arm’s length of oil of the kind in question.”; and

(ii) sub-paragraphs (3) and (4) shall be omitted.

[<sup>F664</sup>(6) In subsections (3) and (4) above the references to the market value of any oil in the calendar month in which a disposal of the oil was made or, as the case may be, in which it was appropriated shall each have effect in relation to light gases (within the meaning of the 1975 Act) as a reference to the amount which, if paragraph 3A of Schedule 3 to the 1975 Act applied, would be the market value of that oil in relation to the disposal or appropriation in question.]

#### Textual Amendments

**F664** S. 493(6) inserted (with effect in accordance with s. 152(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 152(3)

#### Marginal Citations

**M87** 1975 c. 22

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#### 494 Charges on income.

(1) Section 338 [<sup>F665</sup>of this Act and Chapter II of Part IV of the Finance Act 1996 (loan relationships)] shall have effect subject to the following provisions of this section.

[<sup>F666</sup>(2) Debts shall not be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a company in any manner that results in a reduction of what would otherwise be the company’s ring fence profits except—

- (a) to the extent that the loan relationship is in respect of money borrowed by the company which has been—
  - (i) used to meet expenditure incurred by the company in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person; or
  - (ii) appropriated to meeting expenditure to be so incurred by the company;
- (b) in the case of debts falling to be brought into account by virtue of subsection (4) of section 84 of that Act in respect of a loan relationship that has not been entered into, to the extent that the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in paragraph (a) above; [<sup>F667</sup>and]
- (c) in the case of debts in respect of [<sup>F668</sup>a relationship to which section 100 of that Act applies.] to the extent that—
  - [<sup>F669</sup>(i) the payment of interest under that relationship is expenditure incurred as mentioned in sub-paragraph (i) of paragraph (a) above; [<sup>F670</sup>or
  - (ii) the exchange loss arising from that relationship is in respect of a money debt on which the interest payable (if any) is, or would be, such expenditure;as the case may be;]<sup>F671</sup> . . .

(d) <sup>F671</sup> . . . . .  
In this subsection “debtor relationship” and “creditor relationship” have the same meanings as in Chapter II of Part IV of the Finance Act 1996, and references to a loan relationship, in relation to the borrowing of money, do not include references to [<sup>F672</sup>any relationship to which section 100 of that Act applies].]

Section 839 shall apply for the purposes of this subsection.

[<sup>F673F674</sup> . . . . .]

[<sup>F675</sup>(2ZA) Credits in respect of exchange gains from a company’s loan relationships shall not be brought into account for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 in respect of any loan relationship of a company in any manner that results in an increase of what would otherwise be the company’s ring fence profits, except to the extent that, if the credit had been a debit in respect of an exchange loss from the relationship, it would have been brought into account by virtue of any of paragraphs (a) to (c) of subsection (2) above.]

[<sup>F676</sup>(2A) Where any debit [<sup>F677</sup>or credit]—

- (a) falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a company, but
- (b) in accordance with subsection (2) [<sup>F678</sup>or (2ZA)] above cannot be brought into account in a manner that results in any reduction [<sup>F679</sup>or, as the case may be, increase] of what would otherwise be the company’s ring fence profits,

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then (notwithstanding anything in section 82(2) of that Act) that debit [<sup>F680</sup>or credit] shall be brought into account for those purposes as a non-trading debit [<sup>F681</sup>or, as the case may be, non-trading credit].]

[<sup>F682</sup>(2B) <sup>F683</sup> . . . . .]

(3) Where a company pays to a company associated with it a charge on income <sup>F684</sup> . . . . , the charge shall not be allowable to any extent under section 338 against the first-mentioned company's ring fence profits.

[<sup>F685</sup>(4) <sup>F686</sup> . . . . .]

(5) <sup>F686</sup> . . . . .]

### Textual Amendments

- F665** Words in s. 494(1) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 32(1)** (with Sch. 15)
- F666** Words in s. 494(2) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 32(2)** (with Sch. 15)
- F667** Word at the end of s. 494(2)(b) inserted (with effect in accordance with s. 37 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 5 para. 3(2)(a)**
- F668** Words in s. 494(2)(c) substituted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(3)(a)** (with s. 81(4)(5))
- F669** Words in s. 494(2)(c) renumbered as s. 494(2)(c)(i) (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by virtue of Finance Act 2002 (c. 23), **Sch. 23 para. 17(3)(b)** (with s. 81(4)(5))
- F670** S. 494(2)(c)(ii) and words inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(3)(c)** (with s. 81(4)(5))
- F671** S. 494(2)(d) and preceding word repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 5 para. 3(2)(b), **Sch. 42 Pt. 2(1)**, Note
- F672** Words in s. 494(2) substituted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(5)** (with s. 81(4)(5))
- F673** Words in s. 494(2) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(6)** (with s. 81(4)(5))
- F674** Words in s. 494(2) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 5 para. 3(2)(c), **Sch. 42 Pt. 2(1)**, Note
- F675** S. 494(2ZA) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(7)** (with s. 81(4)(5))
- F676** S. 494(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 32(3)** (with Sch. 15)
- F677** Words in s. 494(2A) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(8)(a)** (with s. 81(4)(5))
- F678** Words in s. 494(2A)(b) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(8)(b)(i)** (with s. 81(4)(5))
- F679** Words in s. 494(2A)(b) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(8)(b)(ii)** (with s. 81(4)(5))
- F680** Words in s. 494(2A) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(8)(c)(i)** (with s. 81(4)(5))
- F681** Words in s. 494(2A) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(8)(c)(ii)** (with s. 81(4)(5))
- F682** S. 494(2B) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), **Sch. 23 para. 17(9)** (with s. 81(4)(5))

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- F683** S. 494(2B) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), Sch. 5 para. 3(3), Sch. 42 Pt. 2(1), Note
- F684** Words in s. 494(3) repealed (with effect in accordance with s. 105(1) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 41 Pt. 5(3), Note (with Sch. 15)
- F685** S. 494(4)(5) substituted for s. 494(4) (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 32(4) (with Sch. 15)
- F686** S. 494(4)(5) repealed (with effect in accordance with s. 38(2)(3) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 27 Pt. 3(4), Note

**[<sup>F687</sup> 494AA Sale and lease-back.**

- (1) This section applies where—
  - (a) a company (“the seller”) carrying on a trade has disposed of an asset which was used for the purposes of that trade, or an interest in such an asset;
  - (b) the asset is used, under a lease, by the seller or a company associated with the seller (“the lessee”) for the purposes of a ring fence trade carried on by the lessee; and
  - (c) the lessee uses the asset before the end of the period of two years beginning with the disposal.
- (2) Subject to subsection (4) below, subsection (3) below applies to so much (if any) of the expenditure incurred by the lessee under the lease as—
  - (a) falls, in accordance with [<sup>F688</sup>generally accepted accounting practice], to be treated in the accounts of the lessee as a finance charge,<sup>F689</sup> . . .
  - (b) <sup>F689</sup> . . . . .
- (3) The expenditure shall not be allowable in computing for the purposes of Schedule D the profits of the ring fence trade.
- (4) Expenditure shall not be disallowed by virtue of subsection (3) above to the extent that the disposal referred to in subsection (1) above is made for a consideration which—
  - (a) is used to meet expenditure incurred by the seller in carrying on oil extraction activities or in acquiring oil rights otherwise than from a company associated with the seller; or
  - (b) is appropriated to meeting expenditure to be so incurred by the seller.
- (5) Where any expenditure—
  - (a) would apart from subsection (3) above be allowable in computing for the purposes of Schedule D the profits of the ring fence trade for an accounting period, but
  - (b) by virtue of that subsection is not so allowable,that expenditure shall be brought into account for the purposes of Chapter II of Part IV of the <sup>M88</sup>Finance Act 1996 as if it were a non-trading debit in respect of a loan relationship of the lessee for that accounting period.
- (6) In this section, “lease”, in relation to an asset, has the same meaning as in sections 781 to 784.]

**Textual Amendments**

- F687** S. 494AA inserted (with application in accordance with s. 100(2)(3) of the amending Act) by Finance Act 1999 (c. 16), s. 100(1)

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**F688** Words in s. 494AA(2) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\), s. 103\(4\)\(a\)](#)

**F689** S. 494AA(2)(b) and preceding word repealed (24.7.2002) by [Finance Act 2002 \(c. 23\), Sch. 40 Pt. 3\(16\)](#)

#### Marginal Citations

**M88** 1996 c.8.

### [<sup>F690</sup>494A] **Computation of amount available for surrender by way of group relief.**

- (1) In section 403(3) (availability of charges, Schedule A losses and management expenses for surrender as group relief) the reference to the gross profits of the surrendering company for an accounting period does not include the company's relevant ring fence profits for that period.
- (2) If for that period—
  - (a) there are no charges on income paid by the company that are allowable under section 338, or
  - (b) the only charges on income so allowable are charges to which section 494(3) above applies,
 all the company's ring fence profits are relevant ring fence profits.
- (3) In any other case the company's relevant ring fence profits are so much of its ring fence profits as exceeds the amount of the charges on income paid by the company as—
  - (a) are allowable under section 338 for that period, and
  - (b) are not charges to which section 494(3) above applies.]

#### Textual Amendments

**F690** S. 494A inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 5 para. 30](#) (with [Sch. 5 para. 73](#))

### **495 Regional development grants.**

- (1) Subsection (2) below applies in any case where—
  - (a) a person has incurred expenditure (by way of purchase, rent or otherwise) on the acquisition of an asset in a transaction to which paragraph 2 of Schedule 4 to the 1975 Act applies (transactions between connected persons and otherwise than at arm's length), and
  - (b) the expenditure incurred by the other person referred to in that paragraph in acquiring, bringing into existence or enhancing the value of the asset as mentioned in that paragraph has been or is to be met by a regional development grant and, in whole or in part, falls to be taken into account [<sup>F691</sup>Part 2, 3 or 6 of the Capital Allowances Act (capital allowances relating to plant and machinery, industrial buildings or research and development)].
- (2) Where this subsection applies, for the purposes of the charge of income tax or corporation tax on the income arising from those activities of the person referred to in paragraph (a) of subsection (1) above which are treated by virtue of section 492(1) as a separate trade for those purposes, the expenditure referred to in that paragraph shall be treated as reduced by the amount of the regional development grant referred to in paragraph (b) of that subsection.



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- (3) Subsections (4) to (6) below apply where—
- (a) expenditure incurred by any person in relation to an asset in any relevant period (“the initial period”) has been or is to be met by a regional development grant; and
  - (b) notwithstanding the provisions of section 137 of the <sup>M89</sup>Finance Act 1982 and subsections (1) and (2) above, in determining that person’s liability to income tax or corporation tax for the initial period the whole or some part of that expenditure falls to be taken into account [<sup>F692</sup>Part 2, 3 or 6 of the Capital Allowances Act]; and
  - (c) in a relevant period subsequent to the initial period either expenditure on the asset becomes allowable under section 3 or 4 of the 1975 Act or the proportion of any such expenditure which is allowable is different as compared with the initial period;
- and in subsections (4) to (6) below the subsequent relevant period referred to in paragraph (c) above is referred to as “the adjustment period”.
- (4) Where this subsection applies—
- (a) there shall be redetermined for the purposes of subsections (5) and (6) below the amount of the expenditure referred to in subsection (3)(a) above which would have been taken into account as mentioned in subsection (3)(b) if the circumstances referred to in subsection (3)(c) had existed in the initial period; and
  - (b) according to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (3)(b), the difference is in subsections (5) and (6) below referred to as the increase or the reduction in the allowance.
- (5) If there is an increase in the allowance, then, for the purposes of the provisions referred to in subsection (3)(b) above, an amount of capital expenditure equal to the increase shall be deemed to have been incurred by the person concerned in the adjustment period on an extension of or addition to the asset referred to in subsection (3)(a) above.
- (6) If there is a reduction in the allowance, then, for the purpose of determining the liability to income tax or corporation tax of the person concerned, he shall be treated as having received in the adjustment period, as income of the trade in connection with which the expenditure referred to in subsection (3)(a) above was incurred, a sum equal to the amount of the reduction in the allowance.
- (7) In this section—
- “regional development grant” [<sup>F693</sup>means a grant falling within section 534(1) of the Capital Allowances Act]; and
  - “relevant period” means an accounting period of a company or a year of assessment.

#### Textual Amendments

- F691** Words in s. 495(1) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 42\(1\)](#)
- F692** Words in s. 495(3) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 42\(2\)](#)
- F693** Words in s. 495(7) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\), Sch. 2 para. 42\(3\)](#)

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### Marginal Citations

**M89** 1982 c. 39

## 496 [F694 Tariff receipts and tax-exempt tariffing receipts]

- (1) Any sum which—
- (a) constitutes a tariff receipt [F695 or tax-exempt tariffing receipt] of a person who is a participator in an oil field, and
  - (b) constitutes consideration in the nature of income rather than capital, and
  - (c) would not, apart from this subsection, be treated for the purposes of this Chapter as a receipt of the separate trade referred to in section 492(1),
- shall be so treated for those purposes.
- (2) To the extent that they would not otherwise be so treated, the activities of a participator in an oil field or a person connected with him in making available an asset in a way which gives rise to tariff receipts [F696 or tax-exempt tariffing receipts] of the participator shall be treated for the purposes of this Chapter as oil extraction activities.
- (3) In determining for the purposes of subsection (1) above whether any sum constitutes a tariff receipt [F697 or tax-exempt tariffing receipt] of a person who is a participator, no account shall be taken of any sum which—
- (a) is in fact received or receivable by a person connected with the participator, and
  - (b) constitutes a tariff receipt [F698 or tax-exempt tariffing receipt] of the participator,
- but in relation to the person by whom such a sum is actually received, subsection (1) above shall have effect as if he were a participator and as if the condition in paragraph (a) of that subsection were fulfilled.
- (4) References in this section to a person connected with a participator include references to a person with whom the person is associated within the meaning of paragraph 11 of Schedule 2 to M90 the Oil Taxation Act 1983.

### Textual Amendments

- F694** S. 496 sidenote substituted (with effect in accordance with s. 285(7) of the amending Act) by virtue of Finance Act 2004 (c. 12), **Sch. 37 para. 11(5)**
- F695** Words in s. 496(1)(a) inserted (with effect in accordance with s. 285(7) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 37 para. 11(2)**
- F696** Words in s. 496(2) inserted (with effect in accordance with s. 285(7) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 37 para. 11(3)**
- F697** Words in s. 496(3) inserted (with effect in accordance with s. 285(7) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 37 para. 11(4)(a)**
- F698** Words in s. 496(3)(b) inserted (with effect in accordance with s. 285(7) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 37 para. 11(4)(b)**

### Marginal Citations

**M90** 1983 c. 56.

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[<sup>F699</sup> **496A** Exploration expenditure supplement

Schedule 19B to this Act (exploration expenditure supplement) shall have effect.]

**Textual Amendments**

**F699** S. 496A inserted (22.7.2004) by Finance Act 2004 (c. 12), s. 286(2)

VALID FROM 19/07/2006

[<sup>F700</sup> **496B** Ring fence expenditure supplement

Schedule 19C to this Act (ring fence expenditure supplement) shall have effect.]

**Textual Amendments**

**F700** S. 496B inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 154(2)

**497 Restriction on setting ACT against income from oil extraction activities etc.**

<sup>F701</sup> .....

**Textual Amendments**

**F701** S. 497 repealed (with effect in accordance with Sch. 3 para. 29(2) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 29(1), Sch. 27 Pt. 3(2), Note

**498 Limited right to carry back surrendered ACT.**

<sup>F702</sup> .....

**Textual Amendments**

**F702** S. 498 repealed (with effect in accordance with Sch. 3 para. 30(2) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 30(1), Sch. 27 Pt. 3(2), Note (with Sch. 3 para. 30(3))

**499 Surrender of ACT where oil extraction company etc. owned by a consortium.**

<sup>F703</sup> .....

**Textual Amendments**

**F703** S. 499 repealed (with effect in accordance with Sch. 3 para. 31(2) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 31(1), Sch. 27 Pt. 3(2), Note

*Status: Point in time view as at 28/09/2004. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART XII is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **500 Deduction of PRT in computing income for corporation tax purposes.**

- (1) Where a participator in an oil field has paid any petroleum revenue tax with which he was chargeable for a chargeable period, then, in computing for corporation tax the amount of his income arising in the relevant accounting period from oil extraction activities or oil rights, there shall be deducted an amount equal to that petroleum revenue tax.
- (2) There shall be made all such adjustments of assessments to corporation tax as are required in order to give effect to subsection (1) above.
- (3) For the purposes of subsection (1) above, the relevant accounting period, in relation to any petroleum revenue tax paid by a company, is—
  - (a) the accounting period of the company in or at the end of which the chargeable period for which that tax was charged ends; or
  - (b) if that chargeable period ends after the accounting period of the company in or at the end of which the trade giving rise to the income referred to above is permanently discontinued, that accounting period.
- (4) <sup>[F704]</sup>Subject to the following provisions of this section] if some or all of the petroleum revenue tax in respect of which a deduction has been made under subsection (1) above is subsequently repaid, that deduction shall be reduced or extinguished accordingly; and any additional assessment to corporation tax required in order to give effect to this subsection may be made at any time not later than six years after the end of the <sup>[F705]</sup>calendar year] in which the first-mentioned tax was repaid.
- <sup>[F706]</sup>(5) If, in a case where paragraph 17 of Schedule 2 to the 1975 Act applies, an amount of petroleum revenue tax in respect of which a deduction has been made under subsection (1) above is repaid by virtue of an assessment under that Schedule or an amendment of such an assessment, then, so far as concerns so much of that repayment as constitutes the appropriate repayment,—
  - (a) subsection (4) above shall not apply; and
  - (b) the following provisions of this section shall apply in relation to the company which is entitled to the repayment.
- (6) In subsection (5) above and the following provisions of this section—
  - (a) “the appropriate repayment” has the meaning assigned by sub-paragraph (2) of paragraph 17 of Schedule 2 to the 1975 Act;
  - (b) in relation to the appropriate repayment, a “carried back loss” means an allowable loss which falls within sub-paragraph (1)(a) of that paragraph and which (alone or together with one or more other carried back losses) gives rise to the appropriate repayment;
  - (c) in relation to a carried back loss, “the operative chargeable period” means the chargeable period in which the loss accrued; and
  - (d) in relation to the company which is entitled to the appropriate repayment, “the relevant accounting period” means the accounting period in or at the end of which ends the operative chargeable period or, if the company’s ring fence trade is permanently discontinued before the end of the operative chargeable period, the last accounting period of that trade.
- (7) In computing for corporation tax the amount of the company’s income arising in the relevant accounting period from oil extraction activities or oil rights there shall be added an amount equal to the appropriate repayment; but this subsection has effect subject to subsection (8) below in any case where—

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- (a) two or more carried back losses give rise to the appropriate repayment; and
  - (b) the operative chargeable period in relation to each of the carried back losses is not the same; and
  - (c) if subsection (6)(d) above were applied separately in relation to each of the carried back losses there would be more than one relevant accounting period.
- (8) Where paragraphs (a) to (c) of subsection (7) above apply, the appropriate repayment shall be treated as apportioned between each of the relevant accounting periods referred to in paragraph (c) of that subsection in such manner as to secure that the amount added by virtue of that subsection in relation to each of those relevant accounting periods is what it would have been if—
- (a) relief for each of the carried back losses for which there is a different operative chargeable period had been given by a separate assessment or amendment of an assessment under Schedule 2 to the 1975 Act; and
  - (b) relief for a carried back loss accruing in an earlier chargeable period had been so given before relief for a carried back loss accruing in a later chargeable period.
- (9) Any additional assessment to corporation tax required in order to give effect to the addition of an amount by virtue of subsection (7) above may be made at any time not later than six years after the end of the calendar year in which is made the repayment of petroleum revenue tax comprising the appropriate repayment.
- (10) In this section “allowable loss” and “chargeable period” have the same meaning as in Part I of the 1975 Act and “calendar year” means a period of twelve months beginning on 1st January.]

#### Textual Amendments

- F704** Words in s. 500(4) inserted by Finance Act 1990 (c. 29), s. 62(1)(a)
- F705** Words in s. 500(4) substituted by Finance Act 1990 (c. 29), s. 62(1)(b)
- F706** S. 500(5)-(10) substituted for s. 500(5) by Finance Act 1990 (c. 29), s. 62(2)

### 501 Interest on repayment of PRT.

Where any amount of petroleum revenue tax paid by a participator in an oil field is, under any provision of Part I of the 1975 Act, repaid to him with interest, the amount of the interest paid to him shall be disregarded in computing the amount of his income for the purposes of corporation tax.

### [<sup>F707</sup>501A] Supplementary charge in respect of ring fence trades

- (1) Where in any accounting period beginning on or after 17th April 2002 a company carries on a ring fence trade, a sum equal to 10 per cent of its adjusted ring fence profits for that period shall be charged on the company as if it were an amount of corporation tax chargeable on the company.
- (2) A company’s adjusted ring fence profits for an accounting period are the amount which, on the assumption mentioned in subsection (3) below, would be determined for that period (in accordance with this Chapter) as the profits of the company’s ring fence trade chargeable to corporation tax.

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- (3) The assumption is that financing costs are left out of account in computing—
- (a) the amount of the profits or loss of any ring fence trade of the company's for each accounting period beginning on or after 17th April 2002; and
  - (b) where for any such period the whole or part of any loss relief is surrendered to the company in accordance with section 492(8), the amount of that relief or, as the case may be, that part.
- (4) For the purposes of this section, “financing costs” means the costs of debt finance.
- (5) In calculating the costs of debt finance for an accounting period the matters to be taken into account include—
- (a) any costs giving rise to debits in respect of debtor relationships of the company under Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) [F708], other than debits in respect of exchange losses from such relationships (see section 103(1A) and (1B) of that Act)];
  - [F709](b) any exchange gain or loss from a debtor relationship, within the meaning of that Chapter (see section 103(1A) and (1B) of that Act), in relation to debt finance;]
  - [F710](c) any credit or debit falling to be brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts) in relation to debt finance;]
  - (d) the financing cost implicit in a payment under a finance lease; and
  - (e) any other costs arising from what would be considered in accordance with generally accepted accounting practice to be a financing transaction.
- (6) Where an amount representing the whole or part of a payment falling to be made by a company—
- (a) falls (or would fall) to be treated as a finance charge under a finance lease for the purposes of accounts relating to that company and one or more other companies and prepared in accordance with generally accepted accounting practice, but
  - (b) is not so treated in the accounts of the company,
- the amount shall be treated for the purposes of this section as financing costs falling within subsection (5)(d) above.
- (7) If—
- (a) in computing the adjusted ring fence profits of a company for an accounting period, an amount falls to be left out of account by virtue of subsection (5) (d) above, but
  - (b) the whole or any part of that amount is repaid,
- the repayment shall also be left out of account in computing the adjusted ring fence profits of the company for any accounting period.
- (8) In this section “finance lease” means any arrangements—
- (a) which provide for an asset to be leased or otherwise made available by a person to another person (“the lessee”), and
  - (b) which, under generally accepted accounting practice,—
    - (i) fall (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or a loan, or
    - (ii) are comprised in arrangements which fall (or would fall) to be so treated.

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- (9) For the purposes of applying subsection (8)(b) above, the lessee and any person connected with the lessee are to be treated as being companies which are incorporated in a part of the United Kingdom.
- (10) In this section “accounts”, in relation to a company, includes any accounts which—
- (a) relate to two or more companies of which that company is one, and
  - (b) are drawn up in accordance with—
    - (i) section 227 of the Companies Act 1985, or
    - (ii) Article 235 of the Companies (Northern Ireland) Order 1986.]

#### Textual Amendments

**F707** S. 501A inserted (24.7.2002) by Finance Act 2002 (c. 23), ss. 91, 93

**F708** Words in s. 501A(5)(a) inserted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), Sch. 23 para. 18(2) (with s. 81(4)(5))

**F709** S. 501A(5)(b) substituted (with effect in accordance with s. 79(3), Sch. 23 para. 25 of the amending Act) by Finance Act 2002 (c. 23), Sch. 23 para. 18(3) (with s. 81(4)(5))

**F710** S. 501A(5)(c) substituted (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), Sch. 27 para. 8 (with Sch. 28)

#### [<sup>F711</sup>501B Assessment, recovery and postponement of supplementary charge

- (1) Subject to subsection (3) below, the provisions of section 501A(1) relating to the charging of a sum as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including—
- (a) those relating to returns of information and the supply of accounts, statements and reports;
  - (b) those relating to the assessing, collecting and receiving of corporation tax;
  - (c) those conferring or regulating a right of appeal; and
  - (d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (2) Accordingly (but without prejudice to subsection (1) above) the Management Act shall have effect as if any reference to corporation tax included a reference to a sum chargeable under section 501A(1) as if it were an amount of corporation tax.
- (3) In any regulations made under section 32 of the Finance Act 1998 (as at 17th April 2002, the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999)—
- (a) references to corporation tax do not include a reference to a sum chargeable on a company under section 501A(1) as if it were corporation tax; and
  - (b) references to profits charged to corporation tax do not include a reference to adjusted ring fence profits, within the meaning of section 501A(1).
- (4) In this section “the Taxes Acts” has the same meaning as in the Management Act.]

#### Textual Amendments

**F711** S. 501B inserted (24.7.2002) by Finance Act 2002 (c. 23), ss. 92(1), 93

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## 502 Interpretation of Chapter V.

(1) In this Chapter—

“the 1975 Act” means the Oil Taxation Act 1975<sup>M91</sup>;

“oil” means any substance won or capable of being won under the authority of a licence granted under either [<sup>F712</sup>Part I of the Petroleum Act 1998] or the<sup>M92</sup>Petroleum (Production) Act (Northern Ireland) 1964, other than methane gas won in the course of operations for making and keeping mines safe;

“oil extraction activities” means any activities of a person—

- (a) in searching for oil in the United Kingdom or a designated area or causing such searching to be carried out for him; or
- (b) in extracting or causing to be extracted for him oil at any place in the United Kingdom or a designated area under rights authorising the extraction and held by him or, if the person in question is a company, by the company or a company associated with it; or
- (c) in transporting or causing to be transported for him<sup>F713</sup> . . . oil extracted at any such place not on dry land under rights authorising the extraction and so held [<sup>F714</sup>where the transportation is—
  - (i) to the place where the oil is first landed in the United Kingdom, or
  - (ii) to the place in the United Kingdom or, in the case of oil first landed in another country, the place in that or any other country (other than the United Kingdom) at which the seller in a sale at arm’s length could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction]; or
- (d) in effecting or causing to be effected for him the initial treatment or initial storage of oil won from any oil field under rights authorising its extraction and so held;

“oil field” has the same meaning as in Part I of the 1975 Act;

“oil rights” means rights to oil to be extracted at any place in the United Kingdom or a designated area, or to interests in or to the benefit of such oil;

“participator” has the same meaning as in Part I of the 1975 Act; and

“ring fence income” means income arising from oil extraction activities or oil rights; and

“ring fence profits” has the [<sup>F715</sup> meaning given by subsection (1A) below] or, in any case where that subsection does not apply, means ring fence income; [<sup>F716</sup>and

“ring fence trade” means activities which—

- (a) fall within any of paragraphs (a) to (c) of subsection (1) of section 492; and
- (b) constitute a separate trade (whether by virtue of that subsection or otherwise)].

[<sup>F717</sup>(1A) Where in accordance with section 197(3) of the 1992 Act a person has an aggregate gain for any chargeable period, that gain and his ring fence income (if any) for that period together constitute his ring fence profits for the purposes of this Chapter.]

(2) For the purposes of subsection (1) above—

- (a) “designated area” means an area designated by Order in Council under section 1(7) of the<sup>M93</sup>Continental Shelf Act 1964;
- (b) “initial treatment” has the same meaning as in Part I of the 1975 Act; and



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- (c) the definition of “initial storage” in section 12(1) of the 1975 Act shall apply but, in its application for those purposes in relation to the person mentioned in subsection (1)(d) above and to oil won from any one oil field shall have effect as if the reference to the maximum daily production rate of oil for the field as there mentioned were a reference to that person’s share of that maximum daily production rate, that is to say, a share thereof proportionate to his share of the oil won from that field.
- (3) For the purposes of this Chapter two companies are associated with one another if—
- (a) one is a 51 per cent. subsidiary of the other;
  - (b) each is a 51 per cent. subsidiary of a third company; or
  - (c) one is owned by a consortium of which the other is a member.
- [<sup>F718</sup>(3A) Section 413(6) applies for the purposes of subsection (3)(c) above but as if section 413 were modified as follows—
- (a) as if the definition of “company” in subsection (2) were omitted;
  - (b) as if at the beginning of subsection (5) there were inserted “References in this Chapter to a company apply only to bodies corporate resident in the United Kingdom; and”; and
  - (c) as if in that subsection, after the word “receipt”, in the second place where it occurs, there were inserted “; or  
(c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.”]
- (4) Without prejudice to subsection (3) above, for the purposes of this Chapter, two companies are also associated with one another if one has control of the other or both are under the control of the same person or persons; and in this subsection “control” shall be construed in accordance with section 416.

#### Textual Amendments

- F712** S. 502(1): words in definition of "oil" substituted (15.2.1999) by [Petroleum Act 1998 \(c. 17\)](#), [Sch. 4 para. 25](#), s. 52(4); S.I. 1999/161, [art. 2\(1\)](#)
- F713** S. 502(1): words in definition of "oil extraction activities" repealed (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), ss. 55(1)(a)(2), 82, [Sch. 18 Pt.VII](#)
- F714** S. 502(1): words in definition of "oil extraction activities" inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 55\(1\)\(b\)\(2\)](#)
- F715** S. 502(1): words in definition of "ring fence profits" substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290(1), [Sch. 10 para. 14\(30\)](#) (with ss. 60, 101(1), 171(1), 201(3))
- F716** S. 502(1): definition of "ring fence trade" added by [Finance Act 1990 \(c. 29\)](#), [s. 62\(3\)](#)
- F717** S. 502(1A) inserted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 300(1), [Sch. 10 para. 14\(30\)](#) (with ss. 60, 101(1), 171, 201(3))
- F718** S. 502(3A) substituted for words in s. 502(3) (with effect in accordance with [Sch. 27 para. 12\(2\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 27 para. 9](#)

#### Marginal Citations

- M91** 1975 c. 22.
- M92** 1964 c. 28 (N.I.)
- M93** 1964 c. 29.

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VALID FROM 19/07/2006

## CHAPTER 5A

### SPECIAL RULES FOR LONG FUNDING LEASES OF PLANT OR MACHINERY: CORPORATION TAX

#### *f<sup>719</sup>* *Introductory*

#### **Textual Amendments**

**F719** Pt. 12 Ch. 5A (ss. 502A-502L) inserted (with effect in accordance with Sch. 8 para. 15 of the amending Act) by Finance Act 2006 (c. 25), Sch. 8 para. 11

#### **502A Scope of Chapter 5A**

This Chapter has effect for the purposes of corporation tax only.

#### *Lessors under long funding finance leases*

#### **502B Lessor under long funding finance lease: rental earnings**

- (1) This section applies for determining for the purposes of corporation tax the profits of a company for any period of account in which it is the lessor of any plant or machinery under a long funding finance lease.
- (2) The amount to be brought into account as the lessor's taxable income from the lease for the period of account is the amount of the rental earnings in respect of the lease for the period of account.
- (3) The “rental earnings” for any period is the amount which, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment for that period in respect of the lease where it meets the finance lease test.
- (4) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan in the accounts in question, so much of the rentals under the lease as fall (or would fall) to be treated as interest are to be treated for the purposes of this section as rental earnings.

#### **Modifications etc. (not altering text)**

**C146** S. 502B excluded (21.7.2008) by Finance Act 2008 (c. 9), Sch. 20 para. 11(2)

**C147** S. 502B excluded (21.7.2009) by Finance Act 2009 (c. 10), Sch. 33 para. 5

#### **502C Lessor under long funding finance lease: exceptional items**

- (1) This section applies for determining for the purposes of corporation tax the profits of a company which is or has been the lessor under a long funding finance lease.

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- (2) This section has effect where a profit or loss (whether of an income or capital nature) —
- (a) arises to the company in connection with the lease, and
  - (b) in accordance with generally accepted accounting practice falls to be recognised for accounting purposes in a period of account, but
  - (c) would not, apart from this section, be brought into account in computing the profits of the company for the purposes of corporation tax.
- (3) The profit or loss is to be treated—
- (a) in the case of a profit, as income of the company attributable to the lease,
  - (b) in the case of a loss, as a revenue expense incurred by the company in connection with the lease.
- (4) Any reference in this section to an amount falling to be recognised for accounting purposes in a period of account is a reference to an amount falling to be recognised for accounting purposes—
- (a) in the company's profit and loss account or income statement,
  - (b) in the company's statement of recognised gains and losses or statement of changes in equity, or
  - (c) in any other statement of items brought into account in computing the company's profits or losses for that period.

**Modifications etc. (not altering text)**

**C148** S. 502C excluded (21.7.2008) by Finance Act 2008 (c. 9), **Sch. 20 para. 11(8)**

**C149** S. 502C excluded (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 33 para. 7**

**502D Lessor under long funding finance lease making termination payment**

- (1) This section applies for determining the liability to corporation tax of a company which is or has been the lessor under a long funding finance lease.
- (2) Where—
- (a) the lease terminates, and
  - (b) a sum calculated by reference to the termination value is paid to the lessee,
- no deduction in respect of the sum paid to the lessee is allowed in computing the profits of the company.
- (3) This section does not prevent a deduction in respect of a sum to the extent that the sum is brought into account in determining the company's rental earnings.

*Lessors under long funding operating leases*

**502E Lessor under long funding operating lease: periodic deduction**

- (1) This section applies for determining for the purposes of corporation tax the profits of a company for any period of account—
- (a) for the whole of which, or
  - (b) for any part of which,

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the company is the lessor of any plant or machinery under a long funding operating lease.

(2) A deduction is allowed in computing the profits of the company for the period of account.

(3) The amount of the deduction for any period of account is to be determined as follows.

(4) First, find the “relevant value” for the purposes of subsection (6)(a) below, which is—

- (a) if the only use of the plant or machinery by the lessor has been the leasing of it under the long funding operating lease as a qualifying activity, cost;
- (b) if the last previous use of the plant or machinery by the lessor was the leasing of it under another long funding operating lease as a qualifying activity, market value;
- (c) if the last previous use of the plant or machinery by the lessor was the leasing of it under a long funding finance lease as a qualifying activity, the recognised value;
- (d) if the last previous use of the plant or machinery by the lessor was for the purposes of a qualifying activity other than leasing under a long funding lease, the lower of cost and market value;
- (e) if the lessor owns the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity, but—
  - (i) the plant or machinery is brought into use by the lessor for the purposes of a qualifying activity on or after 1st April 2006, and
  - (ii) that qualifying activity is the leasing of the plant or machinery under the long funding operating lease,

the relevant value is the lower of first use market value and first use amortised value.

(5) In subsection (4) above—

“cost” means the amount of the expenditure incurred by the lessor on the provision of the plant or machinery;

“first use amortised value” means the value that the plant or machinery would have at the time when it is first brought into use for the purposes of the qualifying activity, on the assumption that—

- (a) the cost of acquiring the plant or machinery had been written off on a straight line basis over the remaining useful economic life of the plant or machinery, and
- (b) any further capital expenditure incurred had been written off on a straight line basis over so much of the remaining economic life of the plant or machinery as remains at the time when the expenditure is incurred;

“first use market value” means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity;

“market value” means the market value of the plant or machinery at the commencement of the term of the long funding operating lease;

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“recognised value” means the value at which the plant or machinery is recognised in the books or other financial records of the lessor at the commencement of the long funding operating lease.

- (6) From—
- (a) the relevant value determined in accordance with subsection (4) above, subtract
  - (b) the amount which, at the commencement of the term of the lease, is (or, in a case falling within subsection (4)(e) above, would have been) expected to be the residual value of the plant or machinery,
- to find the expected gross reduction in value over the term of the lease.
- (7) Apportion the amount of that expected gross reduction in value to each period of account in which any part of the term of the lease falls.
- (8) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each period of account.
- (9) The amount of the deduction for any period of account is the amount so apportioned to that period.

#### **502F Long funding operating lease: lessor's additional expenditure**

- (1) This section applies if in any period of account—
- (a) a company is the lessor of any plant or machinery under a long funding operating lease,
  - (b) the company incurs capital expenditure in relation to the plant or machinery, and
  - (c) that capital expenditure (the “additional expenditure”) is not reflected in the market value of the plant or machinery at the commencement of the term of the lease.
- (2) In a case falling within section 502E(4)(e) above, subsection (1)(c) above has effect as if the reference to the commencement of the term of the lease were a reference to the time when the plant or machinery is first brought into use by the lessor for the purposes of the qualifying activity.
- (3) Where this section applies, an additional deduction is allowed in computing the profits of the company for each post-expenditure period of account in which the company is the lessor of the plant or machinery under the lease.
- (4) The amount of the deduction for any such period of account is to be determined as follows.
- (5) Find ARV, CRV, PRV, and TRV where—
- “ARV” is the amount which, at the time when the additional expenditure is incurred, is expected to be the residual value of the plant or machinery;
- “CRV” is the amount which, at the commencement of the term of the lease, is expected to be the residual value of the plant or machinery;
- “PRV” is the sum of any amounts that fell to be taken into account as RRV (see subsection (6)) in the application of this section in relation to any previous additional expenditure incurred by the company in relation to the leased plant or machinery;

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“TRV” is the total of CRV and PRV.

- (6) Find RRV, where—
  - (a) if ARV exceeds TRV, RRV is the portion of the excess that is a result of the additional expenditure, but
  - (b) if ARV does not exceed TRV, RRV is nil.
- (7) From—
  - (a) the amount of the additional expenditure, subtract
  - (b) RRV,
 to find the expected partial reduction in value over the remainder of the term of the lease.
- (8) Apportion the amount of that expected partial reduction in value to each post-expenditure period of account in which any part of the term of the lease falls.
- (9) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each post-expenditure period of account.
- (10) The amount of the additional deduction for any period of account is the amount so apportioned to that period.
- (11) In this section “post-expenditure period of account” means any period of account ending after the incurring of the additional expenditure.

#### **502G Lessor under long funding operating lease: termination of lease**

- (1) This section applies for determining the liability to corporation tax of a company which is the lessor immediately before the termination of a long funding operating lease.
- (2) Step 1 is to find—
  - (a) the termination amount (TA);
  - (b) the total of any sums paid to the lessee that are calculated by reference to the termination value (LP).
- (3) Step 2 is to find—
  - (a) the relevant value for the purposes of section 502E(6)(a) (RV);
  - (b) the total of the deductions allowable under section 502E for periods of account for the whole or part of which the company was the lessor before the termination of the lease (TD1);
  - (c) the amount, if any, (ERV) by which RV exceeds TD1.
- (4) Step 3 is to find—
  - (a) the total of any amounts of capital expenditure incurred by the company which constitute additional expenditure for the purposes of section 502F in the case of the lease (TAE);
  - (b) the total of any deductions allowable under section 502F for periods of account for the whole or part of which the company was the lessor before the termination of the lease (TD2);
  - (c) the amount, if any, (EAE) by which TAE exceeds TD2.

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- (5) Step 4 is to find the total of ERV and EAE (T).
- (6) If  $(TA - LP)$  exceeds T, treat a profit of an amount equal to the excess as arising to the company in the period of account in which the lease terminates.
- (7) If T exceeds  $(TA - LP)$ , treat a loss of an amount equal to the excess as arising to the company in that period of account.
- (8) A profit or loss treated as arising to the company under subsection (6) or (7) above is to be treated—
  - (a) in the case of a profit, as income of the company attributable to the lease,
  - (b) in the case of a loss, as a revenue expense incurred by the company in connection with the lease.
- (9) In computing the profits of the company, no deduction is allowed in respect of any sums paid to the lessee that are calculated by reference to the termination value.

VALID FROM 21/07/2008

*Lessors under long funding finance or operating leases: avoidance etc*

**502GA Cases where ss. 502B to 502G do not apply: plant or machinery held as trading stock**

- (1) Sections 502B to 502G do not apply in the case of a company which is or has been the lessor of any plant or machinery under a long funding lease if the following condition is met.
- (2) The condition is that any part of the expenditure incurred by the company on the acquisition of the plant or machinery for leasing under the lease—
  - (a) is (apart from those sections) allowable as a deduction in calculating its profits or losses for the purposes of corporation tax, and
  - (b) is so allowable as a result of the plant or machinery forming part of its trading stock.
- (3) For the purposes of this section the cases in which expenditure incurred by a company on the acquisition of any plant or machinery for leasing under a lease is allowable as such a deduction include any case where—
  - (a) the company becomes entitled to the deduction at any time after the expenditure is incurred, and
  - (b) the deduction arises as a result of the plant or machinery forming part of its trading stock at that time.
- (4) If—
  - (a) at any time any of sections 502B to 502G has applied for determining the amounts to be taken into account in calculating the profits or losses of the company for the purposes of corporation tax, and
  - (b) the condition in subsection (2) is met at any subsequent time,
 those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.

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- (5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (4).

**[<sup>F720</sup> 502GB] Cases where ss. 502B to 502G do not apply: lessor also lessee under non-long funding lease**

- (1) This section applies if—
- (a) a company is the lessee of any plant or machinery under a lease (“lease A”) that is not a long funding lease,
  - (b) it enters into a lease (“lease B”) of any of that plant or machinery (as lessor), and
  - (c) lease B is a long funding lease.
- (2) Sections 502B to 502G do not apply in relation to lease B.
- (3) If by virtue of section 70H of the Capital Allowances Act (tax return by lessee treating lease as long funding lease) lease A becomes a long funding lease (and does not cease to be such a lease), treat this section as never having applied in relation to lease B.]

**Textual Amendments**

**F720** S. 502GB inserted (with effect in accordance with Sch. 20 para. 9(6) of the amending Act) by Finance Act 2008 (c. 9), Sch. 20 para. 9(3)

**[<sup>F721</sup> 502GC] Cases where ss. 502B to 502G do not apply: other avoidance**

- (1) Sections 502B to 502G do not apply in the case of a company which is or has been the lessor of any plant or machinery under a long funding lease if conditions A to C are met.
- (2) Condition A is that the long funding lease forms part of any arrangement entered into by the company which includes one or more other transactions (whether the arrangement is entered into before or after or at the inception of the lease).
- (3) Condition B is that the main purpose, or one of the main purposes, of the arrangement is to secure that, over the relevant period, there would be a substantial difference between—
  - (a) the total amount of the amounts under the arrangement which are, in accordance with generally accepted accounting practice, recognised in determining the company's profit or loss for any period or taken into account in calculating the amounts which are so recognised, and
  - (b) the total amount of the amounts under the arrangement which are taken into account in calculating the profits or losses of the company for the purposes of corporation tax.
- (4) For the purposes of condition B “the relevant period” means the period which begins with the inception of the lease and ends with the end of the term of the lease.
- (5) Condition C is that the difference would be attributable (wholly or partly) to the application of any of sections 502B to 502G in relation to the company by reference to the plant or machinery under the lease.



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- (6) The reference in this section to an amount being recognised in determining a company's profit or loss for a period is to an amount being recognised for accounting purposes—
- (a) in the company's profit and loss account or income statement,
  - (b) in the company's statement of recognised gains and losses or statement of changes in equity, or
  - (c) in any other statement of items brought into account in calculating the company's profits and losses for that period.
- (7) For the purposes of this section it does not matter whether the parties to any transaction which forms part of the arrangement differ from the parties to any of the other transactions.
- (8) For the purposes of this section the cases in which two or more transactions are to be taken as forming part of an arrangement include any case in which it would be reasonable to assume that one or more of them—
- (a) would not have been entered into independently of the other or others, or
  - (b) if entered into independently of the other or others, would not have taken the same form or been on the same terms.
- (9) If—
- (a) at any time any of sections 502B to 502G has applied for determining the amounts to be taken into account in calculating the profits or losses of the company for the purposes of corporation tax, and
  - (b) conditions A to C are met at any subsequent time,
- those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.
- (10) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (9).]

#### Textual Amendments

**F721** S. 502GC inserted (with effect in accordance with Sch. 20 para. 9(7) of the amending Act) by Finance Act 2008 (c. 9), Sch. 20 para. 9(4)

VALID FROM 21/07/2009

#### [<sup>F723</sup>502QB<sup>F722</sup> Cases where ss 502B to 502G do not apply: films]

- (1) If a company is or has been a lessor under a long funding lease of a film, sections 502B to 502G do not apply in respect of the lease.
- (2) “Film” has the same meaning as in Part 15 of CTA 2009 (see section 1181 of that Act).]

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### Textual Amendments

- F722** S. 502GA and preceding cross-heading inserted (with effect in accordance with Sch. 20 para. 9(5) of the amending Act) by Finance Act 2008 (c. 9), Sch. 20 para. 9(2)
- F723** S. 502GD inserted (with effect in accordance with Sch. 33 para. 3 of the amending Act) by Finance Act 2009 (c. 10), Sch. 33 para. 1

## *Insurance company as lessor*

### **502H Insurance company as lessor**

- (1) This section applies to a company carrying on life assurance business if it is the lessor under a long funding lease in a period of account.
- (2) In this section—
  - (a) subsections (3) to (7) have effect in relation to—
    - (i) basic life assurance and general annuity business, and
    - (ii) long-term business which is not life assurance business, and
  - (b) subsections (8) to (10) have effect in relation to certain computations falling to be made in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) Subsection (4) below applies in the case of each of the following amounts—
  - (a) an amount of rental earnings which the company is required by section 502B (long funding finance lease) to bring into account as taxable income,
  - (b) an amount treated under section 502C(3)(a) (long funding finance lease: lessor's exceptional items) as a profit arising to the company,
  - (c) an amount of rental income arising to the company from a long funding operating lease,
  - (d) an amount treated under section 502G(8)(a) (long funding operating lease: lessor's excess termination amount) as a profit arising to the company,
 but only if the leased asset is an asset of the company's long-term insurance fund.
- (4) In determining for the purposes of the Corporation Tax Acts in any such case the extent to which any such amount is referable to—
  - (a) basic life assurance and general annuity business, or
  - (b) long-term business which is not life assurance business,
 section 432A (apportionment of insurance companies' income) is to have effect in relation to the amount as it has effect in relation to the income arising from an asset.
 

This subsection is subject to subsections (5) and (6) below.
- (5) Before applying subsection (4) above in a case where—
  - (a) that subsection applies by virtue of subsection (3)(a) above in relation to an amount of rental earnings, and
  - (b) there is an amount which is deductible as a revenue expense by virtue of section 502C(3)(b) (long funding finance lease: lessor's exceptional items),
 the amount so deductible is to be given effect by applying it, so far as possible, in reducing the amount of the rental earnings.

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- (6) Before applying subsection (4) above by virtue of subsection (3)(c) above in relation to an amount of rental income,—
- (a) any deduction falling to be made under section 502E, or
  - (b) any reduction falling to be made under section 502F,
- is to be given effect by applying it, so far as possible, in reducing (or further reducing) the amount of the rental income.
- (7) Where, after applying amounts in making reductions required by subsection (5) or (6) above, there remains unapplied an amount in respect of—
- (a) a deduction falling to be made under section 502E,
  - (b) a reduction falling to be made under section 502F, or
  - (c) an amount deductible as a revenue expense by virtue of section 502C(3)(b),
- the amount is to be apportioned under section 432A in the same way as income.
- (8) Where—
- (a) the leased asset is an asset of the company's long-term insurance fund, and
  - (b) a computation falling within subsection (9) below falls to be made,
- subsection (10) below applies to the computation.
- (9) A computation falls within this subsection if it is a computation of profits of—
- (a) life assurance business carried on by the company, or
  - (b) any category of life assurance business carried on by the company,
- and falls to be made in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (10) In making the computation, no amount shall be brought into account by virtue of any of the following provisions—
- (a) section 502B (long funding finance lease: rental earnings),
  - (b) section 502C(3)(a) or (b) (long funding finance lease: profit or loss in respect of exceptional items),
  - (c) section 502E (long funding operating lease: periodic deduction),
  - (d) section 502F (long funding operating lease: lessor's additional expenditure),
  - (e) section 502G(8)(a) or (b) (long funding operating lease: lessor's profit or loss in respect of termination amount).

#### *Lessees under long funding finance leases*

### **502I Lessee under long funding finance lease: limit on deductions**

- (1) This section applies for determining for the purposes of corporation tax the profits of a company for any period of account in which it is the lessee of any plant or machinery under a long funding finance lease.
- (2) In calculating the company's profits for the period of account,—
- (a) the amount deducted in respect of amounts payable under the lease, must not exceed
  - (b) the amounts which, in accordance with generally accepted accounting practice, fall (or would fall) to be shown in the company's accounts as finance charges in respect of the lease.

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- (3) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, subsection (2) above applies as if the lease were one which, under generally accepted accounting practice, fell to be treated as a finance lease.

#### **502J Lessee under long funding finance lease: termination**

- (1) This section applies where—
- (a) a company is or has been the lessee under a long funding finance lease, and
  - (b) in connection with the termination of the lease, a payment calculated by reference to the termination value falls to be made to the company.
- (2) The payment is not to be brought into account in determining for the purposes of corporation tax the profits of the company for any period of account.
- (3) Subsection (2) above does not affect the amount of any disposal value that falls to be brought into account by the company under the Capital Allowances Act.

#### *Lessees under long funding operating leases*

#### **502K Lessee under long funding operating lease**

- (1) This section applies for determining for the purposes of corporation tax the profits of a company for any period of account in which it is the lessee of any plant or machinery under a long funding operating lease.
- (2) The deductions that may be allowed in computing the profits of the company for the period of account are to be reduced in accordance with the following provisions of this section.
- (3) The amount of the reduction for any period of account is to be determined as follows.
- (4) First, find the “relevant value” for the purposes of subsection (6)(a) below, which is—
- (a) the market value of the plant or machinery at the commencement of the term of the lease, unless paragraph (b) below applies;
  - (b) if the lessee—
    - (i) has the use of the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity, but
    - (ii) brings the plant or machinery into use for the purposes of a qualifying activity on or after 1st April 2006,
 the lower of first use market value and first use amortised market value.
- (5) In subsection (4) above—
- “first use amortised market value” means the value that the plant or machinery would have—
- (a) at the time when it is first brought into use for the purposes of the qualifying activity, but
  - (b) on the assumption that the market value of the plant or machinery at the commencement of the term of the lease had been written off on a

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straight line basis over the remaining useful economic life of the plant or machinery;

“first use market value” means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity.

- (6) From—
- (a) the relevant value determined in accordance with subsection (4) above, subtract
  - (b) the amount which, at the commencement of the term of the lease, is (or, in a case falling within subsection (4)(b) above, would have been) expected to be the market value of the plant or machinery at the end of the term of the lease, to find the expected gross reduction over the term of the lease.
- (7) Apportion the amount of that expected gross reduction to each period of account in which any part of the term of the lease falls.
- (8) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each period of account.
- (9) The amount of the reduction for any period of account is the amount so apportioned to that period.

#### *Interpretation of Chapter]*

#### **502L Interpretation of this Chapter**

- (1) This section has effect for the interpretation of this Chapter.
- (2) In this Chapter—
- “qualifying activity” has the same meaning as in Part 2 of the Capital Allowances Act;
  - “residual value”, in relation to any plant or machinery leased under a long funding operating lease, means—
    - (a) the estimated market value of the plant or machinery on a disposal at the end of the term of the lease,
    - less
    - (b) the estimated costs of that disposal.
- (3) Any reference in this Chapter to a sum being written off on a straight line basis over a period of time (the “writing-off period”) is a reference to—
- (a) the sum being apportioned between each of the periods of account in which any part of the writing-off period falls,
  - (b) that apportionment being made on a time basis, according to the proportion of the writing-off period that falls in each of the periods of account, and
  - (c) the sum being written off accordingly.
- (4) Chapter 6A of Part 2 of the Capital Allowances Act (interpretation of provisions about long funding leases) applies in relation to this Chapter as it applies in relation to that Part.

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## CHAPTER VI

### MISCELLANEOUS BUSINESSES AND BODIES

#### [<sup>F724</sup>503 Letting of furnished holiday accommodation treated as a trade for certain purposes.

- (1) For the purposes specified in subsection (2)—
- (a) a Schedule A business which consists in, or so far as it consists in, the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as if it were a trade the profits of which are chargeable to tax under Case I of Schedule D, and
  - (b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.

The “commercial letting of furnished holiday accommodation” is defined below in section 504.

- (2) Subsection (1) above applies for the purposes of—
- (a) Chapters I and II of Part X (loss relief for income tax and corporation tax), and
  - (b) sections 623(2)(c), 644(2)(c) and 833(4)(c) (income regarded as relevant earnings for pension purposes or as earned income).
- (3) Chapter I of Part X (loss relief for income tax) as applied by this section has effect with the following adaptations—
- (a) no relief shall be given to an individual under section 381 (relief for losses in early years of trade) in respect of a year of assessment if any of the accommodation in respect of which the trade is carried on in that year was first let by that person as furnished accommodation more than three years before the beginning of that year of assessment;
  - (b) section 384 (restrictions on right of set-off) has effect with the omission of subsections (6) to (8) and the words after paragraph (b) in subsection (10) (which relate to certain losses attributable to capital allowances);
  - (c) section 390 (treatment of interest as loss) has effect as if the reference to a trade the profits of which are chargeable to tax under Case I of Schedule D were a reference to the Schedule A business so far as it is treated as a trade.
- (4) Where there is a letting of accommodation only part of which is holiday accommodation, such apportionments shall be made for the purposes of this section as are just and reasonable.
- (5) Relief shall not be given for the same loss, or the same portion of a loss, both under a provision of Part X as applied by this section and under any other provision of the Tax Acts.]

#### Textual Amendments

**F724** S. 503 substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 5 para. 42](#) (with [Sch. 5 para. 73](#))

#### Modifications etc. (not altering text)

**C150** S. 503 applied (with effect in accordance with s. 579 of the affecting Act) by [Capital Allowances Act 2001 \(c. 2\), s. 249\(2\)](#) (with [Sch. 3 paras. 54, 55](#))

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**C151** S. 503 applied (with effect in accordance with Sch. 29 Pt. 14 of the affecting Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 29 para. 32\(4\)](#)

#### 504 Supplementary provisions.

- (1) <sup>M94</sup>This section has effect for the purposes of section 503.
- (2) A letting—
  - (a) is a commercial letting if it is let on a commercial basis and with a view to the realisation of profits; and
  - (b) is of furnished accommodation if the tenant is entitled to the use of furniture.
- (3) Accommodation shall not be treated as holiday accommodation for the purposes of this section unless—
  - (a) it is available for commercial letting to the public generally as holiday accommodation for periods which amount, in the aggregate, to not less than 140 days;
  - (b) the periods for which it is so let amount in the aggregate to at least 70 days; and
  - (c) for a period comprising at least seven months (which need not be continuous but includes any months in which it is let as mentioned in paragraph (b) above) it is not normally in the same occupation for a continuous period exceeding 31 days.
- (4) Any question whether accommodation let by any person other than a company is, at any time in a year of assessment, holiday accommodation shall be determined—
  - (a) if the accommodation was not let by him as furnished accommodation in the preceding year of assessment but is so let in the following year of assessment, by reference to the 12 months beginning with the date on which he first so let it in the year of assessment;
  - (b) if the accommodation was let by him as furnished accommodation in the preceding year of assessment but is not so let in the following year of assessment, by reference to the 12 months ending with the date on which he ceased so to let it in the year of assessment; and
  - (c) in any other case, by reference to the year of assessment.
- (5) Any question whether accommodation let by a company is at any time in an accounting period holiday accommodation shall be determined—
  - (a) if the accommodation was not let by it as furnished accommodation in the period of 12 months immediately preceding the accounting period but is so let in the period of 12 months immediately following the accounting period, by reference to the 12 months beginning with the date in the accounting period on which it first so let it;
  - (b) if the accommodation was let by it as furnished accommodation in the period of 12 months immediately preceding the accounting period but is not so let by it in the period of 12 months immediately following the accounting period, by reference to the 12 months ending with the date in the accounting period on which it ceased so to let it;
  - (c) in any other case, by reference to the period of 12 months ending with the last day of the accounting period.
- (6) Where, in any year of assessment or accounting period, a person lets furnished accommodation which is treated as holiday accommodation for the purposes of

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this section in that year or period (“the qualifying accommodation”), he may make a claim under this subsection, within [<sup>F725</sup>the time specified in subsection (6A) below], for averaging treatment to apply for that year or period to that and any other accommodation specified in the claim which was let by him as furnished accommodation during that year or period and would fall to be treated as holiday accommodation in that year or period if subsection (3)(b) above were satisfied in relation to it.

[<sup>F726</sup>(6A) The time mentioned in subsection (6) above is—

- (a) in the case of a claim for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which the accommodation was let;
  - (b) in the case of a claim for the purposes of corporation tax, the period of two years beginning at the end of the accounting period in which the accommodation was let.]
- (7) Where a claim is made under subsection (6) above in respect of any year of assessment or accounting period, any such other accommodation shall be treated as being holiday accommodation in that year or period if the number of days for which the qualifying accommodation and any other such accommodation was let by the claimant as mentioned in subsection (3)(a) above during the year or period amounts on average to at least 70.
- (8) Qualifying accommodation may not be specified in more than one claim in respect of any one year of assessment or accounting period.
- (9) For the purposes of this section a person lets accommodation if he permits another person to occupy it, whether or not in pursuance of a lease; and “letting” and “tenant” shall be construed accordingly.

#### Textual Amendments

**F725** Words in s. 504(6) substituted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 14(2)**

**F726** S. 504(6A) inserted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 14(3)**

#### Modifications etc. (not altering text)

**C152** S. 504 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 241(2), 289** (with ss. 60, 101(1), 171, 201(3))

#### Marginal Citations

**M94** Source—1984 s.50(2)-(9)

VALID FROM 06/04/2005

#### [<sup>F727</sup>504A] Letting of furnished holiday accommodation treated as trade for certain income tax purposes

- (1) For the purposes specified in subsection (2)—



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- (a) a UK property business which consists in, or so far as it consists in, the commercial letting of furnished holiday accommodation is treated as if it were a trade the profits of which are chargeable to income tax under Part 2 of ITTOIA 2005, and
- (b) all such lettings made by a particular person or partnership or body of persons are treated as one trade.

The “commercial letting of furnished holiday accommodation” has the same meaning as it has for the purposes of Chapter 6 of Part 3 of ITTOIA 2005.

- (2) Subsection (1) applies for the purposes of—
  - (a) Chapter 1 of Part 10 (loss relief for income tax),
  - (b) section 833(4)(c) (income regarded as earned income), and
  - (c) section 189(2)(b) of the Finance Act 2004 (income regarded as relevant UK earnings for pension purposes).
- (3) Chapter 1 of Part 10 as applied by this section has effect with the following adaptations—
  - (a) no relief is to be given to an individual under section 381 (relief for losses in early years of trade) in respect of a year of assessment if any of the accommodation in respect of which the trade is carried on in that year was first let by that person as furnished accommodation more than three years before the beginning of that year of assessment;
  - (b) section 384 (restrictions on right of set-off) has effect with the omission of subsections (6) to (8) (which relate to certain losses attributable to capital allowances);
  - (c) section 390 (treatment of interest as loss) has effect as if the reference to a trade carried on wholly or partly in the United Kingdom were a reference to the UK property business so far as it is treated as a trade.
- (4) If there is a letting of accommodation only part of which is holiday accommodation, such apportionments are to be made for the purposes of this section as are just and reasonable.
- (5) Relief is not to be given for the same loss, or the same portion of a loss, both under a provision of Chapter 1 of Part 10 as applied by this section and under any other provision of the Income Tax Acts.]

#### Textual Amendments

**F727** S. 504A inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5)*, **Sch. 1 para. 197** (with Sch. 2)

#### 505 Charities: general.

- (1) <sup>M95</sup>Subject to subsections (2) and (3) below, the following exemptions shall be granted on a claim in that behalf to the Board—
  - [<sup>F728</sup>(a) exemption from tax under Schedules A and D in respect of any profits or gains arising in respect of rents or other receipts from an estate, interest or right in or over any land (whether situated in the United Kingdom or elsewhere) to the extent that the profits or gains—

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- (i) arise in respect of rents or receipts from an estate, interest or right vested in any person for charitable purposes; and
- (ii) are applied to charitable purposes only;]
- <sup>F729</sup>(b) .....
- (c) exemption—
  - (i) <sup>F730</sup> .....
  - <sup>F731</sup>(ii) from tax under Case III of Schedule D,
  - (iia) from tax under Case IV or V of Schedule D in respect of income equivalent to income chargeable under Case III of that Schedule but arising from securities or other possessions outside the United Kingdom,
  - (iib) from tax under Case V of Schedule D in respect of income consisting in any such dividend or other distribution of a company not resident in the United Kingdom as would be chargeable to tax under Schedule F if the company were so resident, and]
  - <sup>F732</sup>(iic) from tax under Case VI of Schedule D in respect of non-trading gains on intangible fixed assets under Schedule 29 to the Finance Act 2002, and]
  - (iii) from tax under Schedule F in respect of any distribution, where the income in question forms part of the income of a charity, or is, according to rules or regulations established by Act of Parliament, charter, decree, deed of trust or will, applicable to charitable purposes only, and so far as it is applied to charitable purposes only;
- <sup>F733</sup>(d) exemption from tax under Schedule D in respect of public revenue dividends on securities which are in the name of trustees, to the extent that the dividends are applicable and applied only for the repair of—
  - (i) any cathedral, college, church or chapel, or
  - (ii) any building used only for the purposes of divine worship;]
- (e) exemption from tax under Schedule D in respect of the profits of any trade carried on by a charity <sup>F734</sup>(whether in the United Kingdom or elsewhere)], if the profits are applied solely to the purposes of the charity and either—
  - (i) the trade is exercised in the course of the actual carrying out of a primary purpose of the charity; or
  - (ii) the work in connection with the trade is mainly carried out by beneficiaries of the charity;
- <sup>F735</sup>(f) exemption from tax under Schedule D in respect of profits accruing to a charity from a lottery if—
  - (i) the lottery is promoted and conducted in accordance with section 3 or 5 of the <sup>M96</sup>Lotteries and Amusements Act 1976 or Article 133 or 135 of the <sup>M97</sup>Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985; and
  - (ii) the profits are applied solely to the charity’s purposes.]
- <sup>F736</sup>(1A) In subsection (1)(d) above “public revenue dividends” means—
  - (a) income from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland;
  - (b) income from securities issued by or on behalf of a government or a public or local authority in a country outside the United Kingdom.]
- (2) <sup>M98</sup>Any payment which—

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- (a) is received by a charity from another charity; and
  - (b) is not made for full consideration in money or money's worth; and
  - (c) is not chargeable to tax apart from this subsection; and
  - (d) is not, apart from this subsection, of a description which (on a claim) would be eligible for relief from tax by virtue of any provision of subsection (1) above;
- shall be chargeable to tax under Case III of Schedule D but shall be eligible for relief from tax under subsection (1)(c) above as if it were an annual payment.
- (3) <sup>M99</sup>If in any chargeable period of a charity—
- (a) its relevant income and gains are not less than £10,000; and
  - (b) its relevant income and gains exceed the amount of its qualifying expenditure; and
  - (c) the charity incurs, or is treated as incurring, non-qualifying expenditure;
- relief shall not be available under either subsection (1) above or section [F737]256 of the 1992 Act] for so much of the excess as does not exceed the non-qualifying expenditure incurred in that period.
- (4) In relation to a chargeable period of less than 12 months, subsection (3) above shall have effect as if the amount specified in paragraph (a) of that subsection were proportionately reduced.
- (5) In subsection (3) above “relevant income and gains” means—
- (a) income which apart from subsection (1) above would not be exempt from tax together with any income which is taxable notwithstanding that subsection; and
  - (b) gains which apart from section [F737]256 of the 1992 Act] would be chargeable gains together with any gains which are chargeable gains notwithstanding that section.
- (6) <sup>M100</sup>Where by virtue of subsection (3) above there is an amount of a charity's relevant income and gains for which relief under subsection (1) above and section [F737]256 of the 1992 Act] is not available, the charity may, by notice to the Board, specify which items of its relevant income and gains are, in whole or in part, to be attributed to that amount<sup>F738</sup> . . . ; and if within 30 days of being required to do so by the Board, a charity does not give notice under this subsection, the items of its relevant income and gains which are to be attributed to the amount in question shall be such as the Board may determine.
- (7) Where it appears to the Board that two or more charities acting in concert are engaged in transactions of which the main purpose or one of the main purposes is the avoidance of tax (whether by the charities or by any other person), the Board may by notice given to the charities provide that, for such chargeable periods as may be specified in the notice, subsection (3) above shall have effect in relation to them with the omission of paragraph (a).
- (8) An appeal may be brought against a notice under subsection (7) above as if it were notice of the decision of the Board on a claim made by the charities concerned.

#### Textual Amendments

**F728** S. 505(1)(a) substituted (with effect in accordance with s. 146(5) of the amending Act) by Finance Act 1996 (c. 8), s. 146(2)

**F729** Repealed by 1988(F) s.148 and Sch.14 Part V from 6 April 1988.

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- F730** S. 505(1)(c)(i) repealed (with effect in accordance with Sch. 7 para. 32, Sch. 41 Pt. 5(2) Note of the repealing Act) by Finance Act 1996 (c. 8), Sch. 7 para. 19(1), **Sch. 41 Pt. 5(2)** (with Sch. 7 paras. 33-35)
- F731** S. 505(1)(c)(ii)-(iib) substituted for s. 505(1)(c)(ii) (with effect in accordance with s. 146(5) of the amending Act) by Finance Act 1996 (c. 8), **s. 146(3)**
- F732** S. 505(1)(c)(iic) inserted (24.7.2002) by Finance Act 2002 (c. 23), **Sch. 30 para. 3**
- F733** S. 505(1)(d) substituted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by Finance Act 1996 (c. 8), **Sch. 7 para. 19(2)** (with Sch. 7 paras. 33-35)
- F734** Words in s. 505(1)(e) inserted (with effect in accordance with s. 146(5) of the amending Act) by Finance Act 1996 (c. 8), **s. 146(4)**
- F735** S. 505(1)(f) inserted (with effect in accordance with s. 138(2) of the amending Act) by Finance Act 1995 (c. 4), **s. 138(1)**
- F736** S. 505(1A) inserted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by Finance Act 1996 (c. 8), **Sch. 7 para 19(3)** (with Sch. 7 paras. 33-35)
- F737** Words in s. 505(3)(5)(b)(6) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(31)** (with ss. 60, 101(1), 171(1), 201(3))
- F738** Words in s. 505(6) repealed (with effect in accordance with s. 41(9) of the repealing Act) by Finance Act 2000 (c. 17), s. 41(5), **Sch. 40 Pt. 2(1)**, Note 3

#### **Modifications etc. (not altering text)**

- C153** S. 505 modified (3.5.1994) by Finance Act 1994 (c. 9), **s. 171**

#### **Marginal Citations**

- M95** Source—1970 s.360(1)
- M96** 1976 c. 32.
- M97** S.I. 1985/1204 (N.I.11).
- M98** Source—1986 s.30(1)
- M99** Source—1986 s.31(1), (2), (3)(c), (d)
- M100** Source—1986 s.31(7)-(9)

## **506 Qualifying expenditure and non-qualifying expenditure.**

- (1) <sup>M101</sup>In this section, section 505 and Schedule 20—
- “charity” means any body of persons or trust established for charitable purposes only;
- “qualifying expenditure”, in relation to a chargeable period of a charity, means, subject to subsection (3) below, expenditure incurred in that period for charitable purposes only; and
- “non-qualifying expenditure” means expenditure which is not qualifying expenditure.
- (2) <sup>M102</sup>For the purposes of section 505 and subsection (1) above, where expenditure which is not actually incurred in a particular chargeable period properly falls to be charged against the income of that chargeable period as being referable to commitments (whether or not of a contractual nature) which the charity has entered into before or during that period, it shall be treated as incurred in that period.
- (3) A payment made (or to be made) to a body situated outside the United Kingdom shall not be qualifying expenditure by virtue of this section unless the charity concerned has taken such steps as may be reasonable in the circumstances to ensure that the payment will be applied for charitable purposes.

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- (4) <sup>M103</sup>If in any chargeable period a charity—
- (a) invests any of its funds in an investment which is not a qualifying investment, as defined in Part I of Schedule 20; or
  - (b) makes a loan (not being an investment) which is not a qualifying loan, as defined in Part II of that Schedule;
- then, subject to subsection (5) below, the amount so invested or lent in that period shall be treated for the purposes of this section as being an amount of expenditure incurred by the charity, and, accordingly, as being non-qualifying expenditure.
- (5) If, in any chargeable period, a charity which has in that period made an investment or loan falling within subsection (4) above—
- (a) realises the whole or part of that investment; or
  - (b) is repaid the whole or part of that loan;
- any further investment or lending in that period of the sum realised or repaid shall, to the extent that it does not exceed the sum originally invested or lent, be left out of account in determining the amount which, by virtue of subsection (4) above, is treated as non-qualifying expenditure incurred in that period.
- (6) If the aggregate of the qualifying and non-qualifying expenditure incurred by a charity in any chargeable period exceeds the relevant income and gains of that period, Part III of Schedule 20 shall have effect to treat, in certain cases, some or all of that excess as non-qualifying expenditure incurred in earlier periods.

**Modifications etc. (not altering text)**

**C154** *Definition employed for purposes of:* 1990 s.25—*donation to charity by individuals.* 1990 s.56 and Sch.10 para.21—*exemption for convertible securities held by charities.* 1990 s.94(1)—*inspection powers (definition extended to cover bodies mentioned in sections 507 and 508).*

**Marginal Citations**

**M101** Source—1970 s.360(3); 1986 s.31(1)(a), (c), Sch.7 1(1)

**M102** Source—1986 Sch.7 1(2), (3)

**M103** Source—1986 s.31(4)-(6)

VALID FROM 19/07/2006

**[<sup>F739</sup>506A] Transactions with substantial donors**

- (1) This section applies to the following transactions—
- (a) the sale or letting of property by a charity to a substantial donor,
  - (b) the sale or letting of property to a charity by a substantial donor,
  - (c) the provision of services by a charity to a substantial donor,
  - (d) the provision of services to a charity by a substantial donor,
  - (e) an exchange of property between a charity and a substantial donor,
  - (f) the provision of financial assistance by a charity to a substantial donor,
  - (g) the provision of financial assistance to a charity by a substantial donor, and
  - (h) investment by a charity in the business of a substantial donor.

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- (2) For the purposes of this section a person is a substantial donor to a charity in respect of a chargeable period if—
- (a) the charity receives relieviable gifts of at least £25,000 from him in a period of 12 months in which the chargeable period wholly or partly falls, or
  - (b) the charity receives relieviable gifts of at least £100,000 from him in a period of six years in which the chargeable period wholly or partly falls;
- and if a person is a substantial donor to a charity in respect of a chargeable period by virtue of paragraph (a) or (b), he is a substantial donor to the charity in respect of the following five chargeable periods.
- (3) A payment made by a charity to a substantial donor in the course of or for the purposes of a transaction to which this section applies shall be treated for the purposes of section 505 as non-charitable expenditure.
- (4) If the terms of a transaction to which this section applies are less beneficial to the charity than terms which might be expected in a transaction at arm's length, the charity shall be treated for the purposes of section 505 as incurring non-charitable expenditure equal to that amount which the Commissioners for Her Majesty's Revenue and Customs determine as the cost to the charity of the difference in terms.
- (5) A payment by a charity of remuneration to a substantial donor shall be treated for the purposes of section 505 as non-charitable expenditure unless it is remuneration, for services as a trustee, which is approved by—
- (a) the Charity Commission,
  - (b) another body with responsibility for regulating charities by virtue of legislation having effect in respect of any Part of the United Kingdom, or
  - (c) a court.]

#### Textual Amendments

**F739** Ss. 506A-506C inserted (with effect in accordance with s. 54(2)(3) of the amending Act) by Finance Act 2006 (c. 25), s. 54(1)

VALID FROM 19/07/2006

#### **F739** Section 506A: exceptions

- (1) Section 506A shall not apply to a transaction within section 506A(1)(b) or (d) if the Commissioners for Her Majesty's Revenue and Customs determine that the transaction—
- (a) takes place in the course of a business carried on by the substantial donor,
  - (b) is on terms which are no less beneficial to the charity than those which might be expected in a transaction at arm's length, and
  - (c) is not part of an arrangement for the avoidance of any tax.
- (2) Section 506A shall not apply to the provision of services to a substantial donor if the Commissioners determine that the services are provided—
- (a) in the course of the actual carrying out of a primary purpose of the charity, and

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- (b) on terms which are no more beneficial to the substantial donor than those on which services are provided to others.
- (3) Section 506A shall not apply to the provision of financial assistance to a charity by a substantial donor if the Commissioners determine that the assistance—
  - (a) is on terms which are no less beneficial to the charity than those which might be expected in a transaction at arm's length, and
  - (b) is not part of an arrangement for the avoidance of any tax.
- (4) Section 506A shall not apply to investment by a charity in the business of a substantial donor where the investment takes the form of the purchase of shares or securities listed on a recognised stock exchange.
- (5) A disposal at an undervalue to which section 587B applies shall not be a transaction to which section 506A applies (but may be taken into account in the application of section 506A(2)).
- (6) A disposal at an undervalue to which section 257(2) of the 1992 Act (gifts of chargeable assets) applies shall not be a transaction to which section 506A applies (but may be taken into account in the application of section 506A(2)).
- (7) In the application of section 506A payments by a charity, or benefits arising to a substantial donor from a transaction, shall be disregarded in so far as they—
  - (a) relate to a donation by the donor, and
  - (b) do not exceed the relevant limit in relation to the donation for the purposes of section 339 or section 25 of the Finance Act 1990.
- (8) A company which is wholly owned by a charity within the meaning of section 339(7AB) shall not be treated as a substantial donor in relation to the charity which owns it (or any of the charities which own it).
- (9) A registered social landlord or housing association shall not be treated as a substantial donor in relation to a charity with which it is connected; and for that purpose—
  - (a) “registered social landlord or housing association” means a body entered on a register maintained under—
    - (i) section 1 of the Housing Act 1996,
    - (ii) section 57 of the Housing (Scotland) Act 2001, or
    - (iii) Article 14 of the Housing (Northern Ireland) Order 1992, and
  - (b) a body and a charity are connected if (and only if)—
    - (i) the one is wholly owned, or subject to control, by the other, or
    - (ii) both are wholly owned, or subject to control, by the same person.]

#### Textual Amendments

**F739** Ss. 506A-506C inserted (with effect in accordance with s. 54(2)(3) of the amending Act) by Finance Act 2006 (c. 25), s. 54(1)

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VALID FROM 19/07/2006

**[<sup>F739</sup>506C Sections 506A and 506B: supplemental**

- (1) A gift is “relievable” for the purposes of section 506A(2) if relief is available in respect of it under—
  - (a) section 83A,
  - (b) section 339,
  - (c) sections 587B and 587C,
  - (d) section 25 of the Finance Act 1990 (individual gift aid),
  - (e) section 257 of the 1992 Act (gifts of chargeable assets),
  - (f) section 63 of the Capital Allowances Act (gifts of plant and machinery),
  - (g) sections 713 to 715 of ITEPA 2003 (payroll giving),
  - (h) section 108 of ITTOIA 2005 (gifts of trading stock), or
  - (i) sections 628 and 630 of ITTOIA 2005 (gifts from settlor-interested trusts).
- (2) A charity is treated as incurring expenditure in accordance with section 506A(4) at such time (or times) as the Commissioners determine.
- (3) Section 506A applies to a transaction entered into in a chargeable period with a person who is a substantial donor in respect of that period, even if it was not until after the transaction was entered into that he first satisfied the definition of “substantial donor” in respect of that period.
- (4) Either or both of subsections (3) and (4) of section 506A may be applied to a single transaction; but any amount of non-charitable expenditure which a charity is treated as incurring under section 506A(3) in respect of a transaction shall be deducted from any amount which it would otherwise be treated as incurring under section 506A(4) in respect of the transaction.
- (5) Two or more connected charities shall be treated as a single charity for the purposes of section 506A and 506B and this section; and for this purpose “connected” means connected in a matter relating to the structure, administration or control of a charity.
- (6) Where remuneration is paid otherwise than in money, section 506A(5) shall apply as to a payment in money of the amount that would, under Part 3 of ITEPA 2003, be the cash equivalent of the remuneration as a benefit.
- (7) In sections 506A and 506B and this section—
  - (a) a reference to a substantial donor or other person includes a reference to a person connected with him within the meaning of section 839,
  - (b) “financial assistance” includes, in particular—
    - (i) the provision of a loan, guarantee or indemnity, and
    - (ii) entering into alternative finance arrangements within the meaning of section 46 of the Finance Act 2005, and
  - (c) a reference to a gift of a specified amount includes a reference to a non-monetary gift of that value.
- (8) On an appeal against an assessment the Special Commissioners may review a decision of the Commissioners in connection with section 506A.



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(9) The Treasury may by regulations vary a sum, or a period of time, specified in section 506A(2).]

#### Textual Amendments

**F739** Ss. 506A-506C inserted (with effect in accordance with s. 54(2)(3) of the amending Act) by Finance Act 2006 (c. 25), s. 54(1)

### 507 The National Heritage Memorial Fund, the Historic Buildings and Monuments Commission for England and the British Museum.

(1) <sup>M104</sup>There shall on a claim in that behalf to the Board be allowed in the case of—

- (a) the Trustees of the National Heritage Memorial Fund;
- (b) the Historic Buildings and Monuments Commission for England;

[<sup>F740</sup>(c) the Trustees of the British Museum;

(d) the Trustees of the [<sup>F741</sup>Natural History Museum];]

[<sup>F742</sup>(e) <sup>F743</sup>.....]

[<sup>F744</sup>(f) the National Endowment for Science, Technology and the Arts;]

such exemption from tax as falls to be allowed under section 505 in the case of a charity the whole income of which is applied to charitable purposes.

<sup>F745</sup>(2) .....

#### Textual Amendments

**F740** 1989 s.60(1) in relation to accounting periods ending on or after 14 March 1989.

**F741** Words in s. 507(1)(d) substituted (1.9.1992) by Museums and Galleries Act 1992 (c. 44), s. 11(2), Sch. 8 para. 1(8); S.I. 1992/1874, art. 2

**F742** S. 507(1)(e) inserted (1.11.1992) by S.I. 1992/2383, reg. 2(2), Sch. para.11

**F743** S. 507(1)(e) omitted (19.4.1999) by virtue of The United Kingdom Ecolabelling Board (Abolition) Regulations 1999 (S.I. 1999/931), regs. 1, 9

**F744** S. 507(1)(f) inserted (2.7.1998) by National Lottery Act 1998 (c. 22), s. 24(1), 27(4)(b)

**F745** Repealed by 1989 ss.60(1) and 187 and Sch.17 Part IV in relation to accounting periods ending on or after 14 March 1989.

#### Modifications etc. (not altering text)

**C155** See 1989 s.59—these bodies treated as established for charitable purposes for purposes of s.59 (covenanted subscriptions). 1990 s.25—donations to charity by individuals.

#### Marginal Citations

**M104** Source—1980 s.118(1); 1983 s.46(1)

### 508 Scientific research organisations.

(1) <sup>M105</sup>Where—

- (a) an Association which has as its object the undertaking of scientific research which may lead to or facilitate an extension of any class or classes of trade is approved for the purposes of this section by the Secretary of State; and

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- (b) the memorandum of association or other similar instrument regulating the functions of the Association precludes the direct or indirect payment or transfer to any of its members of any of its income or property by way of dividend, gift, division, bonus or otherwise howsoever by way of profit; there shall, on a claim in that behalf to the Board, be allowed in the case of the Association such exemption from tax as falls to be allowed under section 505 in the case of a charity the whole income of which is applied to charitable purposes.
- (2) The condition specified in paragraph (b) of subsection (1) above shall not be deemed not to be complied with in the case of any Association by reason only that the memorandum or other similar instrument regulating its functions does not prevent the payment to its members of reasonable remuneration for goods, labour or power supplied, or for services rendered, of reasonable interest for money lent, or of reasonable rent for any premises.
- (3) In this section “scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.

#### **Marginal Citations**

**M105** Source—1970 s.362

#### **[<sup>F746</sup>508A] Investment trusts investing in housing.**

- (1) Where any company that is an investment trust has eligible rental income for any accounting period—
- (a) the rate of corporation tax chargeable for any financial year on the trust’s housing investment profits for that period shall be deemed to be the small companies’ rate for that year; and
  - (b) its housing investment profits for that period shall be treated for the purposes of section 13 as excluded from its basic profits for that period.
- (2) For the purposes of this section—
- (a) a company’s eligible rental income for any period is so much of its income for that period as consists in rents or other receipts deriving from lettings by the company of eligible properties; and
  - (b) its housing investment profits for any period are so much of its profits for that period as represents the amount chargeable to tax under Schedule A in respect of its eligible rental income for that period.
- (3) In computing the amount mentioned in subsection (2)(b) above for any period, deductions shall be made which (except in so far as they exceed the amount from which they are deducted) are, in aggregate, not less than the sum of the following amounts—
- (a) every amount which is both—
    - (i) deductible (otherwise than as a debit brought into account under Chapter II of Part IV of the Finance Act 1996) in the computation of any income of the company, or of its total profits, for that period, and
    - (ii) referable to, or to activities connected with, the letting by the company on assured tenancies of dwelling-houses that are eligible properties when so let,

and

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- (b) any amount that is so referable that would represent a non-trading deficit on the company's loan relationships for that period.
- (4) For the purposes of subsection (3) above any question—
- (a) whether for any period there is an amount referable to any matter that would represent a non-trading deficit on a company's loan relationships, or
  - (b) as to what that amount is for that period,
- shall be determined by computing whether and to what extent there would for that period have been a non-trading deficit on the company's loan relationships if debits and credits fell to be brought into account under Chapter II of Part IV of the Finance Act 1996 to the extent only that they are referable to that matter.]

#### Textual Amendments

**F746** Ss. 508A, 508B inserted (with effect in accordance with Sch. 30 para. 3 of the amending Act) by Finance Act 1996 (c. 8), Sch. 30 para. 1

#### [<sup>F746</sup>508B] Interpretation of section 508A.

- (1) In section 508A “eligible property”, in relation to a company, means (subject to the following provisions of this section) any dwelling-house as respects which the following conditions are satisfied—
- (a) the company first acquired an interest in the dwelling-house on or after 1st April 1996;
  - (b) that interest was not, at the time when it was acquired, subject to any letting or to any statutory tenancy;
  - (c) at that time no arrangements had been made by the company or any person connected with it for the letting of the dwelling-house;
  - (d) the interest of the company in the dwelling-house is a freehold interest or an interest under a long lease at a low rent;
  - (e) the consideration given by the company for the acquisition of its interest in the dwelling-house did not exceed—
    - (i) £125,000, in the case of a dwelling-house in Greater London, or
    - (ii) £85,000, in any other case;
  - (f) the dwelling-house is let by the company under an assured tenancy and is neither—
    - (i) let by the company in consideration of a premium within the meaning of Schedule 8 to the 1992 Act, nor
    - (ii) a dwelling-house in respect of which the person to whom it is let or any associate of his has been granted any option to purchase.
- (2) For the purposes of paragraph (b) of subsection (1) above, no account shall be taken of any shorthold tenancy or statutory shorthold tenancy to which the interest became subject before the time when it was acquired.
- (3) For the purposes of paragraph (c) of subsection (1) above, no account shall be taken of any arrangements made by a person connected with the company in question before the time when the interest was acquired by the company if—
- (a) that person had an interest in the dwelling-house when he made those arrangements;

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- (b) that person did not dispose of his interest at any time after the arrangements were entered into and before the company acquired its interest; and
  - (c) the arrangements were such as to confer a relevant entitlement on a person who, at the time when the company acquired its interest, was a tenant under any shorthold tenancy of the dwelling-house (or any part of it).
- (4) For the purposes of subsection (3)(c) above a relevant entitlement is an entitlement of a tenant under a shorthold tenancy of any premises, on the coming to an end of that tenancy, to such a further tenancy of the same or substantially the same premises as will itself be a shorthold tenancy.
- (5) For the purposes of this section the consideration given by a company for the acquisition of an interest in a dwelling-house shall be taken (subject to subsection (6) below) to include—
- (a) any amount expended by the company on the construction or renovation of the dwelling-house or on any conversion by virtue of which that dwelling-house came to be usable as such;
  - (b) any amount so expended by a person connected with the company; and
  - (c) any consideration given by a person connected with the company for the acquisition of any such interest in the dwelling-house as—
    - (i) is subsequently acquired by the company, or
    - (ii) is held by such a person at the same time as the company holds its interest in the premises.
- (6) Where a company has acquired any interest in a dwelling house from a person connected with that company—
- (a) amounts expended by that person as mentioned in paragraph (a) of subsection (5) above, and
  - (b) the amount of any consideration given by that person for an interest in the dwelling-house,
- shall be treated by virtue of that subsection as included in the consideration given by the company to the extent only that the aggregate of those amounts exceeds the consideration given by that company to that person for the interest acquired from that person by the company.
- (7) In section 508A and this section—
- “associate” has the meaning given by subsections (3) and (4) of section 417;
  - “assured tenancy” means—
    - (a) any letting which is an assured tenancy for the purposes of the <sup>M106</sup>Housing Act 1988 or the <sup>M107</sup>Housing (Scotland) Act 1988, or
    - (b) any tenancy in Northern Ireland which complies with such requirements or conditions as may be prescribed by regulations made by the Department of the Environment for Northern Ireland;
  - “letting” includes a letting by virtue of an agreement for a lease or under a licence, and “let” shall be construed accordingly;
  - “long lease”, in relation to the interest of a company in any dwelling-house, means a lease for a term of years certain of which at least 21 years remains unexpired at the time when that interest was acquired by the company;
  - “low rent” means a rent at an annual rate not exceeding—
    - (a) £1,000, in the case of a dwelling-house in Greater London; and
    - (b) £250, in any other case;

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“rent” has the same meaning as it has for the purposes of Schedule A in its application to companies within the charge to corporation tax;

“shorthold tenancy” means any letting which is an assured shorthold tenancy for the purposes of the <sup>M108</sup>Housing Act 1988 or a short assured tenancy for the purposes of the <sup>M109</sup>Housing (Scotland) Act 1988;

“statutory shorthold tenancy” means—

- (a) a statutory periodic tenancy within the meaning of the Housing Act 1988 which arose on the coming to an end of an assured shorthold tenancy which was a fixed term tenancy, or
- (b) a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988 which arose on the coming to an end of a short assured tenancy;

“statutory tenancy”—

- (a) in relation to England and Wales, has the same meaning as in the <sup>M110</sup>Rent Act 1977;
- (b) in relation to Scotland, has the same meaning as in the <sup>M111</sup>Rent (Scotland) Act 1984; and
- (c) in relation to Northern Ireland, has the same meaning as in the <sup>M112</sup>Rent (Northern Ireland) Order 1978.

(8) Section 839 shall apply for the purposes of this section.

(9) Section 508A shall have effect where—

- (a) a company acquires an interest in any dwelling-house, and
  - (b) a person connected with the company has previously acquired an interest in the dwelling-house, being an interest subsequently acquired by the company or one held by that person at the same time as the company holds its interest,
- as if references in this section (except in subsection (3) above) to the time when the company first acquired an interest in the premises included references to the time when the person connected with the company first acquired his interest.

(10) The Treasury may, if they think fit, by order vary the figures for the time being specified in paragraph (e) of subsection (1) above; and an order under this subsection may make different provision for different localities in Greater London or elsewhere.

(11) In the application of this section to Scotland—

- (a) references to acquiring an interest shall be construed, if there is a contract to acquire the interest, as references to entering into that contract;
- (b) references to the freehold interest shall be construed as references to the estate or interest of the proprietor of the *dominium utile* or, in the case of property other than feudal property, of the owner;
- (c) in the definition of “long lease” in subsection (7) above, the word “certain” shall be omitted.

(12) Regulations made for the purposes of paragraph (b) of the definition of “assured tenancy” in subsection (7) above shall be made by statutory rule for the purposes of the <sup>M113</sup>Statutory Rules (Northern Ireland) Order 1979, and shall be subject to negative resolution within the meaning of section 41(6) of the <sup>M114</sup>Interpretation Act (Northern Ireland) 1954.]

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### Textual Amendments

**F746** Ss. 508A, 508B inserted (with effect in accordance with [Sch. 30 para. 3](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 30 para. 1](#)

### Marginal Citations

**M106** 1988 c. 50.

**M107** 1988 c. 43.

**M108** 1988 c. 50.

**M109** 1988 c. 43.

**M110** 1977 c. 42.

**M111** 1984 c. 58.

**M112** S.I. 1978/1050 (N.I. 20).

**M113** S.I. 1979/1573 (N.I. 12).

**M114** 1954 c. 33 (N.I.).

## 509 Reserves of marketing boards and certain other statutory bodies.

- (1) <sup>M115</sup>Where a body established by or under any enactment and having as its object, or one of its objects, the marketing of an agricultural product or the stabilising of the price of an agricultural product is required, by or under any scheme or arrangements approved by or made with a Minister of the Crown or government department, to pay the whole or part of any surplus derived from its trading operations or other trade receipts into a reserve fund satisfying the conditions specified in subsection (2) below, then, in computing for the purposes of tax the [<sup>F747</sup>profits] or losses of the body's trade—
- (a) there shall be allowed as deductions any sums so required to be paid by the body into the reserve fund out of the [<sup>F747</sup>profits] of the trade, and
  - (b) there shall be taken into account as trading receipts any sums withdrawn by the body from the fund, except so far as they are so required to be paid to a Minister or government department, or are distributed to producers of the product in question or refunded to persons paying any levy or duty.
- (2) The conditions to be satisfied by the reserve fund are as follows—
- (a) that no sum may be withdrawn from the fund without the authority or consent of a Minister of the Crown or government department; and
  - (b) that where money has been paid to the body by a Minister of the Crown or government department in connection with arrangements for maintaining guaranteed prices, or in connection with the body's trading operations, and is repayable to that Minister or department, sums afterwards standing to the credit of the fund are required as mentioned in subsection (1) above to be applied in whole or in part in repaying the money; and
  - (c) that the fund is reviewed by a Minister of the Crown at intervals fixed by or under the scheme or arrangements in question, and any amount by which it appears to the Minister to exceed the reasonable requirements of the body is withdrawn therefrom.
- (3) In this section references to a Minister of the Crown or government department include references to a Head of a Department or a Department in Northern Ireland, and references to producers of a product include references to producers of one type or quality of a product from another.

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#### Textual Amendments

**F747** Words in s. 509(1) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), Sch. 7 para. 1

#### Modifications etc. (not altering text)

**C156** S. 509(1) extended (with modifications) (27.7.1993) by 1993 c. 37, s. 12, Sch. 2 Pt. I para. 23

#### Marginal Citations

**M115** Source—1970 s.348; 1971 s.28(1)

### 510 Agricultural societies.

- (1) <sup>M116</sup>Profits or gains arising to an agricultural society from any exhibition or show held for the purposes of the society shall be exempt from tax if applied solely to the purposes of the society.
- (2) In this section “agricultural society” means any society or institution established for the purpose of promoting the interests of agriculture, horticulture, livestock breeding or forestry.

#### Marginal Citations

**M116** Source—1970 s.361

### <sup>F748</sup>510A European economic interest groupings.

- (1) <sup>M117</sup>In this section “grouping” means a European Economic Interest Grouping formed in pursuance of Council Regulation (EEC) No. 2137/85 of 25th July 1985, whether registered in Great Britain, in Northern Ireland, or elsewhere.
- (2) Subject to the following provisions of this section, for the purposes of charging tax in respect of income and gains a grouping shall be regarded as acting as the agent of its members.
- (3) In accordance with subsection (2) above—
  - (a) for the purposes mentioned in that subsection the activities of the grouping shall be regarded as those of its members acting jointly and each member shall be regarded as having a share of its property, rights and liabilities; and
  - (b) for the purposes of charging tax in respect of [<sup>F749</sup>chargeable gains] a person shall be regarded as acquiring or disposing of a share of the assets of the grouping not only where there is an acquisition or disposal of assets by the grouping while he is a member of it, but also where he becomes or ceases to be a member of a grouping or there is a change in his share of the property of the grouping [<sup>F750</sup>;but paragraph (a) above is subject to subsection (6A) below.]
- (4) Subject to subsection (5) below, for the purposes of this section a member’s share of any property, rights or liabilities of a grouping shall be determined in accordance with the contract under which the grouping is established.

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- (5) Where the contract does not make provision as to the shares of members in the property, rights or liabilities in question a member’s share shall be determined by reference to the share of the profits of the grouping to which he is entitled under the contract (and if the contract makes no provision as to that, the members shall be regarded as having equal shares).
  - (6) <sup>F751</sup> . . . Where any trade or profession is carried on by a grouping it shall be regarded for the purposes of charging tax in respect of income and gains as carried on in partnership by the members of the grouping.
- [ Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) shall have effect in
- <sup>F752</sup>(6A) relation to a grouping as it has effect in relation to a partnership (see in particular section 87A of, and paragraphs 19 and 20 of Schedule 9 to, that Act).]
- (7) <sup>F753</sup> . . . . .
  - (8) <sup>F753</sup> . . . . .]

**Textual Amendments**

**F748** S. 510A inserted (retrospective to 1.7.1989) by [Finance Act 1990 \(c. 29\), Sch. 11 paras. 1, 5](#)

**F749** Words in s. 510A(3)(b) substituted (with effect in accordance with s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\), Sch. 25 para. 49\(2\)](#)

**F750** Words in s. 510A(3) inserted (with effect in accordance with s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\), Sch. 25 para. 49\(3\)](#)

**F751** Words in s. 510A(6) repealed (with effect in accordance with Sch. 29 Pt. 8(16) Note 3 of the repealing Act) by [Finance Act 1995 \(c. 4\), Sch. 29 Pt. 8\(16\)](#)

**F752** S. 510A(6A) inserted (with effect in accordance with s. 82(2) of the amending Act) by [Finance Act 2002 \(c. 23\), Sch. 25 para. 49\(4\)](#)

**F753** S. 510A(7)(8) repealed (with effect in accordance with Sch. 29 Pt. 8(16) Note 3 of the repealing Act) by [Finance Act 1995 \(c. 4\), Sch. 29 Pt. 8\(16\)](#)

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**Marginal Citations**

**M117** Source—O.J. No. L199/1.

**511 The Electricity Council and Boards, the Northern Ireland Electricity Service and the Gas Council.**

- (1) <sup>F754</sup> . . . . .
- (2) <sup>F754</sup> . . . . .
- (3) <sup>F754</sup> . . . . .
- <sup>F755</sup>(4) . . . . .
- <sup>F755</sup>(5) . . . . .
- (6) <sup>F754</sup> . . . . .
- (7) <sup>M118</sup>The Corporation Tax Acts shall apply in relation to the trade of the Gas Council as if before the beginning of April 1962 it had consisted of the trades of the Area Boards (within the meaning of the <sup>M119</sup>Gas Act 1948), and (without prejudice to the generality of the foregoing) allowances and balancing charges shall be made to or on the Gas



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Council accordingly by reference to the capital expenditure of Area Boards and to the allowances made to Area Boards in respect of that expenditure.

#### Textual Amendments

**F754** S. 511(1)–(3)(6) repealed (9.11.2001) by Electricity Act 1989 (c. 29), s. 113(2), Sch. 18; S.I. 2001/3419, art. 2

**F755** S. 511(4)(5) repealed (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 95(4), Sch.14; S.R. 1992/117, art. 3(1)

#### Modifications etc. (not altering text)

**C157** See ss.89 and 90 and Sch.11 Electricity Act 1989 in connection with electricity industry privatisation; and see s.112 and Sch.18 Electricity Act 1989 for changes to s.511 from a day to be appointed.

#### Marginal Citations

**M118** Source—1970 s.350(3)

**M119** 1948 c. 67.

## 512 Atomic Energy Authority and National Radiological Protection Board.

- (1) <sup>M120</sup>The United Kingdom Atomic Energy Authority and the National Radiological Protection Board shall be entitled to exemption from income tax and corporation tax—
- under [<sup>F756</sup>Schedule A];
  - under Schedule D in respect of any yearly interest or other annual payment [<sup>F757</sup>or in respect of public revenue dividends] received by the Authority or Board;
  - under Schedule F in respect of distributions received by the Authority or Board.
- (2) Income arising from investments or deposits held for the purposes of any pension scheme provided and maintained by the Authority shall be treated for the purposes of this section as if that income and the source thereof belonged to the Authority.
- [<sup>F758</sup>(3) In subsection (1) above “public revenue dividends” means—
- income from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland;
  - income from securities issued by or on behalf of a government or a public or local authority in a country outside the United Kingdom.]

#### Textual Amendments

**F756** Words in s. 512(1)(a) substituted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by Finance Act 1996 (c. 8), Sch. 7 para. 20(1)(a)

**F757** Words in s. 512(1)(b) inserted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by Finance Act 1996 (c. 8), Sch. 7 para. 20(1)(b)

**F758** S. 512(3) inserted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by Finance Act 1996 (c. 8), Sch. 7 para. 20(2)

#### Marginal Citations

**M120** Source—1970 s.351

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### 513 British Airways Board and National Freight Corporation.

- (1) <sup>M121</sup>Subject to subsection (2) below, the successor company in which the property, rights, liabilities and obligations of the British Airways Board are vested by the <sup>M122</sup>Civil Aviation Act 1980 shall be treated for all purposes of corporation tax as if it were the same person as the British Airways Board; and the successor company to which the undertaking of the National Freight Corporation is transferred by the <sup>M123</sup>Transport Act 1980 shall be treated for those purposes as if it were the same person as the National Freight Corporation.
- (2) <sup>M124</sup>The transfer by the Civil Aviation Act 1980 from the British Airways Board to the successor company of liability for any loan made to the Board shall not affect any direction in respect of the loan which has been given by the Treasury under section 581.
- (3) A successor company shall not by virtue of subsection (1) above be regarded as a body falling within section [<sup>F759</sup>170(12) of the 1992 Act].

#### Textual Amendments

**F759** Words in s. 513(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(32)** (with ss. 60, 101(1), 171(1), 201(3))

#### Marginal Citations

**M121** Source—1973 s.36(1)  
**M122** 1980 c.60.  
**M123** 1980 c.34.  
**M124** Source—1980 s.119(1)-(3)

### 514 Funds for reducing the National Debt.

<sup>M125</sup>Where any property is held upon trust in accordance with directions which are valid and effective under section 9 of the Superannuation and other <sup>M126</sup>Trust Funds (Validation) Act 1927 (which provides for the validation of trust funds for the reduction of the national debt), any income arising from that property or from any accumulation of any such income, and any profits of any description otherwise accruing to the property and liable to be accumulated under the trust, shall be exempt from income tax.

#### Marginal Citations

**M125** Source—1970 s.364  
**M126** 1927 c. 41.

### 515 Signatories to Operating Agreement for INMARSAT.

- (1) <sup>M127</sup>An overseas signatory to the Operating Agreement made pursuant to the Convention on the International Maritime Satellite Organisation which came into force on 16th July 1979 shall be exempt from income tax and corporation tax in respect of any payment received by that signatory from the Organisation in accordance with that Agreement.

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- (2) In this section “an overseas signatory” means a signatory other than one designated for the purposes of the Agreement by the United Kingdom in accordance with the Convention.

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**Marginal Citations**

M127 Source—1980 s.63

**516 Government securities held by non-resident central banks.**

- (1) <sup>M128</sup>Tax shall not be chargeable on [<sup>F760</sup>income from securities which is payable out of the public revenue of the United Kingdom and which is] income of any bank or issue department of a bank to which this subsection for the time being applies.
- (2) Subsection (1) above shall not prevent any [<sup>F761</sup>such income] being taken into account in computing profits or gains or losses of a business carried on in the United Kingdom.
- (3) A bank or issue department of a bank to which this subsection for the time being applies shall be exempt from tax in respect of chargeable gains accruing to it.
- (4) Her Majesty may by Order in Council direct that subsection (1) or (3), or both, shall apply to any bank, or to its issue department, if it appears to Her Majesty that the bank is not resident in the United Kingdom and is entrusted by the government of a territory outside the United Kingdom with the custody of the principal foreign exchange reserves of that territory.
- (5) No recommendation shall be made to Her Majesty in Council to make an order under this section unless a draft of the order has been laid before the House of Commons and has been approved by resolution of that House.

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**Textual Amendments**

**F760** Words in s. 516(1) substituted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by Finance Act 1996 (c. 8), Sch. 7 para. 21(1)

**F761** Words in s. 516(2) substituted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by Finance Act 1996 (c. 8), Sch. 7 para. 21(2)

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**Modifications etc. (not altering text)**

**C158** For Orders in Council see Part III Vol.5.

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**Marginal Citations**

M128 Source—1970 s.370

**517 Issue departments of the Reserve Bank of India and the State Bank of Pakistan.**

<sup>M129</sup>There shall be exempt from tax any profits or income arising or accruing to the issue department of the Reserve Bank of India constituted under an Act of the Indian legislature called the Reserve Bank of India Act 1934, or to the issue department of the State Bank of Pakistan constituted under certain orders made under section 9 of the <sup>M130</sup>Indian Independence Act 1947.

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### Marginal Citations

M129 Source—1970 s.371

M130 1947 c. 30.

## 518 Harbour reorganisation schemes.

- (1) <sup>M131</sup>This section has effect where the trade of any body corporate other than a limited liability company is transferred to a harbour authority by or under a certified harbour reorganisation scheme which provides also for the dissolution of the transferor.
  - (2) For the purposes of the Corporation Tax Acts, the trade shall not be treated as permanently discontinued, nor shall a new trade be treated as set up and commenced.
  - (3) The transferee shall be entitled to relief from corporation tax under section 393(1), as for a loss sustained by it in carrying on the transferred trade or any trade of which it comes to form part, for any amount which, if the transferor had continued to carry it on, would have been available to the transferor for carry-forward against chargeable profits of succeeding accounting periods, but subject to any claim made by the transferor under section [<sup>F762</sup>393A(1)].
  - (4) There shall be made to or on the transferee in accordance with [<sup>F763</sup>the Capital Allowances Act (including enactments which under this Act are to be treated as contained in that Act)] all such allowances and charges as would, if the transferor had continued to carry on the trade, have fallen to be made to or on it under those Acts and the amount of any such allowance or charge shall be computed as if the transferee had been carrying on the trade since the transferor had begun to do so and as if everything done to or by the transferor had been done to or by the transferee.
  - (5) No sale or transfer which on the transfer of the trade is made by the transferor to the transferee of any assets in use for the purposes of the trade shall be treated as giving rise to any such allowance or charge as is mentioned in subsection (4) above.
  - <sup>F764</sup>(6) .....
  - (7) The transferee shall be entitled to relief from corporation tax in respect of chargeable gains for any amount for which the transferor would have been entitled to claim relief in respect of allowable losses if it had continued to carry on the trade.
  - (8) <sup>M132</sup>Where part only of such trade is transferred to a harbour authority by or under a certified harbour organisation scheme, and the transferor continues to carry on the remainder of the trade, or any such trade is, by or under a certified harbour reorganisation scheme which provides also for the dissolution of the transferor, transferred in parts to two or more harbour authorities, this section shall apply as if the transferred part, or each of the transferred parts, had at all times been a separate trade.
  - (9) Where a part of any trade is to be treated by virtue of subsection (8) above as having been a separate trade over any period there shall be made any necessary adjustments of accounting periods, and such apportionments as may be just of receipts, expenses, allowances or charges.
- Subsection (10) of section 343 shall apply to any apportionment under this subsection as it applies to an apportionment under subsection (9) of that section.
- (10) <sup>M133</sup>In this section—

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“harbour authority” has the same meaning as in the <sup>M134</sup>Harbours Act 1964;

“harbour reorganisation scheme” means any statutory provision providing for the management by a harbour authority of any harbour or group of harbours in the United Kingdom, and “certified”, in relation to any harbour reorganisation scheme, means certified by a Minister of the Crown or government department as so providing with a view to securing, in the public interest, the efficient and economical development of the harbour or harbours in question;

“limited liability company” means a company having a limit on the liability of its members;

“statutory provision” means any enactment, or any scheme, order or other instrument having effect under an enactment, and includes an enactment confirming a provisional order; and

“transferor”, in relation to a trade, means the body from whom the trade is transferred, whether or not the transfer is effected by that body.

#### Textual Amendments

**F762** Words in s. 518(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)(4)(5), Sch. 15 para. 19(1)

**F763** Words in s. 518(4) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 43

**F764** S. 518(6) repealed by Finance Act 1991 (c. 31, SIF 63:1), ss. 73(3)(4)(5), 123, Sch. 15 para. 19(2), Sch. 19 Pt. V, Note 4

#### Marginal Citations

**M131** Source—1970 s.352(1)-(6); 1971 Sch.8 16; 1986 s.56(7)(a), Sch.13 2(5)(a)

**M132** Source—1970 s.352(8), (9)

**M133** Source—1970 s.352(11)

**M134** 1964 c. 40.

## 519 Local authorities.

- (1) <sup>M135</sup>A local authority in the United Kingdom—
  - (a) shall be exempt from all charge to income tax in respect of its income;
  - (b) shall be exempt from corporation tax;and so far as the exemption from income tax conferred by this subsection calls for repayment of tax, effect shall be given thereto by means of a claim.
- (2) Subsection (1) above shall apply to a local authority association as it applies to a local authority.
- (3) In this Act “local authority association” means any incorporated or unincorporated association—
  - (a) of which all the constituent members are local authorities, groups of local authorities or local authority associations, and
  - (b) which has for its object or primary object the protection and furtherance of the interests in general of local authorities or any description of local authorities;

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and for this purpose, if a member of an association is a representative of or appointed by any authority, group of authorities or association, that authority, group or association (and not he) shall be treated as a constituent member of the association.

<sup>F765</sup>(4) . . . . .

<p><b>Textual Amendments</b></p> <p><b>F765</b> Subs.(4) <i>repealed</i> by 1990 s.127 and Sch.18 para.5(2) and 132 and Sch.19 Part IV on and after 1 April 1990.</p>
<p><b>Modifications etc. (not altering text)</b></p> <p><b>C159</b> S. 519 extended (12.1.2000) by Greater London Authority Act 1999 (c. 29), ss. 419(1)(2)(a), 425(2) (with s. 157(4)); S.I. 1999/3434, art. 2</p> <p><b>C160</b> Definition applied for purposes of—1979(C) s.149B(3)—<i>miscellaneous exemptions</i>. 1988 s.832(1) —<i>interpretation of Tax Acts</i>.</p>
<p><b>Marginal Citations</b></p> <p><b>M135</b> Source—1970 s.353(1), (4)</p>

<sup>F766</sup>**519A Health service bodies.**

- (1) A health service body—
  - (a) shall be exempt from income tax in respect of its income, and
  - (b) shall be exempt from corporation tax,
 and, so far as the exemption from income tax conferred by this subsection calls for repayment of tax, effect shall be given thereto by means of a claim.
  
- (2) In this section “health service body” means—
  - <sup>F767</sup>(a) a [<sup>F768</sup>Strategic Health Authority or a] Health Authority established under section 8 of the National Health Service Act 1977;
  - (aa) a Special Health Authority established under section 11 of that Act;
  - <sup>F769</sup>(ab) [ a Primary Care Trust;]
  - <sup>F770</sup>(aba) [ a Local Health Board;]
  - (b) a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990;
  - <sup>F771</sup>(bb) [ an NHS foundation trust]
  - (c) <sup>F772</sup> . . . . .
  - (d) a Health Board or Special Health Board, the Common Services Agency for the Scottish Health Service and a National Health Service trust respectively constituted under sections 2, 10 and 12A of the National Health Service (Scotland) Act 1978;
  - (e) a State Hospital Management Committee constituted under section 91 of the Mental Health (Scotland) Act 1984;
  - (f) the Dental Practice Board;
  - (g) the Scottish Dental Practice Board; <sup>F773</sup> . . .
  - (h) the Public Health Laboratory Service Board;

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- [ a Health and Social Services Board and the Northern Ireland Central Services Agency for the Health and Social Services established under Articles 16 and 26 respectively of the Health and Personal Social Services (Northern Ireland) Order 1972;
- <sup>F774</sup>(i) a special health and social services agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990; and
- (k) a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991.]
- [ The Treasury may by order disapply subsection (1)(b) in relation to a specified activity,
- <sup>F775</sup>(3) or class of activity, of an NHS foundation trust.
- (4) An order under subsection (3) shall make provision for determining the amount of the profits relating to an activity that are to be charged to corporation tax as a result of the disapplication of subsection (1)(b).
- (5) An order under subsection (3) may, in particular—
- (a) make provision for disregarding profits of less than a specified amount in respect of a financial year or accounting period or a specified part of a financial year or accounting period;
- (b) make provision for disregarding a specified part of profits in respect of a financial year or accounting period or a specified part of a financial year or accounting period;
- (c) make provision for disregarding all or part of profits relating to activity in respect of which receipts or turnover (as defined by the order) are less than a specified amount in respect of a financial year or accounting period or a specified part of a financial year or accounting period.
- (6) An order under subsection (3)—
- (a) may apply, with or without modification, a provision of the Tax Acts,
- (b) may disapply a provision of the Tax Acts,
- (c) may make provision similar to a provision of the Tax Acts, and
- (d) may make provision generally or in relation to a specified body or class of bodies.
- (7) The Treasury may make an order under subsection (3) only—
- (a) in relation to an activity or class of activity that appears to the Treasury to be of a commercial nature,
- (b) where it appears to the Treasury to be expedient for the purpose of avoiding, removing or reducing differences between—
- (i) the fiscal treatment of the body undertaking the activity, and
- (ii) the fiscal treatment of another body or class of body which is of a commercial nature and which undertakes or might undertake the same or a similar activity, and
- (c) if a draft has been laid before, and approved by resolution of, the House of Commons.
- (8) An activity authorised under section 14(1) of the Health and Social Care (Community Health and Standards) Act 2003 shall not be treated as an activity of a commercial nature for the purposes of subsection (7)(a).]

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### Textual Amendments

- F766** S. 519A inserted (17.9.1990) by National Health Service and Community Care Act 1990 (c. 19), **ss. 61(1)**, 67(2); S.I. 1990/1329, art. 2(5)(a), **Sch. 2**
- F767** S. 519A(2)(a)(aa) substituted for s. 519A(2)(a) (1.4.1996) by Health Authorities Act 1995 (c. 17), s. 2(3), **Sch. 1 para. 114(a)** (with Sch. 2)
- F768** Words in s. 519A(2)(a) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), reg. 1, **Sch. 1 para. 14**
- F769** S. 519A(2)(ab) inserted (1.4.2000 for E.W. and 11.5.2001 otherwise) by Health Act 1999 (c. 8), s. 67(1), **Sch. 4 para. 73**; S.I. 1999/2342, **art. 2(4)(b)(i)**; S.I. 2001/1985, **art. 2(4)**
- F770** S. 519A(2)(aba) inserted (10.10.2002 for W., otherwise prosp.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), s. 42(3), **Sch. 5 para. 27**; S.I. 2005/2352, art. 2, **Sch.**
- F771** S. 519A(2)(bb) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 33(1)**, 199(1); S.I. 2004/759, **art. 2**
- F772** S. 519A(2)(c) repealed (1.4.1996) by Health Authorities Act 1995 (c. 17), s. 2(3), Sch. 1 para. 114(b), **Sch. 3** (with Sch. 2)
- F773** Word in s. 519A(2)(g) repealed by S.I. 1991/195, **art. 6**
- F774** S. 519A(2)(i) (j) (k) added by S.I. 1991/195, **art. 6**
- F775** S. 519A(3)-(8) added (22.7.2004) by Finance Act 2004 (c. 12), **s. 148**



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