



# 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

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

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

[<sup>F1M1</sup>(1) This section has effect for the interpretation of the life assurance provisions of the Corporation Tax Acts.]

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

<sup>F2</sup> . . . . .  
<sup>F3</sup> . . . . .  
<sup>F3</sup> . . . . .  
[<sup>F4F5</sup> . . . . .  
<sup>F6</sup> . . . . .

[<sup>F7</sup>“basic life assurance and general annuity business” has the meaning given by section 431F;]

[<sup>F8</sup>“brought into account” has the meaning given by section 83A of the Finance Act 1989;]

[<sup>F9</sup>“child trust fund business” has the meaning given by section 431BA;]

“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

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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;

[<sup>F10</sup>“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;]

[<sup>F11</sup>“deposit back arrangements” means arrangements by which an amount is deposited by the reinsurer under a contract of reinsurance with the cedant;]

[<sup>F12</sup>“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;]

[<sup>F13</sup>[<sup>F14</sup>“foreign business assets”, in relation to an insurance company, means assets, other than linked assets, which either—

- (a) are shown in the records of the company as being primarily attributable to liabilities of the company's foreign business, or
- (b) are attributable, under the law of a country or territory outside the United Kingdom, to a permanent establishment of the company in that country or territory through which it carries on foreign business;

and for this purpose “foreign business” means overseas life assurance business or life reinsurance business to the extent that it consists of the reinsurance of overseas life assurance business;]]

[<sup>F15</sup>[<sup>F16</sup>.....]]

[<sup>F17</sup>“free assets amount”, in relation to an insurance company, means the excess of the value of the assets of the company's long-term business [<sup>F18</sup>, other than any structural assets (within the meaning of section 83XA of the Finance Act 1989),] over the aggregate of —

- (a) the value of the liabilities of that business,
- (b) any money debts (within the meaning of [<sup>F19</sup>Part 5 of CTA 2009 (see section 303 of that Act)]) of the company not within paragraph (a) above which are owed in respect of that business, and
- (c) the amount of the shareholders' excess assets within the meaning given by section 432A(8)(b));]

[<sup>F20</sup>“General Prudential Sourcebook” means the General Prudential Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000 <sup>M3</sup>;]

[<sup>F21</sup>“gross roll-up business” has the meaning given by section 431EA;]

[<sup>F22</sup>“the I minus E basis” means the basis under which a company carrying on life assurance business is charged to tax on the relevant profits (within the meaning of section 88(3) of the Finance Act 1989) of that business otherwise than under [<sup>F23</sup>section 35 of CTA 2009 (charge on trade profits)];]

[<sup>F24</sup>“immediate needs annuities business” means business which consists of the effecting or carrying out of immediate needs annuities (within the meaning of section 725 of ITTOIA 2005);]

[<sup>F25</sup>“individual savings account business” has the meaning given by section 431BB;]

[<sup>F26</sup>.....]]

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[<sup>F27</sup>[<sup>F28</sup>[<sup>F29</sup>“insurance business transfer scheme” means—

- (a) a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 [<sup>F30</sup>, 4 or 5] of subsection (3) of that section, or
- (b) a scheme which would fall within that section but for subsection (1)(b) 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,

[<sup>F31</sup>but does not include an insurance special purpose vehicle;]]

[<sup>F32</sup>“the Insurance Prudential Sourcebook” means the Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000;

“insurance special purpose vehicle” means any undertaking which assumes risks from insurance or reinsurance undertakings and which fully funds its exposure to such risks through the proceeds of a debt issue or some other financing mechanism where the repayment rights of the providers of such debt or other financing mechanism are subordinated to the reinsurance obligations of the undertaking;]

[<sup>F33</sup>[<sup>F34</sup>.....]

[<sup>F35</sup>“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;]

[<sup>F36</sup>[<sup>F37</sup>.....]

[<sup>F38</sup>[<sup>F39</sup>.....]

[<sup>F40</sup>“liabilities”, in relation to an insurance company, means—

- (a) the mathematical reserves of the company as determined in accordance with [<sup>F41</sup>section 1.2 of the Insurance Prudential Sourcebook], and
- (b) liabilities of the company (whose value falls to be determined in accordance with [<sup>F42</sup>section 1.3 of the General Prudential Sourcebook]) which arise from deposit back arrangements;

[<sup>F43</sup>..... ]]

[<sup>F44</sup>“life assurance business” means business which—

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

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other than immediate needs annuities business;]

[<sup>F45</sup>“the life assurance provisions of the Corporation Tax Acts” means—

- (a) the provisions of this Chapter so far as relating to life assurance business, companies carrying on such business and friendly societies, and
- (b) any other provisions of the Corporation Tax Acts making separate provision by reference to whether or not the business of a company is or includes life assurance business or any category of business that includes life assurance business;]

[<sup>F46</sup>“life assurance trade profits provisions” means the provisions applicable for the purposes of the taxation under section 35 of CTA 2009 (charge on trade profits) of the profits of life assurance business carried on by an insurance company;]

[<sup>F47</sup>“life reinsurance business” has the meaning given by section 431C;

[<sup>F48</sup>[<sup>F49</sup>“linked assets”, and related expressions, shall be construed in accordance with section 432ZA;]

[<sup>F50</sup>“long-term business” means business which consists of the effecting or carrying out of contracts of long-term insurance;]

“[<sup>F51</sup>long-term insurance fund]” means the fund maintained by an insurance company in respect of its [<sup>F52</sup>long-term] business <sup>F53</sup>. . . ;]

[<sup>F54</sup><sup>F55</sup> . . . . .]

[<sup>F56</sup>“net value”, in relation to any assets, means the excess of the value of the assets over the value of money debts (within the meaning of [<sup>F57</sup>Part 5 of CTA 2009: see section 303 of that Act]) attributable to an internal linked fund which are not owed in respect of liabilities;]

[<sup>F58</sup>“non-profit company”, in relation to a period of account, means a company carrying on long-term business where, at the end of the period—

- (a) none of the liabilities of that business, or
- (b) none but an insignificant proportion of those liabilities,

are with-profits liabilities;]

[<sup>F59</sup>“non-profit fund” means a fund that is not a with-profits fund;]

<sup>F60</sup> . . . . .

[<sup>F61</sup><sup>F62</sup> . . . . .

<sup>F63</sup> . . . . .

[<sup>F64</sup>“overseas life assurance business” has the meaning given by section 431D;

<sup>F65</sup> . . . . .]

“overseas life insurance company” means an insurance company [<sup>F66</sup>not resident in] the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom; <sup>F67</sup>. . .

[<sup>F68</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>F69</sup>Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers)] [<sup>F70</sup>(and does not include the Forms mentioned in Rule 9.3(5))].

[<sup>F71</sup>“period of account” means the period covered by a periodical return;]

[<sup>F72</sup>“PHI business” means long-term business other than life assurance business (including the reinsurance of such long-term business);]

<sup>F73</sup> . . . . .

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[<sup>F74</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>F75</sup>[<sup>F76</sup>“reinsurance” includes retrocession;]]

[<sup>F77</sup>“shareholders' excess assets” has the meaning given by section 432A(8)(b);]

[<sup>F78F79</sup>.....]

[<sup>F80</sup>[<sup>F81</sup>“value”, in relation to an asset of an insurance company, means the value of the asset as determined in accordance with [<sup>F82</sup>section 1.3 of the General Prudential Sourcebook, as read with section 2.1 of the Insurance Prudential Sourcebook;]]

[<sup>F83</sup>“with-profits fund” has the meaning given by the Prudential Sourcebook (Insurers);]

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

[<sup>F84</sup>(2YA) Where an insurance company becomes an insurance special purpose vehicle otherwise than on the last day of a period of account, it shall be treated as an insurance special purpose vehicle from the beginning of that period.]

[<sup>F85</sup>(2YB) “BLAGAB profits”, in relation to an accounting period of an insurance company, means the company's BLAGAB income and gains for the period reduced (but not below nil) by the company's BLAGAB deductions for the period.

(2YC) “BLAGAB income and gains”, in relation to an accounting period of an insurance company, means the aggregate of—

- (a) income chargeable for the period <sup>F86</sup> . . . so far as referable (in accordance with section 432A) to the company's basic life assurance and general annuity business, and
- (b) chargeable gains so far as so referable accruing to the company in the period, but (subject to section 210A of the 1992 Act) after deducting—
  - (i) any allowable losses so referable and so accruing, and
  - (ii) so far as they have not been allowed as a deduction from chargeable gains in any previous accounting period, any allowable losses so referable previously accruing to the company.

(2YD) “BLAGAB deductions”, in relation to an accounting period of an insurance company, means the aggregate of—

- (a) amounts falling in respect of any non-trading deficits on the company's loan relationships to be brought into account in the period in accordance with [<sup>F87</sup>sections 387 to 391 of CTA 2009], and
- (b) the expenses deduction given by Step 8 in section 76(7) for the period.]

[<sup>F88</sup>(2ZA) Subsections (2ZB) and (2ZC) below apply where an insurance business transfer 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, <sup>F89</sup> . . . [<sup>F90</sup>or]
- (c) the opening amount of the [<sup>F91</sup>free assets amount] of the transferor, [<sup>F92F93</sup> . . .
- (d) <sup>F93</sup> .....

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for the period of account, so far as relating to the business transferred, are to the part of those liabilities, [<sup>F94</sup>values or amounts] 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, <sup>F95</sup> . . . [<sup>F96</sup>or]
- (c) the closing amount of the [<sup>F97</sup>free assets amount] of the transferee, [<sup>F98F99</sup> . . .
- (d) <sup>F99</sup> . . . . . ]

for the period of account, so far as relating to the business transferred, are to the part of those liabilities, [<sup>F100</sup>values or amounts] 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>F101</sup>(2ZF) [ In this Chapter “capital redemption business” means any business of a company carrying on insurance business in so far as it consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period.]

<sup>F102</sup>(2ZG) [ The Treasury may by order amend the definition of “insurance business transfer scheme” given by subsection (2) above where it is expedient to do so in consequence of any amendment of section 105 of the Financial Services and Markets Act 2000.

(2ZH) The power conferred by subsection (2ZG) above includes power to make incidental, supplementary, consequential or transitional provisions and savings (including provision amending any provision of the Corporation Tax Acts relating to insurance companies).]

<sup>F103</sup>(2A) [ <sup>F104</sup> . . . . . ]

(3) <sup>F104</sup> . . . . .

(4) <sup>F104</sup> . . . . .

(5) <sup>F104</sup> . . . . .

(6) <sup>F104</sup> . . . . . ]]]

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## Textual Amendments

- F1** S. 431(1) substituted (with effect in accordance with [Sch. 10 para. 17\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 11\(2\)](#)
- F2** S. 431(2): definition of "annuity business" repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(3\)\(a\)](#), [Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))
- F3** 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\(5\)](#)
- F4** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F5** 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
- F6** 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
- F7** 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](#)
- F8** 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\(2\)](#)
- F9** S. 431(2): definition of "child trust fund business" inserted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(2\)](#) (with [Sch. 7 Pt. 2](#))
- F10** 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\(2\)](#)
- F11** S. 431(2): definition of "deposit back arrangements" inserted (with effect in accordance with [Sch. 17 para. 9\(3\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 9\(2\)](#)
- F12** S. 431(2): definition of "fair value" inserted (with effect in accordance with [Sch. 10 para. 17\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 10\(1\)](#)
- F13** S. 431(2): definition of "foreign currency assets" inserted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(2\)](#) (with [Sch. 7 Pt. 2](#))
- F14** S. 431(2): definition of "foreign business assets" substituted for definition of "foreign currency assets" (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\(1\)](#)
- F15** S. 431(2): definition of "foreign income dividends" inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 16 para. 4](#)
- F16** 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
- F17** S. 431(2): definition of "free assets amount" inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(2\)\(a\)](#)
- F18** S. 431(2): words in definition of "free assets amount" inserted (with effect in accordance with [Sch. 17 para. 8\(2\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 8\(1\)](#)
- F19** S. 431(2): words in para. (b) of definition of "free assets amount" substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 126\(2\)\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F20** S. 431(2): definition of "General Prudential Sourcebook" inserted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), [arts. 1\(1\)](#), [4\(2\)\(a\)](#)
- F21** S. 431(2): definition of "gross roll-up business" inserted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(2\)](#) (with [Sch. 7 Pt. 2](#))

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- F22** S. 431(2): definition of "the I minus E basis" inserted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 8 para. 3** (with Sch. 8 Pt. 2)
- F23** S. 431(2): words in definition of "the I minus E basis" substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 126(2)(b)** (with Sch. 2 Pts. 1, 2)
- F24** S. 431(2): definition of "immediate needs annuities business" inserted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 7 para. 6(2)** (with Sch. 7 Pt. 2)
- F25** S. 431(2): definition of "individual savings account business" inserted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 7 para. 6(2)** (with Sch. 7 Pt. 2)
- F26** 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)**
- F27** 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)**
- F28** 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)**
- F29** S. 431(2): definition of "insurance business transfer scheme" substituted (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 9 para. 1(1)**
- F30** S. 431(2): words in para. (a) of definition of "insurance business transfer scheme" substituted (19.2.2008 with effect in accordance with art. 1(3) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1), 4**
- F31** S. 431(2): words in definition of "insurance company" inserted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), **arts. 1(1), 4(2)(b)**
- F32** S. 431(2): definitions of "the Insurance Prudential Sourcebook" and "insurance special purpose vehicle" inserted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), **arts. 1(1), 4(2)(c)**
- F33** S. 431(2): definition of "the Integrated Prudential Sourcebook" inserted (with effect in accordance with Sch. 9 para. 2(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 9 para. 2(2)**
- F34** S. 431(2): definition of "the Integrated Prudential Sourcebook" omitted (31.12.2006 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), **arts. 1(1), 4(2)(d)**
- F35** S. 431(2): definition of "internal linked fund" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 9(1)**
- F36** 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**
- F37** S. 431(2): definition of "investment reserve" omitted (6.1.2006 with effect in accordance with art. 1 of the repealing S.I.) by virtue of [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), **art. 3(2)(b)**
- F38** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), **Sch. 6 para. 1(2)**
- F39** 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
- F40** S. 431(2): definition of "liabilities" substituted (with effect in accordance with Sch. 9 para. 2(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 9 para. 2(3)**
- F41** S. 431(2): words in para. (a) of definition of "liabilities" substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), **arts. 1(1), 4(2)(e)(i)**
- F42** S. 431(2): words in para. (b) of definition of "liabilities" substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), **arts. 1(1), 4(2)(e)(ii)**



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- F43** S. 431(2): words in definition of "liabilities" omitted (with effect in accordance with Sch. 17 para. 9(3) of the repealing Act) by virtue of [Finance Act 2008 \(c. 9\), Sch. 17 para. 9\(2\)](#)
- F44** S. 431(2): definition of "life assurance business" substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 6\(4\)](#) (with Sch. 7 Pt. 2)
- F45** S. 431(2): definition of "the life assurance provisions of the Corporation Tax Acts" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 11\(3\)](#)
- F46** S. 431(2): definition of "life assurance trade profits provisions" inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), Sch. 1 para. 126\(2\)\(c\)](#) (with Sch. 2 Pts. 1, 2)
- F47** 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](#)
- F48** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\), Sch. 6 para. 1\(2\)](#)
- F49** 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\(1\)](#)
- F50** 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\(5\)](#)
- F51** 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\(1\)\(b\)](#)
- F52** 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\(2\)\(a\)](#)
- F53** 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\(26\)](#)
- F54** 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\(6\)](#)
- F55** S. 431(2): definition of "long-term liabilities" repealed (with effect in accordance with Sch. 9 para. 2(6) of the repealing Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 9 para. 2\(4\), Sch. 11 Pt. 2\(10\), Note 1](#)
- F56** S. 431(2): definition of "net value" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 9\(1\)](#)
- F57** S. 431(2): words in definition of "net value" substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), Sch. 1 para. 126\(2\)\(d\)](#) (with Sch. 2 Pts. 1, 2)
- F58** S. 431(2): definition of "non-profit company" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 8\(1\)](#)
- F59** S. 431(2): definition of "non-profit fund" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 8\(1\)](#)
- F60** 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](#)
- F61** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\), Sch. 6 para. 1\(2\)](#)
- F62** 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\(26\)](#)
- F63** 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](#)
- F64** 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](#)

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- F65** S. 431(2): definition of "overseas life assurance fund" repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(3\)\(b\)](#), [Sch. 27 Pt. 2\(7\)](#), Note (with Sch. 7 Pt. 2)
- F66** 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\(1\)\(3\)\(4\)](#)
- F67** 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
- F68** 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](#)
- F69** 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\(7\)](#)
- F70** S. 431(2): words in definition of "periodical return" inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 34](#)
- F71** S. 431(2): definition of "period of account" inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 29](#)
- F72** S. 431(2): definition of "PHI business" inserted (with effect in accordance with [s. 38\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(2\)](#) (with [Sch. 7 Pt. 2](#))
- F73** 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
- F74** 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\(8\)](#)
- F75** 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](#)
- F76** S. 431(2): definition of "reinsurance" substituted for definition of "reinsurance business" (with effect in accordance with [s. 38\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(5\)](#) (with [Sch. 7 Pt. 2](#))
- F77** S. 431(2): definition of "shareholders' excess assets" inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(2\)\(c\)](#)
- F78** 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\(2\)\(3\)](#)
- F79** 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
- F80** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F81** S. 431(2): definition of "value" substituted (with effect in accordance with [Sch. 9 para. 2\(6\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 2\(5\)](#)
- F82** S. 431(2): words in definition of "value" substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), [arts. 1\(1\), 4\(2\)\(f\)](#)
- F83** S. 431(2): definition of "with-profits fund" inserted (with effect in accordance with [Sch. 10 para. 17\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 8\(1\)](#)
- F84** S. 431(2YA) inserted (27.12.2007 with effect in accordance with art. 1(3) of the amending S.I.) by [The Insurance Companies \(Taxation of Reinsurance Business\) \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/3430\)](#), [arts. 1\(1\), 2\(1\)](#)
- F85** S. 431(2YB)-(2YD) inserted (with effect in accordance with [Sch. 17 para. 18\(6\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 18\(1\)](#)
- F86** Words in [s. 431\(2YC\)\(a\)](#) repealed (1.4.2009 with effect in accordance with [s. 1329\(1\)](#) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 126\(3\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

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- F87** Words in s. 431(2YD)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 126(4)** (with Sch. 2 Pts. 1, 2)
- F88** 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)**
- F89** Word at the end of s. 431(2ZB)(b) omitted (6.1.2006 with effect in accordance with art. 1 of the repealing S.I.) by virtue of The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(3)(a)**
- F90** Word at the end of s. 431(2ZB)(b) inserted (with effect in accordance with Sch. 17 para. 19(5) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 19(2)**
- F91** Words in s. 431(2ZB)(c) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(3)(b)**
- F92** S. 431(2ZB)(d) and preceding word inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(3)(c)**
- F93** S. 431(2ZB)(d) and preceding word omitted (with effect in accordance with Sch. 17 para. 19(5) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 19(2)**
- F94** Words in s. 431(2ZB) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(3)(d)**
- F95** Word at the end of s. 431(2ZC)(b) omitted (6.1.2006 with effect in accordance with art. 1 of the repealing S.I.) by virtue of The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(4)(a)**
- F96** Word at the end of s. 431(2ZC)(b) inserted (with effect in accordance with Sch. 17 para. 19(5) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 19(2)**
- F97** Words in s. 431(2ZC)(c) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(4)(b)**
- F98** S. 431(2ZC)(d) and preceding word inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(4)(c)**
- F99** S. 431(2ZC)(d) and preceding word omitted (with effect in accordance with Sch. 17 para. 19(5) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 19(2)**
- F100** Words in s. 431(2ZC) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(4)(d)**
- F101** S. 431(2ZF) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(6)** (with Sch. 7 Pt. 2)
- F102** S. 431(2ZG)(2ZH) inserted (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 1(3)**
- F103** S. 431(2A) inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(3)**
- F104** 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)

- C1** 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)
- C2** S. 431 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)**, 6 (as amended by: S.I. 2007/2134, **regs. 1(1)(2)**, 6; S.I. 2008/1937, **regs. 1(2)(3)**, 4)

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- C3** 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 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**)
- C4** 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**
- C5** S. 431(2) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 7**
- C6** 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**
- C7** S. 431(2) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 5**; S.I. 2004/3369, **art. 2(1)**
- C8** S. 431(2) modified (28.10.2008 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Group Relief for Overseas Losses (Modification of the Corporation Tax Acts for Non-resident Insurance Companies) Regulations 2008 (S.I. 2008/2646), **regs. 1(1), 3**

#### Marginal Citations

- 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)
- M3** 2000 c. 8

#### [<sup>F105</sup> ~~431Z~~ **Election 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

- F105** 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>F106, F107</sup> ~~431A~~ **Amendment of Chapter etc**

- (1) The Treasury may by order amend any [<sup>F108</sup> of the life assurance provisions of the Corporation Tax Acts] where it is expedient to do so in consequence of the exercise of any power under the Financial Services and Markets Act 2000, in so far as that Act relates to insurance companies.
- (2) Where any exercise of a power under that Act has effect for a period ending on or before, or beginning before and ending after, the day on which an order containing an amendment in consequence of that exercise is made under subsection (1) above, the

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power conferred by that subsection includes power to provide for the amendment to have effect in relation to that period.

[<sup>F109</sup>(2A) The Treasury may by order make provision as to the application of the Corporation Tax Acts in relation to insurance special purpose vehicles.

- (2B) An order under subsection (2A) above may in particular contain provision—
- (a) making amendments of any provision of the Corporation Tax Acts, or
  - (b) making provision for the life assurance provisions of the Corporation Tax Acts to have effect in relation to any specified description of insurance special purpose vehicles subject to specified modifications or exceptions.

- (2C) An order under subsection (2A) above—
- (a) may make provision having effect in relation to accounting periods current when it is made, and
  - (b) if it is made in consequence of, or otherwise in connection with, provision made by any enactment or instrument, may make provision having effect in relation to the same times as that enactment or instrument.]

- (3) The Treasury may by order amend any of the following provisions—
- (a) sections 432ZA, 432A, 432B to 432G and 755A <sup>F110</sup> . . . ;
  - (b) sections 83A, 85, 88 and 89 of the Finance Act 1989;
  - (c) section 210A of the Taxation of Chargeable Gains Act 1992.

- (4) An order under subsection (3) above may only be made so as to have effect in relation to periods of account—
- (a) beginning on or after 1st January 2005, and
  - (b) ending before 1st October 2006.

(5) <sup>F111</sup> . . . . .

- (6) Any power conferred by this section to make an order includes power to make—
- (a) different provision for different cases or different purposes, and
  - (b) incidental, supplemental, consequential or transitional provision and savings.

(7) <sup>F112</sup> . . . . .]

#### Textual Amendments

**F106** S. 431A inserted (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 2, **11(2)** (with Sch. 6 para. 12)

**F107** S. 431A substituted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 3**

**F108** Words in s. 431A(1) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 12(2)**

**F109** S. 431(2A)-(2C) inserted (21.7.2008) by Finance Act 2008 (c. 9), **Sch. 17 para. 20**

**F110** Words in s. 431A(3)(a) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 7, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

**F111** S. 431A(5) repealed (19.7.2006) by Finance Act 2006 (c. 25), Sch. 11 para. 1(2)(a), **Sch. 26 Pt. 3(14)**

**F112** S. 431A(7) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 12(3), **Sch. 27 Pt. 2(10)**, Note

[<sup>F113</sup> **431A** Relevant benefits for purposes of section 431(4)(d) and (e).

<sup>F114</sup> . . . . .]

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#### Textual Amendments

- F113** S. 431AA inserted (with application in accordance with s. 143(5) of the amending Act) by Finance Act 1994 (c. 9), s. 143(4)
- F114** 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>F115</sup>Classes of life assurance business]

#### Textual Amendments

- F115** 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

### [<sup>F116</sup>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 entered into for the purposes of a registered pension scheme or is the reinsurance of such business.
- (2) Where a pension scheme ceases to be a registered pension scheme by virtue of the withdrawal of registration of the pension scheme under section 157 of the Finance Act 2004, any of the company’s life assurance business that was pension business when the pension scheme was a registered pension scheme is to be treated as ceasing to be pension business at the beginning of the period of account of the company in which the pension scheme so ceases to be a registered pension scheme.
- (3) Where—
  - (a) immediately before 6th April 2006 an annuity contract falls within any of the descriptions of contracts specified in subsection (2) of this section as it had effect immediately before that date, but
  - (b) on or after that date the contract does not fall to be regarded for the purposes of this section as having been entered into for the purposes of a registered pension scheme,

the contract is to be treated for the purposes of this section as having been entered into for such purposes.]

#### Textual Amendments

- F116** S. 431B substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 35 para. 20 (as amended by Finance Act 2005 (c. 5), Sch. 9 para. 18(2)-(4)(7)) ( with Sch. 36)

### [<sup>F117</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).

Document Generated: 2024-06-30

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

#### Textual Amendments

**F117** 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)

#### [<sup>F117</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).
- (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

**F117** 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)

- C9** 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)
- C10** S. 431C(1) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), regs. 1, 5, 8
- C11** 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”.

- [<sup>F118</sup>(1) In this Chapter “overseas life assurance business” means so much of a company's relevant life assurance business as is with a policy holder or annuitant not residing in the United Kingdom (but not including the reinsurance of such business).

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- (1A) In subsection (1) above “relevant life assurance business” means life assurance business other than—
- (a) pension business
  - (b) individual savings account business,
  - (c) child trust fund business, and
  - (d) business of any description prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.]
- [<sup>F119</sup>(2) Regulations under subsection [<sup>F120</sup>(1A)] above may describe the excluded business by reference to any circumstances appearing to the [<sup>F121</sup>Commissioners] to be relevant.
- (3) The [<sup>F122</sup>Commissioners for Her Majesty's Revenue and Customs] 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
  - (b) provide that nothing in Chapter II of Part XIII [<sup>F123</sup>or Chapter 9 of Part 4 of ITTOIA 2005] 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 [<sup>F120</sup>(1A)] or (3) above may contain such supplementary, incidental, consequential or transitional provision as appears to the [<sup>F121</sup>Commissioners] to be appropriate [<sup>F124</sup>(including provision amending any enactment or any instrument made under an enactment)].]

#### Textual Amendments

- F118** S. 431D(1)(1A) substituted for s. 431D(1) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 9(2)** (with Sch. 7 Pt. 2)
- F119** 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))
- F120** Words in s. 431D(2)(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 9(3)** (with Sch. 7 Pt. 2)
- F121** Words in s. 431D(2)(4) substituted (21.7.2008) by Finance Act 2008 (c. 9), **Sch. 17 para. 26(2)**
- F122** Words in s. 431D(3) substituted (21.7.2008) by Finance Act 2008 (c. 9), **Sch. 17 para. 26(3)**
- F123** Words in s. 431D(3)(b) 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. 176** (with Sch. 2)
- F124** Words in s. 431D(4) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 9(4)** (with Sch. 7 Pt. 2)

#### 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,



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- (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.

#### [<sup>F125</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

**F125** 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 [<sup>F126</sup>other than gross roll-up business].

#### Textual Amendments

**F126** Words in s. 431F substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007](#) (c. 11), [Sch. 7 para. 11](#) (with [Sch. 7 Pt. 2](#))

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

**C12** S. 431F modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998](#) (S.I. 1998/1871), [regs. 1, 5, 9](#)

**C13** 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\(1\)](#)

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### [<sup>F127</sup><sup>F128</sup>Basis of taxation etc]]

#### Textual Amendments

- F127** 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))
- F128** 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)

### [<sup>F129</sup>431C] 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).
- (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 [<sup>F130</sup>under section 35 of CTA 2009 (charge on trade profits)] 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 [<sup>F131</sup>under section 35 of CTA 2009], 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 [<sup>F132</sup>of the life assurance trade profits provisions] 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

- F129** 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)
- F130** Words in s. 431G(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 127(2)** (with Sch. 2 Pts. 1, 2)

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- F131** Words in s. 431G(4)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 127(3)** (with Sch. 2 Pts. 1, 2)
- F132** Words in s. 431G(5) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 127(4)** (with Sch. 2 Pts. 1, 2)

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

- C14** 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**)

[<sup>F133</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,are to be treated as separate businesses.
- (3) The profits of the other insurance business shall be charged to tax under [<sup>F134</sup>section 35 of CTA 2009 (charge on trade profits)] 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**

- F133** 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)
- F134** Words in s. 431H(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 128** (with Sch. 2 Pts. 1, 2)

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

- C15** 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**)

[<sup>F139</sup>**432A** [<sup>F138</sup>**PHI 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 [<sup>F140</sup> (“the relevant amount”)] is shown in paragraph 4(12) of Appendix 9.4 to the periodical return for the company for [<sup>F141</sup>a] period of account which ends

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on or after 31st December 2006 [<sup>F142</sup> but before 1st January 2009 (a “relevant period of account”)].

[<sup>F143</sup>(2) In computing profits of [<sup>F144</sup>PHI business] in accordance with the provisions applicable [<sup>F145</sup>for the purposes of section 35 of CTA 2009 (charge on trade profits)]—

- (a) X shall be added to the closing long term business provision of the company for the relevant period of account; and
- (b) XA shall be brought into account as a trading receipt of the company for each subsequent period of account until the total sum of the amounts so brought into account is equal to X (and if that total sum would otherwise exceed X, the excess shall be ignored).

(2A) <sup>F146</sup> .....

(2B) X is—

- (a) where the relevant period of account ends before 1st April 2007, the whole of the relevant amount;
- (b) where the relevant period of account ends on or after 1st April 2007 but before 1st January 2008, two-thirds of the relevant amount;
- (c) where the relevant period of account ends on or after 1st January 2008, one-third of the relevant amount.

(2C) XA is the amount found by applying the following formula—

$$\frac{Y}{12} \times Z$$

Here—

Y is the number of months of the period of account in question (part of a month being counted as a month); and

Z is—

- (a) where X is the whole of the relevant amount, one-third of X;
- (b) where X is two thirds of the relevant amount, one-half of X;
- (c) where X is one third of the relevant amount, the whole of X.]

(3) <sup>F147</sup> .....

(4) <sup>F147</sup> .....

(5) In this section—

“long term business provision” has the same meaning as in [<sup>F148</sup>Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008];

<sup>F149</sup> .....  
<sup>F149</sup> .....

[ This section is subject to sections 82E and 82F of the Finance Act 1989 (treatment <sup>F150</sup>[<sup>F151</sup>(6) of transferors and transferees under insurance business transfer schemes) and those sections shall apply in relation to this section as if—

- (a) any reference in them to a provision of section 82D of that Act (treatment of profits: life assurance – adjustment consequent on change in Insurance

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- Prudential Sourcebook) were a reference to the corresponding provision of this section,
- [<sup>F152</sup>(b) the reference in section 82E(4) to life assurance business were a reference to PHI business, and
- (c) the reference in section 82E(7) to the life assurance trade profits provisions were a reference to the provisions applicable for the purposes of section 35 of CTA 2009.]

### Textual Amendments

- F138** Words in s. 432YA heading substituted (27.12.2008 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) \(No. 2\) Order 2008 \(S.I. 2008/3096\)](#), [arts. 1\(1\), 2\(4\)](#)
- F139** 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](#)
- F140** Words in s. 432YA(1) substituted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), [arts. 1\(1\), 3\(2\)\(a\)](#)
- F141** Word in s. 432YA(1) substituted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), [arts. 1\(1\), 3\(2\)\(b\)](#)
- F142** Words in s. 432YA(1) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), [arts. 1\(1\), 3\(2\)\(c\)](#)
- F143** S. 432YA(2)-(2C) substituted for s. 432YA(2) (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), [arts. 1\(1\), 3\(3\)](#)
- F144** Words in s. 432YA(2) substituted (27.12.2008 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) \(No. 2\) Order 2008 \(S.I. 2008/3096\)](#), [arts. 1\(1\), 2\(2\)](#)
- F145** Words in s. 432YA(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 129\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F146** S. 432YA(2A) omitted (19.2.2008 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\), 5](#)
- F147** S. 432YA(3)(4) omitted (17.4.2007 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), [arts. 1\(1\), 3\(4\)](#)
- F148** S. 432YA(5): words in definition of "long term business provision" substituted (6.4.2008 with effect in accordance with art. 1(2) of the amending S.I.) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2008 \(S.I. 2008/954\)](#), [arts. 1\(1\), 8](#) (with art. 4)
- F149** S. 432YA(5): definitions of "non-profit company" and "non-profit fund" repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 8\(2\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#), Note
- F150** S. 432YA(6) added (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), [arts. 1\(1\), 3\(5\)](#)
- F151** S. 432YA(6) substituted (27.12.2008 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) \(No. 2\) Order 2008 \(S.I. 2008/3096\)](#), [arts. 1\(1\), 2\(3\)](#)

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**F152** S. 432YA(6)(b)(c) substituted for s. 432YA(6)(b) and preceding word (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 129(3) (with Sch. 2 Pts. 1, 2)

**[<sup>F153</sup>432A] 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 [<sup>F154</sup> and in a case where only part of an asset is so identified, references to a linked asset are references to that part.]
- (2) Linked assets shall be taken—
  - (a) to be linked to [<sup>F155</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>F155</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>F155</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>F156</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 [<sup>F157</sup>432E]—
  - (a) income arising in any period from assets linked but not solely linked to a category of business,
  - (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>F158</sup>(6) In this section—

<sup>F159</sup> .....

Document Generated: 2024-06-30

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“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>F160</sup>PHI] business shall be disregarded for the purposes of this section unless the benefits to be provided which constitute [<sup>F160</sup>PHI] business are to be determined by reference to the value of assets.]

#### Textual Amendments

- F153** 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))
- F154** Words in s. 432ZA(1) inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 4(2)**
- F155** 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)**
- F156** 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)**
- F157** Words in s. 432ZA(5) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 15(1)**
- F158** 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)**
- F159** S. 432ZA(6): definition of “internal linked fund” repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 9(2)(a), Sch. 27 Pt. 2(10)**, Note
- F160** Words in s. 432ZA(7) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 12** (with Sch. 7 Pt. 2)

#### [<sup>F161</sup>432A] Apportionment of income and gains.

[<sup>F162</sup>(1) [<sup>F163</sup>Subject to section 432B, this] section has effect [<sup>F164</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 [<sup>F165</sup>or losses] arising from the assets of the company’s [<sup>F166</sup>long-term insurance fund], or
- (b) gains or losses accruing on the disposal of such assets [<sup>F167</sup>in accordance with the provisions of the 1992 Act],

are referable to any category of business.

[<sup>F168</sup>(1ZA) In subsection (1)(a) above “income” means—

- (a) income chargeable under [<sup>F169</sup>Chapter 3 of Part 4 of CTA 2009 (profits of a property business) in respect of any separate UK property] businesses treated as carried on by the company under section 432AA,
- [<sup>F170</sup>(b) income chargeable under Chapter 3 of Part 4 of CTA 2009 in respect of distributions treated by section 121(1)(a) of the Finance Act 2006 as profits of a UK property business carried on by the company,]
- (c) income chargeable under [<sup>F171</sup>Chapter 3 of Part 4 of CTA 2009] in respect of any overseas property business treated as carried on by the company under section 432AA,

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- [<sup>F172</sup>(d) income chargeable under Chapter 2 of Part 10 of CTA 2009 (dividends of non-UK resident companies) or Chapter 6 of that Part (sale of foreign dividend coupons),
- (da) income chargeable under Chapter 7 of Part 10 of CTA 2009 (annual payments not otherwise charged) or Chapter 8 of that Part (income not otherwise charged) which arises from a source outside the United Kingdom,]
- (e) distributions received by the company from companies resident in the United Kingdom,
- (f) credits in respect of any creditor relationships (within the meaning of [<sup>F173</sup>Part 5 of CTA 2009]) of the company,
- (g) credits in respect of any derivative contracts (within the meaning of [<sup>F174</sup>Part 7 of CTA 2009]) of the company,
- (h) any income of the company chargeable under [<sup>F175</sup>Chapter 5 of Part 10 of CTA 2009 (distributions from unauthorised unit trusts) or Chapter 7 of that Part (annual payments not otherwise charged)],
- (i) any credits brought into account by the company under [<sup>F176</sup>Chapter 2 of Part 8 of CTA 2009] (intangible fixed assets), and
- (j) any income of the company chargeable under [<sup>F177</sup>any provision to which section 834A (miscellaneous charges) applies], other than profits of the company chargeable under section 436A (gross roll-up business).
- (1ZB) In subsection (1)(a) above “losses” means—
- (a) losses in respect of any separate [<sup>F178</sup>UK property businesses] treated as carried on by the company under section 432AA,
- (b) losses in respect of any overseas property businesses treated as carried on by the company under that section,
- (c) debits in respect of any creditor relationships (within the meaning of [<sup>F179</sup>Part 5 of CTA 2009]) of the company,
- (d) debits in respect of any derivative contracts (within the meaning of [<sup>F180</sup>Part 7 of CTA 2009]) of the company,
- (e) any debits brought into account by the company under [<sup>F181</sup>Chapter 3 of Part 8 of CTA 2009] (intangible fixed assets), and
- (f) any losses of the company computed in the same way as profits chargeable under [<sup>F182</sup>any provision to which section 834A applies], other than any losses of gross roll-up business.
- (1ZC) For determining as mentioned in subsection (1) above what parts of income or gains arising from the assets of the company's long-term insurance fund are referable to PHI business (to the extent that it would not be the case by virtue of subsections (1ZA) and (1ZB))—
- (a) “income” also includes profits shown in the technical account, and
- (b) “losses” also includes losses so shown.]
- [<sup>F183</sup>(1A) If the company carries on only one category of business in the period—
- [<sup>F184</sup>(a) all of the income and losses referred to in paragraph (a) of subsection (1) above, and
- (b) all of the gains and losses referred to in paragraph (b) of that subsection, are] 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>F185</sup>subsections (1) and (1A)] above are—



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- [<sup>F186</sup>(a) basic life assurance and general annuity business,
    - (b) gross roll-up business, and
    - (c) PHI business.]
  - (3) Income [<sup>F187</sup>or losses] arising from, and gains or losses accruing on the disposal of, assets linked to any category of business [<sup>F188</sup>is] referable to that category of business.]
- [ Amounts falling within—
- <sup>F189</sup>(3A)
  - (a) section 442A,
  - (b) section 85(2C) of the Finance Act 1989, or
  - (c) section 85A of that Act,are directly referable to basic life assurance and general annuity business.]
- (4) <sup>F190</sup> .....
- [ Income [<sup>F192</sup>or losses] arising from, and gains or losses accruing on the disposal of,
- <sup>F191</sup>(4A) foreign [<sup>F193</sup>business] assets is referable to gross roll-up business.]
- (5) There [<sup>F194</sup>is] referable to any category of business <sup>F195</sup> . . . the relevant fraction of any [<sup>F196</sup>income and losses referred to in paragraph (a) of subsection (1) above, and any gains and losses referred to in paragraph (b) of that subsection,] not directly referable to [<sup>F197</sup>any category] of business.
- [<sup>F198</sup>(6) For the purposes of subsection (5) above “the relevant fraction”, in relation to basic life assurance and general annuity business, is—

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

where—

A is the aggregate of—

- (a) the mean of the opening and closing liabilities of the basic life assurance and general annuity business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category of business,
- (b) <sup>F199</sup> .....
- (c) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts;

B is the aggregate of—

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

C is the aggregate of—

- (a) the mean of the opening and closing liabilities of the PHI business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below

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nil) by the mean of the opening and closing net values of any assets directly referable to that category of business, and

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

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

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

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

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

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

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

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

[<sup>F200</sup>(7) For the purposes of subsections [<sup>F201</sup>(5), (6) [<sup>F202</sup>, (6A) and (6B)]] above—

- (a) income and losses referred to in paragraph (a) of subsection (1) above, and gains and losses referred to in paragraph (b) of that subsection,] are directly referable to a category of business if referable to that category by virtue of subsection (3) or [<sup>F203</sup>(4A)] above, <sup>F204</sup> . . . [<sup>F205</sup>and]
- (b) assets are directly referable to a category of business if income [<sup>F206</sup>and losses arising from the assets, and gains and losses accruing on the disposal of the assets, are] so referable by virtue of subsection (3) [<sup>F207</sup>or (4A)] above, [<sup>F208</sup><sup>F209</sup> . . .
- (c) <sup>F209</sup> . . . . . ]]

[<sup>F210</sup>(8) In [<sup>F211</sup>subsection (6)] above—

- (a) “appropriate part”, in relation to the free assets amount, means—
  - (i) where none (or none but an insignificant proportion) of the liabilities of the long-term business are with-profits liabilities, the part of that amount which bears to the whole the proportion A/B where—
 

A is the amount of the liabilities of the category of business in question [<sup>F212</sup>(but taking that amount to be nil if it would otherwise be below nil)];

B is the whole amount of the liabilities of the long-term business; and
  - (ii) in any other case the part of the free assets amount which bears to the whole the proportion C/D where—

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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 long-term business; <sup>F213</sup> . . . .

(b) <sup>F213</sup> . . . . .

[<sup>F214</sup>This is subject to subsection (8ZA) below.]

[<sup>F215</sup>(8ZA) If for the purposes of subsection (8)(a) above either B or D is nil then, in [<sup>F216</sup>paragraph (c) of the definition of A and paragraph (b) of the definitions of B and C in subsection (6)] above, “appropriate part”, in relation to the free assets amount, means the part of that amount which bears to the whole such proportion as is just and reasonable.]

(8A) <sup>F217</sup> . . . . .

(8B) <sup>F217</sup> . . . . .]

(9) <sup>F218</sup> . . . . .

[<sup>F219</sup>(9A) <sup>F220</sup> . . . . .

(9B) <sup>F221</sup> . . . . .]

<sup>F222</sup>(10) . . . . .

#### Textual Amendments

**F161** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**

**F162** 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)**

**F163** Words in s. 432A(1) substituted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(2)(a)**

**F164** Words in s. 432A(1) substituted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(2)**

**F165** Words in s. 432A(1)(a) inserted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(2)(b)**

**F166** 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)**

**F167** Words in s. 432A(1)(b) inserted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(2)(c)**

**F168** S. 432A(1ZA)-(1ZC) inserted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(3)**

**F169** Words in s. 432A(1ZA)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(a)** (with Sch. 2 Pts. 1, 2)

**F170** S. 432A(1ZA)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(b)** (with Sch. 2 Pts. 1, 2)

**F171** Words in s. 432A(1ZA)(c) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(c)** (with Sch. 2 Pts. 1, 2)

**F172** S. 432A(1ZA)(d)(da) substituted for s. 432A(1ZA)(d) (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(d)** (with Sch. 2 Pts. 1, 2)

**F173** Words in s. 432A(1ZA)(f) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(e)** (with Sch. 2 Pts. 1, 2)

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- F174** Words in s. 432A(1ZA)(g) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(f)** (with Sch. 2 Pts. 1, 2)
- F175** Words in s. 432A(1ZA)(h) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(g)** (with Sch. 2 Pts. 1, 2)
- F176** Words in s. 432A(1ZA)(i) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(h)** (with Sch. 2 Pts. 1, 2)
- F177** Words in s. 432A(1ZA)(j) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(2)(i)** (with Sch. 2 Pts. 1, 2)
- F178** Words in s. 432A(1ZB)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(3)(a)** (with Sch. 2 Pts. 1, 2)
- F179** Words in s. 432A(1ZB)(c) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(3)(b)** (with Sch. 2 Pts. 1, 2)
- F180** Words in s. 432A(1ZB)(d) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(3)(c)** (with Sch. 2 Pts. 1, 2)
- F181** Words in s. 432A(1ZB)(e) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(3)(d)** (with Sch. 2 Pts. 1, 2)
- F182** Words in s. 432A(1ZB)(f) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 130(3)(e)** (with Sch. 2 Pts. 1, 2)
- F183** S. 432A(1A) inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(3)**
- F184** Words in s. 432A(1A) substituted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(4)**
- F185** Words in s. 432A(2) substituted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(4)**
- F186** S. 432A(2)(a)-(c) substituted for s. 432A(2)(a)-(f) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(3)** (with Sch. 7 Pt. 2)
- F187** Words in s. 432A(3) inserted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(5)**
- F188** Word in s. 432A(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(4)** (with Sch. 7 Pt. 2)
- F189** S. 432A(3A) inserted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(6)**
- F190** S. 432A(4) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 13(5), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F191** S. 432A(4A) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(6)** (with Sch. 7 Pt. 2)
- F192** Words in s. 432A(4A) inserted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(7)**
- F193** Word in s. 432A(4A) substituted (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(3)(a)**
- F194** Word in s. 432A(5) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(7)(a)** (with Sch. 7 Pt. 2)
- F195** Words in s. 432A(5) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 13(7)(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F196** Words in s. 432A(5) substituted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(8)**
- F197** 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))
- F198** S. 432A(6)-(6C) substituted for s. 432A(6)-(6AA) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(8)** (with Sch. 7 Pt. 2)
- F199** Words in s. 432A(6) omitted (with effect in accordance with Sch. 17 para. 19(5) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 19(3)(a)**
- F200** 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))

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- F201** Words in s. 432A(7) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 5(4)(a)**
- F202** Words in s. 432A(7) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(9)(a)** (with Sch. 7 Pt. 2)
- F203** Words in s. 432A(7)(a) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(9)(b)** (with Sch. 7 Pt. 2)
- F204** Word at the end of s. 432A(7)(a) omitted (6.1.2006 with effect in accordance with art. 1 of the repealing S.I.) by virtue of The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 5(4)(b)**
- F205** Word at the end of s. 432A(7)(a) inserted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(9)(a)**
- F206** Words in s. 432A(7)(b) substituted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 17(9)(b)**
- F207** Words in s. 432A(7)(b) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(9)(c)** (with Sch. 7 Pt. 2)
- F208** S. 432A(7)(c) and preceding word inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 5(4)(c)**
- F209** S. 432A(7)(c) and preceding word omitted (with effect in accordance with Sch. 17 para. 17(12) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 17(9)(c)**
- F210** S. 432A(8)-(8B) substituted for s. 432A(8) (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 5(5)**
- F211** Words in s. 432A(8) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(10)** (with Sch. 7 Pt. 2)
- F212** Words in s. 432A(8)(a)(i) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1), 4(5)(a)**
- F213** S. 432A(8)(b) and preceding word omitted (with effect in accordance with Sch. 17 para. 19(5) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 19(3)(b)**
- F214** Words in s. 432A(8) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1), 4(5)(b)**
- F215** S. 432A(8ZA) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1), 4(6)**
- F216** Words in s. 432A(8ZA) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(11)** (with Sch. 7 Pt. 2)
- F217** S. 432A(8A)(8B) omitted (with effect in accordance with Sch. 17 para. 19(5) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 19(3)(c)**
- F218** S. 432A(9) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 13(12), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F219** 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)**
- F220** S. 432A(9A) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 9(2)(b), **Sch. 27 Pt. 2(10)**, Note
- F221** 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)**
- F222** 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

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

- C18** S. 432A modified (3.5.1994) by Finance Act 1994, (c. 9), s. 169, Sch. 18 para 1(4)
- C19** 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**)
- C20** 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)
- C21** S. 432A applied (19.3.1997) by Finance Act 1997 (c. 16), **Sch. 12 para 19**
- C22** 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**)
- C23** 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)**)
- C24** 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)**
- C25** S. 432A 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), 9** (as amended by: S.I. 2007/2134, **regs. 1(1)(2), 9**; S.I. 2008/1937, **regs. 1(1)(2), 6**)
- C26** S. 432A excluded by Finance Act 1989 (c. 26), **s. 83XA(14)** (as inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 2(1)**)
- C27** 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**
- C28** S. 432A(2) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 10**
- C29** 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>F224</sup>432A<sup>F223</sup> **UK property business or overseas property business**]

- (1) An insurance company [<sup>F225</sup>is treated (despite sections 205 and 206 of CTA 2009) as carrying on separate UK property 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>F226</sup>long-term insurance fund] is treated as a separate business from the exploitation of land not so held.
- (3) <sup>F227</sup> .....
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
  - [<sup>F228</sup>(a) basic life assurance and general annuity business;
  - (b) gross roll-up business; and
  - (c) PHI business.]
- (5) Accordingly, the exploitation of land held as an asset of the company's [<sup>F226</sup>long-term insurance fund] otherwise than as mentioned in subsection <sup>F229</sup> . . . (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

- F223** S. 432AA title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 131(3)** (with Sch. 2 Pts. 1, 2)
- F224** 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)
- F225** Words in s. 432AA(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 131(2)** (with Sch. 2 Pts. 1, 2)
- F226** 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)**
- F227** S. 432AA(3) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 14(2), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F228** S. 432AA(4)(a)-(c) substituted for s. 432AA(4)(a)-(d) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 14(3)** (with Sch. 7 Pt. 2)
- F229** Words in s. 432AA(5) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 14(4), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

### Modifications etc. (not altering text)

- C30** 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**)
- C31** 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**)
- C32** S. 432AA(4) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 11**
- C33** 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>F224</sup>432AB] Losses from [<sup>F230</sup>UK property business] or overseas property business.

(1) This section applies to any loss arising in a [<sup>F231</sup>UK property business] or overseas property business.

(2) <sup>F232</sup>.....

[<sup>F233</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 [<sup>F234</sup>UK property 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 [<sup>F235</sup>sections 392A and 503, or section 392B,] (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.

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(6) <sup>F236</sup> .....

**Textual Amendments**

- F224** 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)
- F230** Words in s. 432AB title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 132(4)** (with Sch. 2 Pts. 1, 2)
- F231** Words in s. 432AB(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 132(2)** (with Sch. 2 Pts. 1, 2)
- F232** S. 432AB(2) omitted (with effect in accordance with Sch. 17 para. 17(12) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 17(11)(a)**
- F233** 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)
- F234** Words in s. 432AB(4)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 132(3)** (with Sch. 2 Pts. 1, 2)
- F235** Words in s. 432AB(5) substituted (with effect in accordance with Sch. 17 para. 28(4) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 28(3)**
- F236** S. 432AB(6) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 15, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

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

- C34** 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**)
- C35** 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>F237</sup> 432BA] Apportionment of receipts brought into account.**

- (1) This section and [<sup>F238</sup> sections 432C to [<sup>F239</sup> 432G]] have effect where it is necessary in accordance with section 83 of the Finance Act 1989 to determine what parts of any items [<sup>F240</sup> brought into account, within the meaning of that section,] are referable to life assurance business or [<sup>F241</sup> gross roll-up business].
- [<sup>F242</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 [<sup>F243</sup> 432G] apply separately in relation to each account.]
- (3) [<sup>F244</sup> Section 432C applies] 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>F245</sup> sections 432E and 432F apply] where the relevant business relates wholly or partly to other policies or contracts [<sup>F246</sup> (and section 432G applies in either case)]. ]

- [<sup>F247</sup> (4) <sup>F248</sup> .....
- (5) <sup>F248</sup> .....
- (6) <sup>F248</sup> .....



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- (7) <sup>F248</sup> .....
- [<sup>F249</sup>(8) <sup>F248</sup> .....
- (8A) <sup>F248</sup> .....
- (8B) <sup>F248</sup> .....
- (8C) <sup>F248</sup> .....
- (8D) <sup>F248</sup> .....
- (8E) <sup>F248</sup> .....
- (8F) <sup>F248</sup> .....
- (8G) <sup>F248</sup> .....]
- (9) <sup>F248</sup> .....
- (10) <sup>F248</sup> .....
- (11) <sup>F248</sup> .....]
- [<sup>F250</sup>(12) <sup>F248</sup> .....]

### Textual Amendments

- F237** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F238** 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))
- F239** Words in s. 432B(1) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(2)(a)** (with Sch. 7 Pt. 2)
- F240** 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))
- F241** Words in s. 432B(1) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(2)(b)** (with Sch. 7 Pt. 2)
- F242** 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))
- F243** Words in s. 432B(2) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(3)** (with Sch. 7 Pt. 2)
- F244** Words in s. 432B(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(4)(a)** (with Sch. 7 Pt. 2)
- F245** 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))
- F246** Words in s. 432B(3) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(4)(b)** (with Sch. 7 Pt. 2)
- F247** S. 432B(4)-(11) inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 6(2)**
- F248** S. 432B(4)-(12) omitted (with effect in accordance with Sch. 17 para. 19(5) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 19(4)**
- F249** S. 432B(8)-(8G) substituted for s. 432B(8) (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(2)**

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**F250** S. 432B(12) inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), arts. 1(1), 3(5)

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

**C36** 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)

**C37** 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

**C38** 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)

**C39** S. 432B modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), reg. 9A (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), 10 (and that modifying reg. 10 is omitted (12.8.2008 with effect in accordance with reg. 1(2) of the revoking S.I.) by virtue of S.I. 2008/1937, regs. 1(1), 7))

**C40** Ss. 432B-432G applied (1.4.2010 with effect in accordance with s. 381(1) of the affecting Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 102(3) (with Sch. 9)

**[<sup>F251</sup>432] Section 432B apportionment: non-participating funds**

- (1) This section specifies the extent to which the net amount is referable to life assurance business or to gross roll-up business.
- (2) In this section “the net amount” means the aggregate of the amounts brought into account—
  - (a) as investment income,
  - (b) as an increase in the value of assets, or
  - (c) as other income,
 less the aggregate of the amounts brought into account as a decrease in the value of assets.
- (3) To the extent that the net amount is attributable to—
  - (a) assets linked to life assurance business, or
  - (b) foreign [<sup>F252</sup>business] assets,
 it is referable to life assurance business.
- (4) There is also referable to life assurance business the appropriate fraction of so much of the net amount as is not attributable to linked assets or foreign [<sup>F252</sup>business] assets.
- (5) For the purposes of subsection (4) above “the appropriate fraction” is—

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

where—

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

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and closing net values of assets linked to the relevant business so far as so referable and foreign [<sup>F252</sup>business] assets; and

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

- (6) But if the denominator found in accordance with subsection (5) above is nil, the appropriate fraction for the purposes of subsection (4) above is such fraction as is just and reasonable.
- (7) To the extent that the net amount is attributable to—
- (a) assets linked to gross roll-up business, or
  - (b) foreign [<sup>F252</sup>business] assets,
- it is referable to gross roll-up business.
- (8) There is also referable to gross roll-up business the relevant fraction of so much of the net amount as is not attributable to linked assets or foreign [<sup>F252</sup>business] assets.
- (9) For the purposes of subsection (8) above “the relevant fraction” is—

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

where—

C is the mean of the opening and closing liabilities of the relevant business so far as referable to gross roll-up business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the aggregate of the mean of the opening and closing net values of any assets linked to gross roll-up business and foreign [<sup>F252</sup>business] assets; and

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

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

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### Textual Amendments

- F251** S. 432C substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 17](#) (with [Sch. 7 Pt. 2](#))
- F252** Words in s. 432C(3)-(5)(7)-(9) substituted (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\(3\)\(b\)](#)

### Modifications etc. (not altering text)

- C41** Ss. 432B-432G applied (1.4.2010 with effect in accordance with s. 381(1) of the affecting Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), [s. 102\(3\)](#) (with [Sch. 9](#))

VALID FROM 08/04/2010

## <sup>F253</sup> **432CA Apportionment of asset value increase where line 51 amount decreases**

- (1) This section applies where—
- (a) an insurance company is not a non-profit company in relation to a period of account (“the current period of account”),
  - (b) 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)),
  - (c) 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
  - (d) 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—
- (a) 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,
  - (b) 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
  - (c) 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—
- (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 the current period of account, is less than
  - (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—

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- (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

**F253** 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)

VALID FROM 27/07/2010

#### [<sup>F254</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”),

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(“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
- (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.

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- (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

**F254** 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>F255</sup> 432D] Section 432B apportionment: value of non-participating funds.

<sup>F256</sup> .....]

#### Textual Amendments

**F255** Ss. 432A-432E inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 4](#)

**F256** S. 432D repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 18](#), [Sch. 27 Pt. 2\(7\)](#), Note (with Sch. 7 Pt. 2)

#### [<sup>F257</sup> 432E] Section 432B apportionment: participating funds.

[<sup>F258</sup> (1) The part of the net amount which is referable to life assurance business or to gross roll-up business is—

- (a) the amount determined in accordance with subsections (2) and (2A) below, or

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(b) if greater, the amount determined in accordance with subsection (3) below.

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

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

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

(2) For the purposes of subsection (1) above there shall be determined the amount which is such as to secure—

- (a) <sup>F259</sup> .....
- (b) <sup>F260</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 life assurance business or of gross roll-up business]; and

CS is so much of the surplus of the relevant business as would remain if the relevant business were confined to [<sup>F261</sup>life assurance business or to gross roll-up business].

(2A) In a case where [<sup>F262</sup>an amount or amounts are] taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of subsection (2B) of that section [<sup>F263</sup>or by virtue of section <sup>F264</sup> . . . [<sup>F265</sup>[<sup>F266</sup>444AB, <sup>F267</sup> . . . ]]<sup>F268</sup>444AEA,]<sup>F269</sup>444AECA,] 444AF(2) or 444AK(2)] of this Act], 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

[<sup>F270</sup>RP is the amount or the aggregate of the amounts taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of any of the following provisions—

- (a) subsection (2B) of that section;
- (aa) [<sup>F271</sup>section 444AB <sup>F272</sup> . . . of this Act;]
- (ab) [<sup>F273</sup>section 444AEA [<sup>F274</sup>or 444AECA] of this Act;]
- (b) <sup>F264</sup> .....



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- (c) [F275 subsection (2) of section 444AF of this Act (and see subsections (5) and (6) of that section);
  - (d) subsection (2) of section 444AK of this Act (but only for the purposes mentioned in subsection (3) of that section).]
- (3) For the purposes of subsection (1) above there shall also be determined the aggregate of—
- (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 [F276 (but taking that mean to be nil if it would otherwise be below nil)] after deducting from it the mean of the opening and closing values of any assets of the relevant business [F277 linked] to that category of business [F278F279 . . . ], and
  - (b) the part of the net amount F280 . . . that is attributable to assets [F277 linked] to that category of business [F281F282 . . . ].
- (4) [F283 Subject to subsection (4A) below, for] the purposes of subsection (3) above “the applicable percentage”, in any case, [F284 is—

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

where—

A is so much of the net amount as is brought into account in respect of the relevant business less such part of it as is attributable to linked assets F285 . . . ; and

B is the mean of the opening and closing liabilities of the relevant business reduced by the mean of the opening and closing values of any assets of the relevant business which are linked assets F286 . . . ]

[F287 (4A) If the mean of the opening and closing liabilities of the relevant business reduced by the opening and closing values of any assets of the relevant business which are linked assets [F288F289 . . . ] is nil then, for the purposes of subsection (3) above, “the applicable percentage” is such percentage as is just and reasonable.]

(5) F290 . . . . .

(6) F290 . . . . .]

#### Textual Amendments

- F257** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F258** S. 432E(1)(1A) substituted for s. 432E(1) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(2)** (with Sch. 7 Pt. 2)
- F259** 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
- F260** 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
- F261** Words in s. 432E(2) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(3)(b)** (with Sch. 7 Pt. 2)
- F262** Words in s. 432E(2A) substituted (with effect in accordance with Sch. 9 para. 5(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 5(2)(a)**

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- F263** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 5(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 5(2)(b)**
- F264** Words in s. 432E(2A) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 2(3), **Sch. 27 Pt. 2(10)**, Note
- F265** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 11 para. 2(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 11 para. 2(2)**
- F266** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 4(2)(a)**; S.I. 2008/379, **art. 2**
- F267** Words in s. 432E(2A) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1)**, 6(a)
- F268** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 8(2)**; S.I. 2008/379, **art. 2**
- F269** Words in s. 432E(2A) 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), **arts. 1(1)**, 6(b)
- F270** Words in s. 432E(2A) substituted (with effect in accordance with Sch. 9 para. 5(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 5(3)**
- F271** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 4(2)(b)**; S.I. 2008/379, **art. 2**
- F272** Words in s. 432E(2A) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1)**, 6(c)
- F273** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 8(2)**; S.I. 2008/379, **art. 2**
- F274** Words in s. 432E(2A) 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), **arts. 1(1)**, 6(d)
- F275** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 11 para. 2(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 11 para. 2(3)**
- F276** Words in s. 432E(3)(a) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1)**, 7(2)
- F277** 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))
- F278** Words in s. 432E(3)(a) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(4)(a)** (with Sch. 7 Pt. 2)
- F279** Words in s. 432E(3)(a) omitted (with effect in accordance with Sch. 23 para. 7 of the repealing Act) by virtue of Finance Act 2009 (c. 10), **Sch. 23 para. 5(2)**
- F280** Words in s. 432E(3)(b) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 19(4)(b)(i), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F281** Words in s. 432E(3)(b) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(4)(b)(ii)** (with Sch. 7 Pt. 2)
- F282** Words in s. 432E(3)(b) omitted (with effect in accordance with Sch. 17 para. 10(6)(7) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 10(4)(a)**
- F283** Words in s. 432E(4) substituted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1)**, 7(3)
- F284** Words in s. 432E(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(5)** (with Sch. 7 Pt. 2)
- F285** Words in s. 432E(4) omitted (with effect in accordance with Sch. 23 para. 7 of the repealing Act) by virtue of Finance Act 2009 (c. 10), **Sch. 23 para. 5(3)**

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- F286** Words in s. 432E(4) omitted (with effect in accordance with Sch. 17 para. 10(6)(7) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 10(4)(b)**
- F287** S. 432E(4A) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1), 7(4)**
- F288** Words in s. 432E(4A) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(6)** (with Sch. 7 Pt. 2)
- F289** Words in s. 432E(4A) omitted (with effect in accordance with Sch. 23 para. 7 of the repealing Act) by virtue of Finance Act 2009 (c. 10), **Sch. 23 para. 5(4)**
- F290** S. 432E(5)(6) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(7), Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

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

- C42** 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**
- C43** 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**)
- C44** S. 432E 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), 12** (as amended by S.I. 2007/2134, **regs. 1(1)(2), 12**)
- C45** Ss. 432B-432G applied (1.4.2010 with effect in accordance with s. 381(1) of the affecting Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), **s. 102(3)** (with Sch. 9)
- C46** S. 432E modified by Corporation Tax Act 2009 (c. 4), **s. 18Q(2)** (as inserted (19.7.2011) by Finance Act 2011 (c. 11), **Sch. 13 paras. 4, 31**)
- C47** For orders see Part III Vol.5 (under “Life assurance apportionment of participating funds: applicable percentage”).

#### [<sup>F291</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) <sup>F292</sup> . . . There shall be determined for each accounting period the amount (if any) by which the subsection (2) figure <sup>F293</sup> . . . 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.]

#### Textual Amendments

- F291** 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))

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**F292** Words in s. 432F(2) repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 20\(a\), Sch. 27 Pt. 2\(7\)](#), Note (with Sch. 7 Pt. 2)

**F293** Words in s. 432F(2) repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 20\(b\), Sch. 27 Pt. 2\(7\)](#), Note (with Sch. 7 Pt. 2)

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

**C48** Ss. 432B-432G applied (1.4.2010 with effect in accordance with s. 381(1) of the affecting Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 102\(3\)](#) (with Sch. 9)

**C49** 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](#)

**[<sup>F294</sup> [<sup>F295</sup> Section 432B apportionment: business transfers-in**

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

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

where—

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

TL is the whole of the liabilities transferred.

- (3) But if the amount of the liabilities transferred is nil, the appropriate fraction for the purposes of subsection (1) above is such fraction as is just and reasonable.
- (4) There is referable to the gross roll-up business of the transferee the relevant fraction of the amount brought into account as a business transfer-in and of any amount taken into account as profits under section 444ABD(1).
- (5) For the purposes of subsection (4) above “the relevant fraction” is—

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

where—

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

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

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

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**Textual Amendments**

- F294** 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**
- F295** S. 432G substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 7 para. 21** (with [Sch. 7 Pt. 2](#))

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

- C50** Ss. 432B-432G applied (1.4.2010 with effect in accordance with s. 381(1) of the affecting Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), **s. 102(3)** (with [Sch. 9](#))

**<sup>F296</sup>433 Profits reserved for policy holders and annuitants.**

**Textual Amendments**

- F296** 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))

*[<sup>F297</sup>Miscellaneous provisions relating to life assurance business]*

**Textual Amendments**

- F297** 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>F298</sup>[<sup>F299</sup>[<sup>F300</sup>(1) Where an insurance company makes a payment representative of a distribution made by a company resident in the United Kingdom in respect of an asset of its long-term insurance fund, the payment is to be taken into account in computing its profits in accordance with the [<sup>F301</sup>life assurance trade profits provisions] unless the amount taken into account in accordance with section 83(2)(a) of the Finance Act 1989 includes the amount of the payment.]]]

(2) <sup>F302</sup> .....

[<sup>F303</sup>(3) <sup>F304</sup> .....

(3A) [<sup>F305</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>F306</sup>(3B) <sup>F307</sup> .....

(3C) <sup>F307</sup> .....

(3D) <sup>F307</sup> .....]

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(4) <sup>F308</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”.

(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>F309</sup>

(6) <sup>F304</sup> .....

[<sup>F310</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>F311</sup> . . .

<sup>F312</sup> (aa) <sup>F313</sup> .....

(ab) <sup>F313</sup> .....

(ac) <sup>F313</sup> .....

(b) <sup>F314</sup> .....

(7) <sup>F302</sup> .....

(8) <sup>F304</sup> .....]

### Textual Amendments

**F298** 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))

**F299** 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)**

**F300** S. 434(1) substituted for s. 434(1)(1B) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 22(2)** (with Sch. 7 Pt. 2)

**F301** Words in s. 434(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 133** (with Sch. 2 Pts. 1, 2)

**F302** 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)**

**F303** S. 434(3)(3A) substituted for s. 434(3) by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 3(1)**

**F304** 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

**F305** 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)**

**F306** S. 434(3B)-(3D) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 5(4)**

**F307** 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

**F308** 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.

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**F309** 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.

**F310** 1990 s.45(7).

**F311** 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)

**F312** S. 434(6A)(aa)-(ac) inserted (3.5.1994) by Finance Act 1994 (c. 9), Sch. 16 para 5(5)

**F313** 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

**F314** S. 434(6A)(b) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 22(3), Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)

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

**C51** S. 434 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)

#### Marginal Citations

**M5** Source—1970 s.310(6)

### **436A Computation of losses and limitation on relief.**

(1) <sup>F317</sup> . . . . .

<sup>F318</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 <sup>F319</sup>life assurance trade profits provisions]—

(a) the loss resulting from the computation shall be reduced (but not below nil) by <sup>F320</sup> . . . . .

(i) <sup>F321</sup> . . . . .

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

<sup>F322</sup>(iii) <sup>F323</sup> . . . . .]

(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),

<sup>F324</sup>any loss for that period under section 436A shall be reduced (but not below nil) by the total of the amounts set off as mentioned in sub-paragraphs (i) and (ii) above.]]

<sup>F325</sup>(2A) The reference in subsection <sup>F326</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 <sup>F327</sup> . . . 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 <sup>F328</sup>Part 5 of CTA 2009)] were disregarded.]

(3) In the case of a company carrying on life assurance business, no relief shall be allowable <sup>F329</sup>—

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

<sup>F330</sup>(aa) (where the company's life assurance business is not mutual business) in respect of any amount which is a charge on income for the purposes of corporation tax,] or

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- (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 [F33189] of the Finance Act 1989.

- [F332(4) For the purposes of section 403, where the surrendering company is an insurance company which is charged to tax under the I minus E basis in respect of its life assurance business for the surrender period, the company's gross profits of that period do not include its relevant profits (within the meaning of section 88 of the Finance Act 1989) for that period; and expressions used in this subsection and section 403 have the same meaning here as there.]]

#### Textual Amendments

- F315** S. 434A inserted by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 4**
- F316** 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))
- F317** 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
- F318** 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)**
- F319** Words in s. 434A(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 134(2)** (with Sch. 2 Pts. 1, 2)
- F320** Words in s. 434A(2)(a) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 23(2)(a), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F321** S. 434A(2)(a)(i) repealed (with effect in accordance with s. 38(6) of the repealing Act) by Finance (No. 2) Act 2005 (c. 22), s. 38(4), **Sch. 11 Pt. 2(7)**, Note
- F322** 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)**
- F323** S. 434A(2)(a)(iii) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 23(2)(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F324** Words in s. 434A(2)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 23(3)** (with Sch. 7 Pt. 2)
- F325** 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)
- F326** 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)**
- F327** Words in s. 434A(2A) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 134(3)(a), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F328** Words in s. 434A(2A) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 134(3)(b)** (with Sch. 2 Pts. 1, 2)
- F329** 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)
- F330** S. 434A(3)(aa) inserted (with effect in accordance with Sch. 17 para. 22(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 22(1)**
- F331** 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)**
- F332** S. 434A(4) inserted (with effect in accordance with Sch. 17 para. 21(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 21(1)**



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

- C52** 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](#))
- C53** S. 434A(2) modified by [Finance Act 1996 \(c. 8\)](#), [Sch. 31 para. 2\(3\)](#)

[<sup>F333</sup> ~~434AZA~~ **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—
  - (a) there has been a relevant addition to one or more non-profit funds in a period of account ending no later than the accounting period (“the relevant period of account”) (see subsection (3)),
  - (b) the company is not a non-profit company in relation to the relevant period of account and has not elected under subsection (9) of section 83YA of the Finance Act 1989 to be treated for the purposes of that section as if it were, and
  - (c) condition A or B is met,and, if the relevant period of account is not the period of account ending with the accounting period (“the current period of account”), condition C is also met.
- (3) For the purposes of subsection (2), there is a relevant addition to a non-profit fund in the relevant period of account if an amount is shown as a transfer from non-technical account in line 32 of the Form 58 of the non-profit fund in the periodical return for that period of account.
- (4) Condition A is that there is a relevant book value election in relation to assets of a non-profit fund of the company.
- (5) For the purposes of subsection (4), there is a relevant book value election in relation to assets of a non-profit fund if an amount is shown in relation to the non-profit fund as the excess of the value of net admissible assets in line 51 of the Form 14 of the non-profit fund in the periodical return for the current period of account.
- (6) Condition B is that the company is party to arrangements the main purpose, or one of the main purposes, of which is to reduce the relevant admissible value of assets of a non-profit fund of the company, other than any structural assets.
- (7) For the purposes of subsection (6) (and section 434AZB), the “relevant admissible value” means the value reflected in line 89 of Form 13 of the periodical return for the current period of account.
- (8) Condition C is that the surplus arising since the last valuation shown in line 34 of the Form 58 of the non-profit fund, or any of the non-profit funds, in relation to which condition A or B is met in the periodical return for the current period of account is a negative amount.]

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#### Textual Amendments

**F333** 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>F333</sup> 434AZC] **Abolitions 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
  - (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

**F333** 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\(1\)](#)

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[<sup>F333</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).]

**Textual Amendments**

**F333** 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>F334</sup> **434B** Treatment of interest and annuities.

- (1) <sup>F335</sup> .....
- (2) <sup>F336</sup> .....]

**Textual Amendments**

**F334** 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))

**F335** 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)

**F336** 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>F337</sup> **434C** Interest on repayment of advance corporation tax.

- <sup>F338</sup> .....

**Textual Amendments**

**F337** 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))

**F338** 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>F339</sup> **434D** Capital allowances: management assets.

- <sup>F340</sup> .....

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**Textual Amendments**

- F339** 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\(2\)](#))
- F340** 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.**

**F341** .....]

**Textual Amendments**

- F339** 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\(2\)](#))
- F341** 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>F342</sup>435 Taxation of gains reserved for policy holders and annuitants.**

.....

**Textual Amendments**

- F342** 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>F343</sup>Pension business]: separate charge on profits.**

**F344** .....

**Textual Amendments**

- F343** 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\(2\)](#))
- F344** S. 436 repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 24](#), **Sch. 27 Pt. 2(7)**, Note (with [Sch. 7 Pt. 2](#))

**<sup>F345</sup>436AGross roll-up business: separate charge on profits**

<sup>F346</sup>(1) The charge to corporation tax on income applies to profits arising to an insurance company from gross roll-up business.]

(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 [<sup>F347</sup>life assurance trade profits provisions].

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- (3) In making that computation, sections 82 and 82B to [F34883ZA] 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<sup>F349</sup> . . . 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 [F350section 35 of CTA 2009 (charge on trade profits)].]

#### Textual Amendments

- F345** 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)
- F346** S. 436A(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 135(2)** (with Sch. 2 Pts. 1, 2)
- F347** Words in s. 436A(2)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 135(3)** (with Sch. 2 Pts. 1, 2)
- F348** 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**
- F349** Words in s. 436A(6) omitted (with effect in accordance with Sch. 17 para. 40(2) of the repealing Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 40(1)**
- F350** Words in s. 436A(7) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 135(4)** (with Sch. 2 Pts. 1, 2)

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

- C54** 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**)

### [F345 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.]

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### Textual Amendments

**F345** 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>F351</sup><sup>F352</sup>(1A) In the computation <sup>F353</sup>under the I minus E basis] of the <sup>F354</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>F355</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>F356</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 <sup>F357</sup> . . . <sup>F358</sup> amounts exempt under section 717 of ITTOIA 2005] contained in the new annuities so paid; <sup>F359</sup> . . .
- (c) <sup>F360</sup> . . . . . <sup>F361</sup> and
- (d) the amounts exempt under section 717 of ITTOIA 2005 <sup>F362</sup> are so much of the payments under the new annuities as would be within the exemption in subsection (1) of that section if—
  - (i) section 718 of that Act were omitted, and
  - (ii) that exemption were an exemption applying in relation to companies as well as individuals.]]

<sup>F363</sup>[ Where a new annuity (“the actual annuity”) is a steep-reduction annuity, the income (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

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- (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,

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.]

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- F364(2) .....
- F365(3) .....
- F366(4) .....
- F367(5) .....
- (6) <sup>F368</sup> .....

### Textual Amendments

- F351** 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
- F352** 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)
- F353** Words in s. 437(1A) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 8 para. 6 (with Sch. 8 Pt. 2)
- F354** 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)
- F355** 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
- F356** 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)
- F357** Words in s. 437(1C)(b)(ii) omitted (with effect in accordance with Sch. 14 para. 18(1) of the repealing Act) by virtue of Finance Act 2008 (c. 9), Sch. 14 para. 2(2)
- F358** Words in s. 437(1C)(b)(ii) 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. 178(2) (with Sch. 2)
- F359** Word at the end of s. 437(1C)(b) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 178(3), Sch. 3 (with Sch. 2)
- F360** S. 437(1C)(c) omitted (with effect in accordance with Sch. 14 para. 18(1) of the repealing Act) by virtue of Finance Act 2008 (c. 9), Sch. 14 para. 2(3)
- F361** S. 437(1C)(d) and preceding word 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. 178(4) (with Sch. 2)
- F362** Words in s. 437(1C)(d) substituted (with effect in accordance with Sch. 14 para. 18(1) of the amending Act) by Finance Act 2008 (c. 9), Sch. 14 para. 2(4)
- F363** 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)
- F364** 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
- F365** 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
- F366** 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
- F367** 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
- F368** 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)**

- C55** 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**)
- C56** 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**)
- C57** S. 437 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), 14**

[<sup>F369</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.

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- (5) Where—
  - (a) any question arises for the purposes of this section whether the amount of any payment in respect of any annuity—
    - (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**  
**F369** 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>M6</sup>Exemption from corporation tax shall be allowed in respect of income [<sup>F370</sup>from assets solely linked to pension business.]
- (2) <sup>F371</sup> .....
- (3) <sup>F372</sup> .....
- [<sup>F373</sup>(3AA) <sup>F372</sup> .....]
- (4) <sup>F371</sup> .....
- (5) <sup>F374</sup> .....
- (6) <sup>F374</sup> .....
- [<sup>F375</sup>(6A) <sup>F376</sup> .....]
- [<sup>F377</sup>(6B) <sup>F374</sup> .....
- (6C) <sup>F374</sup> .....

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- (6D) <sup>F374</sup> .....
- (6E) <sup>F374</sup> .....]
- (7) <sup>F374</sup> .....
- (8) <sup>F378</sup> .....
- [<sup>F379</sup>(9) <sup>F380</sup> .....]

**Textual Amendments**

- F370** Words in s. 438(1) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 26(2)** (with Sch. 7 Pt. 2)
- F371** S. 438(2)(4) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 26(3), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F372** 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
- F373** S. 438(3AA) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(2)**
- F374** 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))
- F375** 1990 s.45(9).
- F376** 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)**
- F377** S. 438(6B)-(6E) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(4)**
- F378** S. 438(8) repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3**, Note
- F379** 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))
- F380** 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)**

- C58** S. 438 amended (27.7.1993) by 1993 c. 34, **s. 78(6)(11)**
- C59** S. 438 modified (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 18 para. 1(5)**
- C60** 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**)
- C61** 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**

- M6** Source—1970 s.314(1); 1970(F) Sch.5 Part III 11(3), (6)(c)

[<sup>F381</sup>**438A**Pension business: payments on account of tax credits and deducted tax.

- <sup>F382</sup> .....

**Textual Amendments**

- F381** S. 438A inserted (2.10.1992) by Finance Act 1991 (c. 31, SIF 63:1), **s. 49(1)**; S.I. 1992/1746, **art.2**

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**F382** 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>F383</sup> **438B** **Income or gains arising from property investment LLP**

F384 .....

**Textual Amendments**

**F383** Ss. 438B, 438C inserted (6.4.2001) by [Finance Act 2001 \(c. 9\)](#), s. 76, [Sch. 25 para. 5](#)

**F384** S. 438B repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 27](#), [Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))

**438C** **Determination of policy holders' share for purposes of s.438B**

F385 .....]

**Textual Amendments**

**F383** Ss. 438B, 438C inserted (6.4.2001) by [Finance Act 2001 \(c. 9\)](#), s. 76, [Sch. 25 para. 5](#)

**F385** S. 438C repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 28](#), [Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))

**439** **Restricted government securities.**

F386 .....

**Textual Amendments**

**F386** S. 439 repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 29](#), [Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))

[<sup>F387</sup> **439A** **Taxation of pure reinsurance business.**

F388 .....]

**Textual Amendments**

**F387** 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\(2\)](#))

**F388** S. 439A repealed (with effect in accordance with s. 39(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 7](#), [Sch. 27 Pt. 2\(8\)](#), Note (with [Sch. 8 Pt. 2](#))

[<sup>F389</sup> **439B** **Life reinsurance business: separate charge on profits.**

F390 .....]

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### Textual Amendments

- F389** 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))
- F390** S. 439B repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 30, Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)

### [<sup>F391</sup>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 [<sup>F392</sup>fair] value at that time.

(2) Where—

- [<sup>F393</sup>(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 [<sup>F392</sup>fair] value at that time.

[<sup>F395</sup>.....]  
F394(2A)

[<sup>F395</sup>.....]  
F396(2B)

(3) Where, apart from this subsection, section [<sup>F397</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>F398</sup>paragraphs [<sup>F399</sup>(a), (d) and (e)]] of subsection (4) below, that section shall not apply to the disposal or acquisition.

[<sup>F400</sup>(4) The categories referred to in subsections (1) to (3) above are—

- [<sup>F401</sup>(a) assets which are linked solely to gross roll-up business or are foreign [<sup>F402</sup>business] assets;]
- (d) assets linked solely to basic life assurance and general annuity business;
- (e) assets of the [<sup>F403</sup>long-term insurance fund] not within [<sup>F404</sup>either] of the preceding paragraphs;
- (f) other assets.]

(5) [<sup>F405</sup>.....]

[ In a case where the profits of a company’s life assurance business are charged to tax  
F406(6) [<sup>F407</sup>under section 35 of CTA 2009 (charge on trade profits)] this section has effect with the modification specified in section 440B(3).]]

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### Textual Amendments

- F391** 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)
- F392** Words in s. 440(1)(2) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 10(2)(a)**
- F393** 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)**
- F394** 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)
- F395** S. 440(2A)(2B) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(b), **Sch. 27 Pt. 2(10)**, Note
- F396** 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)
- F397** 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))
- F398** 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))
- F399** Words in s. 440(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(2)** (with Sch. 7 Pt. 2)
- F400** 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)
- F401** S. 440(4)(a) substituted for s. 440(4)(a)-(c) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(3)** (with Sch. 7 Pt. 2)
- F402** Word in s. 440(4)(a) substituted (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(3)(d)**
- F403** 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)**
- F404** Word in s. 440(4)(e) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(3)** (with Sch. 7 Pt. 2)
- F405** S. 440(5) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 10(2)(b), **Sch. 27 Pt. 2(10)**, Note
- F406** 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))
- F407** Words in s. 440(6) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 136** (with Sch. 2 Pts. 1, 2)

### Modifications etc. (not altering text)

- C62** 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**)
- C63** 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**)
- C64** 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**)
- C65** S. 440(1) excluded (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, **Sch. 7 para. 6(4)**

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- C66** 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](#))
- C67** 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](#)
- C68** 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](#))
- C69** 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\(1\)](#)
- C70** S. 440(4) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), [regs. 1, 15](#)
- C71** S. 440(4)(f) modified by [Finance Act 1989 \(c. 26\)](#), [s. 83XA\(12\)](#) (as inserted (with effect in accordance with [Sch. 10 para. 17\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 2\(1\)](#))

#### <sup>F408</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—
  - <sup>F409</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—
    - <sup>F410</sup>(i) basic life assurance and general annuity business, or
    - (ii) gross roll-up business,]shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,]
  - (c) <sup>F411</sup>.....
  - (d) so many of the securities as are included in the company's <sup>F412</sup>long-term insurance fund] but do not fall within <sup>F413</sup>paragraph (a)] shall be treated for those purposes as a separate holding which is an asset of that fund (but not of <sup>F414</sup>the description mentioned in that paragraph]), 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>F415</sup>section 104 holding], for the purposes of corporation tax on chargeable gains.
- (4) In a case within subsection (3) above—

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- (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 [F415]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 [F416]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.

[F417F418](6) In this section—

- “1982 holding” has the same meaning as in section 109 of the 1992 Act;
- “[F415]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.]

[F417](7) In a case where the profits of a company’s life assurance business are charged to tax [F419]under section 35 of CTA 2009 (charge on trade profits)] this section has effect with the modification specified in section 440B(4).]

#### Textual Amendments

- F408** 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)
- F409** 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))
- F410** S. 440A(2)(a)(i)(ii) substituted for s. 440A(2)(a)(i)-(iii) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 32(a)** (with Sch. 7 Pt. 2)
- F411** S. 440A(2)(c) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 32(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F412** 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)**
- F413** Words in s. 440A(2)(d) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 32(c)(i)** (with Sch. 7 Pt. 2)
- F414** Words in s. 440A(2)(d) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 32(c)(ii)** (with Sch. 7 Pt. 2)
- F415** 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)**
- F416** 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))
- F417** 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))
- F418** 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))



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**F419** Words in s. 440A(7) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 137** (with Sch. 2 Pts. 1, 2)

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

- C72** 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**)
- C73** 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**)
- C74** 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**
- C75** 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**)
- C76** See 1990 s.41 and Sch.6 para.12(2)—subs.(d) omitted for period 1 January 1990 to 19 March 1990 inclusive.
- C77** 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”.
- C78** 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”.
- C79** S. 440A(2)(e) modified by **Finance Act 1989 (c. 26)**, **s. 83XA(13)** (as inserted (with effect in accordance with **Sch. 10 para. 17(2)** of the amending Act) by **Finance Act 2007 (c. 11)**, **Sch. 10 para. 2(1)**)

**[<sup>F421</sup>440B Modifications where tax charged under [<sup>F420</sup>section 35 of CTA 2009].**

- (1) The following provisions apply where the profits of a company’s life assurance business are charged to tax [<sup>F422</sup>under section 35 of CTA 2009 (charge on trade profits)] [<sup>F423</sup>in accordance with section 431G(3)].

<sup>F424</sup>(1A) [<sup>F425</sup>.....]

(2) [<sup>F425</sup>.....]

- (3) [<sup>F426</sup>Subsection (1) of section 440 applies] as if the only categories set out in subsection (4) of that section were—
  - (a) assets of the [<sup>F427</sup>long-term insurance fund], and
  - (b) other assets.

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- (4) Section 440A applies as if for paragraphs [F428(a), (d) and (e)] of subsection (2) there were substituted—
- [F429(c) so many of the securities as are included in the company's long-term insurance fund shall be treated for the purposes of corporation tax as a separate holding which is an asset of that fund, and]
- (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.”.
- [ Section 440(2) does not apply if either the transferor or the company by which the F430(4A) asset is acquired is a company whose profits are charged to tax [F431 under section 35 of CTA 2009] (or if they both are).
- (4B) Section 211 of the 1992 Act does not apply [F432 in relation to assets which are referable to the life assurance business of the transferor] if the transferor is a company whose profits are charged to tax [F433 under section 35 of CTA 2009].]
- (5) F434 .....

#### Textual Amendments

- F420** Words in s. 440B title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 138(5)** (with Sch. 2 Pts. 1, 2)
- F421** 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))
- F422** Words in s. 440B(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 138(2)** (with Sch. 2 Pts. 1, 2)
- F423** Words in s. 440B(1) inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(2)** (with Sch. 8 Pt. 2)
- F424** 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)**
- F425** 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
- F426** Words in s. 440B(3) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(3)** (with Sch. 8 Pt. 2)
- F427** 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)**
- F428** Words in s. 440B(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 33(a)** (with Sch. 7 Pt. 2)
- F429** Words in s. 440B(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 33(b)** (with Sch. 7 Pt. 2)
- F430** S. 440B(4A)(4B) inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(4)** (with Sch. 8 Pt. 2)
- F431** Words in s. 440B(4A) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 138(3)** (with Sch. 2 Pts. 1, 2)
- F432** Words in s. 440B(4B) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 7**
- F433** Words in s. 440B(4B) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 138(4)** (with Sch. 2 Pts. 1, 2)

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**F434** S. 440B(5) repealed (with effect in accordance with s. 39(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 8 para. 8(5), Sch. 27 Pt. 2(8), Note (with Sch. 8 Pt. 2)

#### **[<sup>F435</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 [<sup>F436</sup>under section 35 of CTA 2009 (charge on trade profits)] 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 [<sup>F437</sup>under section 35 of CTA 2009] 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 [<sup>F438</sup>under section 35 of CTA 2009], 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 [<sup>F439</sup>under section 35 of CTA 2009] 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
  - (b) any subsequent accounting period for which the profits of the company's life assurance business continue to be charged to tax [<sup>F440</sup>under section 35 of CTA 2009],

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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**

- F435** 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)
- F436** Words in s. 440C(1)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009](#) (c. 4), **Sch. 1 para. 139(2)** (with Sch. 2 Pts. 1, 2)
- F437** Words in s. 440C(4)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009](#) (c. 4), **Sch. 1 para. 139(3)(a)** (with Sch. 2 Pts. 1, 2)
- F438** Words in s. 440C(4)(c) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009](#) (c. 4), **Sch. 1 para. 139(3)(b)** (with Sch. 2 Pts. 1, 2)
- F439** Words in s. 440C(6)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009](#) (c. 4), **Sch. 1 para. 139(4)** (with Sch. 2 Pts. 1, 2)
- F440** Words in s. 440C(7)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009](#) (c. 4), **Sch. 1 para. 139(5)** (with Sch. 2 Pts. 1, 2)

**[<sup>F441</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**

- F441** 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)**

**441 Overseas life assurance business.**

<sup>F442</sup> .....

**Textual Amendments**

- F442** S. 441 repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007](#) (c. 11), **Sch. 7 para. 34, Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

**[<sup>F443</sup>441A Section 441: distributions.**

(1) <sup>F444</sup> .....

(2) <sup>F445</sup> .....

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- [<sup>F446</sup>(3) <sup>F445</sup> .....
- (4) <sup>F445</sup> .....
- (5) <sup>F445</sup> .....]
- (7) <sup>F445</sup> .....
- (8) <sup>F445</sup> .....]

**Textual Amendments**

- F443** Ss. 441, 441A substituted for s. 441 by Finance Act 1990 (c. 29), Sch.7 paras. 3, 10
- F444** 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
- F445** 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)**
- F446** 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>F447</sup>**441B**Treatment of UK land.

- <sup>F448</sup> .....

**Textual Amendments**

- F447** 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))
- F448** S. 441B repealed (13.8.2007 with effect in accordance with reg. 1(2) of the repealing S.I.) by The Insurance Companies (Overseas Life Assurance Business) (Excluded Business) (Amendment) Regulations 2007 (S.I. 2007/2086), **regs. 1(1), 6(2)(a)**

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

- (1) <sup>M7</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>F449</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 [<sup>F450</sup>applicable for the purposes of section 35 of CTA 2009 (charge on trade profits)] of the profits or losses

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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>F451</sup> . . . the profit or loss shall be treated for the purposes of the [<sup>F452</sup>1992 Act] as a chargeable gain or allowable loss accruing to the transferor company on the transfer.

(4) <sup>F453</sup> . . . . .

#### Textual Amendments

- F449** 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)
- F450** Words in s. 442(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 140 (with Sch. 2 Pts. 1, 2)
- F451** 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
- F452** 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))
- F453** S. 442(4) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(c), Sch. 27 Pt. 2(10), Note

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

- C80** 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

- M7** Source—1977 s.45(1)—(4); 1979(C) Sch.7

#### <sup>F454</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>F455</sup>while the risk remains reinsured by the company under] the reinsurance arrangement and shall be charged to tax under [<sup>F456</sup>the charge to corporation tax on income].
- (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;

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- (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 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>F458</sup> . . . in respect of a policy or contract in the final accounting period during 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

- F454** 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))
- F455** 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)**
- F456** Words in s. 442A(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 141** (with Sch. 2 Pts. 1, 2)
- F457** 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)**

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**F458** 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)**

- C81** 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**
- C82** 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**
- C83** 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.**

**F459** .....

**Textual Amendments**

**F459** S. 443 repealed (19.7.2007) by **Finance Act 2007 (c. 11)**, Sch. 10 para. 16(3)(d), **Sch. 27 Pt. 2(10)**, Note

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

**F460** .....

**Textual Amendments**

**F460** S. 444 repealed (19.7.2007) by **Finance Act 2007 (c. 11)**, Sch. 10 para. 16(3)(e), **Sch. 27 Pt. 2(10)**, Note

**[<sup>F461</sup>444A] Transfers of business.**

[<sup>F462</sup>(1) <sup>F463</sup> . . . 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”).]

[<sup>F464</sup>(2) Any expenses payable which ([<sup>F465</sup>making the assumptions in subsection (3B) below]) 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 ([<sup>F465</sup>making the assumptions in subsection (3B) below])—
- (a) would have been available under section [<sup>F466</sup>436A(4)] 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, <sup>F467</sup> . . .



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(b) <sup>F467</sup> .....

shall, instead, be treated as a loss of the transferee (and available to be set off against profits of [<sup>F468</sup>gross roll-up business]) [<sup>F469</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).]

<sup>F470</sup>(3ZA) [<sup>F471</sup> .....

<sup>F472</sup>(3A) [ Any subsection (2) excess (within the meaning of section 432F(2)) which (<sup>F465</sup>making the assumptions in subsection (3B) below)] 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.]

<sup>F473</sup>(3B) [ The assumptions referred to in subsections (2), (3) and (3A) above are—

- (a) that the transferor had continued to carry on the business transferred after the transfer, and
- (b) where there is no accounting period of the transferor ending with the transfer date, that there was such an accounting period.]

(4) Where acquisition expenses are treated as [<sup>F474</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>F475</sup>long-term] business, [<sup>F476</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.

(6) Any question arising as to the operation of subsection (5) above shall be determined [<sup>F477</sup>in the same manner as an appeal, and both the transferor and transferee shall be entitled to be a party to any proceedings].

(7) <sup>F478</sup> .....

(8) <sup>F478</sup> .....

### Textual Amendments

**F461** 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

**F462** 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)

**F463** Words in s. 444A(1) repealed (with effect in accordance with Sch. 9 para. 17(1) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 9 para. 2(2), Sch. 27 Pt. 2(9), Note

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- F464** 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)
- F465** Words in s. 444A(2)(3)(3A) substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 8(2)
- F466** Words in s. 444A(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 35(a) (with Sch. 7 Pt. 2)
- F467** S. 444A(3)(b) and preceding word repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 35(b), Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)
- F468** Words in s. 444A(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 35(c) (with Sch. 7 Pt. 2)
- F469** 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)
- F470** 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)
- F471** S. 444A(3ZA) omitted (19.2.2008 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 8(4)
- F472** 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))
- F473** S. 444A(3B) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 8(3)
- F474** 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)
- F475** 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)
- F476** 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))
- F477** Words in s. 444A(6) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 140(2)
- F478** S. 444A(7)(8) repealed (with effect in accordance with Sch. 9 para. 17(1) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 9 para. 2(3), Sch. 27 Pt. 2(9), Note

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

- C84** 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

[<sup>F480</sup> 444A] **Transfers of life assurance business: [<sup>F479</sup> gross roll-up business] 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”),

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- (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 [<sup>F481</sup>under section 35 of CTA 2009 (charge on trade profits)] 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 [<sup>F482</sup>“qualifying loss of the transferor”]) shall instead be treated as a loss of the transferee [<sup>F483</sup> . . . 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 [<sup>F484</sup>qualifying loss of the transferor] to which it would otherwise apply as is appropriate.
- (5) Any question arising as to the operation of subsection (4) above shall be determined [<sup>F485</sup> in the same manner as an appeal, and both the transferor and transferee shall be entitled to be a party to any proceedings].]

#### Textual Amendments

**F479** Words in s. 444AZA title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 142(5)** (with Sch. 2 Pts. 1, 2)

**F480** 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**

**F481** Words in s. 444AZA(1)(c) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 142(2)** (with Sch. 2 Pts. 1, 2)

**F482** Words in s. 444AZA(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 142(3)(a)** (with Sch. 2 Pts. 1, 2)

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- F483** Words in s. 444AZA(2) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 142(3)(b), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)
- F484** Words in s. 444AZA(4) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 142(4) (with Sch. 2 Pts. 1, 2)
- F485** Words in s. 444AZA(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 141(2)

**[<sup>F480</sup> 444AZB] Transfers of life assurance business: [<sup>F486</sup> trade] 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 [<sup>F487</sup> under section 35 of CTA 2009 (charge on trade profits)] by virtue of section 431G(3),
  - (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 under the I minus E basis, 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) 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 [<sup>F488</sup> “qualifying loss of the transferor”]) shall instead be treated as a loss of the transferee [<sup>F489</sup> . . . 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.

- (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 [<sup>F490</sup> qualifying loss of the transferor] to which it would otherwise apply as is appropriate.
- (5) Any question arising as to the operation of subsection (4) above shall be determined [<sup>F491</sup> in the same manner as an appeal, and both the transferor and transferee shall be entitled to be a party to any proceedings.]

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### Textual Amendments

- F480** 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**
- F486** Word in s. 444AZB title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 143(5)** (with Sch. 2 Pts. 1, 2)
- F487** Words in s. 444AZB(1)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 143(2)** (with Sch. 2 Pts. 1, 2)
- F488** Words in s. 444AZB(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 143(3)(a)** (with Sch. 2 Pts. 1, 2)
- F489** Words in s. 444AZB(2) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 143(3)(b)**, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F490** Words in s. 444AZB(4) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 143(4)** (with Sch. 2 Pts. 1, 2)
- F491** Words in s. 444AZB(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 142(2)**

### <sup>F492</sup><sup>F493</sup> ~~444A~~ **Transfers of business: deemed periodical returns**

- (1) This section applies where the whole of the long-term business of a person (“the transferor”) is transferred from that person—
  - (a) by one insurance business transfer scheme, or
  - (b) by two or more insurance business transfer schemes which take effect on the same date.
- (2) Where (apart from this subsection) there would not be a periodical return of the transferor covering a period ending immediately before the transfer date, there is to be deemed for the purposes of corporation tax to be a periodical return of the transferor covering the period—
  - (a) beginning immediately after the last period ending before the transfer date which is covered by a periodical return of the transferor, and
  - (b) ending immediately before the transfer date.
- (3) The periodical return deemed to exist by subsection (2) above is to be deemed to contain—
  - (a) such entries as would be included in an actual periodical return of the transferor covering the period mentioned in subsection (2) above, and
  - (b) such entries as would be included in an actual periodical return of the transferor covering the period—
    - (i) beginning immediately after the end of the period mentioned in subsection (2) above, and
    - (ii) ending immediately before the transfer had effect,and the period mentioned in subsection (2) above is to be deemed to be a period of account (but not an accounting period) of the transferor.
- (4) There is to be deemed for the purposes of corporation tax to be a periodical return of the transferor—
  - (a) covering the transfer date, and
  - (b) containing the appropriate entries.

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- (5) In subsection (4) above “appropriate entries” means such entries as would be included in an actual periodical return covering the transfer date—
- (a) in line 32 of Form 40, and
  - (b) in line 11 of Form 14, in both columns (treating references in that form to “current year” as references to the time immediately after the transfer date and to “previous year” as references to the time immediately before the transfer date).
- (6) A transfer date covered by a periodical return deemed to exist by subsection (4) above is to be deemed to be a period of account of the transferor only for the purpose of taking into account profits under section 444ABD.
- (7) Where—
- (a) a periodical return deemed to exist by subsection (4) above is preceded by an actual periodical return of the transferor covering the period immediately before the transfer date, and
  - (b) profits are to be taken into account under section 444ABD in the period of account deemed to exist by subsection (6) above,
- those profits are to be deemed for the purposes of corporation tax to be profits arising on the last day of the period of account covered by the actual periodical return.
- (8) Any actual periodical return of the transferor covering a period which includes the transfer date is to be ignored for the purposes of corporation tax.
- (9) In this section and sections 444AB to 444AECC “the transfer date”, in relation to an insurance business transfer scheme, means the date on which it takes effect.]]

#### Textual Amendments

**F492** 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)

**F493** S. 444AA substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 10

#### [<sup>F495</sup>[<sup>F496</sup>[<sup>F494</sup>444AB transfer schemes: transferor]

[<sup>F497</sup>(1) This section applies where—

- (a) an insurance business transfer scheme has effect to transfer long-term business of a person (“the transferor”) to another person (“the transferee”), and
  - (b) condition A or condition B is met.]
- (2) Condition A is met if any of the assets of the transferor's long-term insurance fund which are transferred <sup>F498</sup>. . . by the insurance business transfer scheme are not, immediately after their transfer—
- (a) if the transferee is an insurance company [<sup>F499</sup>or an insurance special purpose vehicle], assets of the transferee's long-term insurance fund, or
  - (b) if the transferee is not an insurance company [<sup>F500</sup>, an insurance special purpose vehicle][<sup>F501</sup>or a friendly society, assets of a fund of the transferee which would be a with-profits fund if the transferee were an insurance company],

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(“relevant non-transferred assets”).

- (3) Condition B is met if, immediately after the transfer date, the transferor—
- (a) does not carry on long-term business, but
  - (b) holds any assets which, immediately before the transfer date, were assets of its long-term insurance fund (“retained assets”).
- (4) If there are relevant non-transferred assets or retained assets (or both) the relevant amount in relation to them (see subsection (5) below) is to be taken into account under section 83(2) of the Finance Act 1989 as an increase in value of the assets of the long-term insurance fund of the transferor for the relevant period of account (see subsection (6) below).
- (5) Section 444ABA makes provision for the calculation of the relevant amount in relation to relevant non-transferred assets; and section 444ABB makes provision for its calculation in relation to retained assets.

[<sup>F502</sup>(5A) In this section references to assets held by the transferor after the transfer do not include—

- (a) assets held on trust for the transferee, or
- (b) assets held to meet liabilities which have been wholly reinsured and which are intended to be transferred under an insurance business transfer scheme to the reinsurer.]

[<sup>F503</sup>(6) In this section and sections 444ABA to 444AC “the relevant period of account” means [<sup>F504</sup>the period of account of the transferor ending, or treated by section 444AA(2) as ending, immediately before the transfer date.]]

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

[<sup>F505</sup>(8) For the purpose of paragraph (2)(a), in relation to an insurance special purpose vehicle which is not an insurance company, “long-term insurance fund” has the meaning it has in paragraph 4(5) of Schedule 19ABA.]]]

#### Textual Amendments

**F494** S. 444AB heading substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(6)

**F495** 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)**

**F496** 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**

**F497** S. 444AB(1) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(2)

**F498** Words in s. 444AB(2) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(3)(a)

**F499** Words in s. 444AB(2)(a) inserted (12.8.2008 with effect in accordance with art. 1(2)(3) of the amending S.I.) by [The Insurance Companies \(Taxation of Insurance Special Purpose Vehicles\) Order 2008 \(S.I. 2008/1923\)](#), **arts. 1(1)**, 2(2)(a)

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- F500** Words in s. 444AB(2)(b) inserted (12.8.2008 with effect in accordance with art. 1(2)(3) of the amending S.I.) by [The Insurance Companies \(Taxation of Insurance Special Purpose Vehicles\) Order 2008 \(S.I. 2008/1923\)](#), **arts. 1(1), 2(2)(b)**
- F501** Words in s. 444AB(2)(b) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 11(3)(b)**
- F502** S. 444AB(5A) 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 \(S.I. 2008/381\)](#), **arts. 1(1), 11(4)**
- F503** S. 444AB(6) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 11(5)**
- F504** Words in s. 444AB(6) substituted (with effect in accordance with [Sch. 17 para. 31\(2\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 17 para. 31(1)**
- F505** S. 444AB(8) inserted (12.8.2008 with effect in accordance with art. 1(2)(3) of the amending S.I.) by [The Insurance Companies \(Taxation of Insurance Special Purpose Vehicles\) Order 2008 \(S.I. 2008/1923\)](#), **arts. 1(1), 2(3)**

**[<sup>F506</sup> <sup>F507</sup> 444AB] **Relevant non-transferred assets****

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

## FVA – BTO

where—

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

[<sup>F508</sup> BTO is the lesser of ABTO and AL13, where—

- (a) 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
- (b) AL13 is any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date.

- (2) <sup>F509</sup> .....
- (3) <sup>F509</sup> .....
- (4) <sup>F509</sup> .....
- (5) <sup>F509</sup> .....
- (6) <sup>F509</sup> .....

- (7) See section 444AA for the meaning of “the transfer date”<sup>F510</sup> . . . in this section.]]]



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### Textual Amendments

- F506** 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)**
- F507** 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**
- F508** Words in s. 444ABA(1) substituted (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), **arts. 1(1), 12(2)(b)**
- F509** S. 444ABA(2)-(6) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 12(3)**
- F510** Words in s. 444ABA(7) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 12(4)**

VALID FROM 16/12/2010

### [<sup>F511</sup> 444ABA] **Non-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.

- (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.]

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#### Textual Amendments

**F511** 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)

#### [<sup>F512</sup> 444AB Retained assets

- (1) For the purposes of section 444AB the relevant amount in relation to assets that are retained assets [<sup>F513</sup> is—

$$FVA - ABDP - RL13 - RRL$$

where—

- FVA is the fair value of the assets on the transfer date,
- ABDP is the amount of the profits to be taken into account as profits under section 444ABD,
- RL13 is the amount by which AL13 exceeds VE, and
- RRL is the value of any relevant retained liabilities immediately after the transfer date.

But the relevant amount is nil if it would otherwise be below nil.]

[ For the purposes of subsection (1) above—

- <sup>F514</sup>(1A) (a) AL13 is any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date;
- (b) VE is the amount (if any) by which VL32 exceeds VTL where—
- (i) VL32 is the value of the assets shown (or treated as shown) in line 32 of Form 40 in the periodical return of the transferor covering (or treated as covering) the transfer date, and
  - (ii) VTL means the amount of the [<sup>F515</sup> mathematical reserves (as determined in accordance with section 1.2 of the Insurance Prudential Sourcebook)] transferred by the insurance business transfer scheme; and
- (c) relevant retained liabilities are any liabilities of the company's long-term business which are owed by the company immediately after the transfer date and are shown (or treated as shown) in any of lines 17, 21 to 23 and 31 to 38 in Form 14 in a periodical return for the period of account ending (or treated as ending by section 444AA) immediately before the transfer date.]

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

#### Textual Amendments

**F512** 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

**F513** Words in s. 444ABB(1) substituted (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), arts. 1(1), 13(2)

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**F514** S. 444ABB(1A) 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), arts. 1(1), 13(3)

**F515** Words in s. 444ABB(1A)(b)(ii) substituted (with effect in accordance with Sch. 17 para. 32(2) of the amending Act) by Finance Act 2008 (c. 9), Sch. 17 para. 32(1)

## [<sup>F516</sup> 444ABBA] **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
  - (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>M8</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

**F516** 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

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**[<sup>F517</sup>444ABC] Transfer scheme transferring part of business: transferor**

<sup>F518</sup> . . . . .]

**Textual Amendments**

**F517** 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

**F518** S. 444ABC omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 15

**[<sup>F519</sup>444ABD] Transferor's period of account including transfer**

- (1) Any profits representing the amount by which—
- (a) the [<sup>F520</sup>amount] of the [<sup>F521</sup>mathematical reserves (as determined in accordance with section 1.2 of the Insurance Prudential Sourcebook)] 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 [<sup>F522</sup>of Form 40] 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 [<sup>F523</sup>in accordance with subsections (1A) and (1C) below].

[ Where the profits of the life assurance business of the transferor for a period of account <sup>F524</sup>(1A) are charged to tax [<sup>F525</sup>under section 35 of CTA 2009 (charge on trade profits)] by virtue of section 431G(3), the appropriate fraction of the amount of the profits to which subsection (1) above applies is to be taken into account as profits of that period of account chargeable to tax [<sup>F526</sup>under section 35 of that Act] (and not otherwise).

(1B) For the purposes of subsection (1A) above “the appropriate fraction” is the appropriate fraction for the purposes of section 432G(1).

(1C) Where the profits of the life assurance business of the transferor for a period of account are charged to tax under the I minus E basis, the relevant fraction of the amount of the profits to which subsection (1) above applies is to be taken into account as profits of that period of account chargeable to tax under section 436A (and not otherwise).

(1D) For the purposes of subsection (1C) above “the relevant fraction” is the relevant fraction for the purposes of section 432G(4).

(1E) Where the value mentioned in paragraph (b) of subsection (1) above exceeds the amount mentioned in paragraph (a) of that subsection, the amount of the excess is not to be taken into account as a loss of the transferor.]

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

**Textual Amendments**

**F519** 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

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- F520** Word in s. 444ABD(1)(a) substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 16(2)(a)
- F521** Words in s. 444ABD(1) substituted (with effect in accordance with Sch. 17 para. 33(2) of the amending Act) by Finance Act 2008 (c. 9), Sch. 17 para. 33(1)
- F522** Words in s. 444ABD(1)(b) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 16(2)(b)
- F523** Words in s. 444ABD(1) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 16(2)(c)
- F524** S. 444ABD(1A)-(1E) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 16(3)
- F525** Words in s. 444ABD(1A) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 144(a) (with Sch. 2 Pts. 1, 2)
- F526** Words in s. 444ABD(1A) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 144(b) (with Sch. 2 Pts. 1, 2)

#### [<sup>F528</sup>444A<sup>F527</sup>C Transfer schemes: reduction of income of transferee]

- (1) This section applies where an insurance business transfer scheme has effect to transfer <sup>F529</sup> . . . long-term business of a person (“the transferor”) to another person (“the transferee”) and [<sup>F530</sup>the condition in subsection (2) below is] met.
- (2) [<sup>F531</sup>The condition] is that the transferor did not carry on life assurance business that is mutual business during the relevant period of account.
- (3) <sup>F532</sup> . . . . .
- (4) The amount which (apart from this section) would be regarded as other income of the transferee for the purposes of section 83(2)(e) of the Finance Act 1989 for the period of account of the transferee which includes the transfer date is to be reduced by an amount equal to the [<sup>F533</sup>lesser of the transferred surplus and any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date].
- (5) In subsection (4) above “the transferred surplus” [<sup>F534</sup>is VE – RBTO where—
- (a) VE has the same meaning as in section 444ABB, and
  - (b) RBTO means so much of BTO as relates to relevant non-transferred assets transferred to the transferee where—
    - (i) BTO has the same meaning as in section 444ABA, and
    - (ii) “relevant non-transferred assets” has the same meaning as in section 444AB.]
- [<sup>F535</sup>(5A) Where the transfer is to more than one transferee, the amount of any reduction to be made in accordance with subsection (4) above is to be apportioned to each transferee on a just and reasonable basis.]
- (6) See section 444AA for the meaning of “the transfer date”, and section 444AB for the meaning of “the relevant period of account”, in this section.]

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**Textual Amendments**

- F527** S. 444AC heading substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 17(8)
- F528** 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**
- F529** Words in s. 444AC(1) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 17(2)(a)
- F530** Words in s. 444AC(1) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 17(2)(b)
- F531** Words in s. 444AC(2) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 17(3)
- F532** S. 444AC(3) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 17(4)
- F533** Words in s. 444AC(4) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 17(5)
- F534** Words in s. 444AC(5) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 17(6)
- F535** S. 444AC(5A) 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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 17(7)

[<sup>F536</sup> **Transfer schemes transferring part of business: reduction in income of**  
<sup>F537</sup> **444ACZA transferee**

<sup>F538</sup> .....]

**Textual Amendments**

- F536** Ss. 444AC-444AE inserted (with effect in accordance with [Sch. 33 para. 20\(3\)\(4\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 20(1)**
- F537** 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**
- F538** S. 444ACZA omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 18

[<sup>F539</sup> **Transfers of business: transferor shares are assets of transferee's long-term**  
**444ACZA insurance fund etc**

<sup>F540</sup> .....]

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#### Textual Amendments

- F536** Ss. 444AC-444AE inserted (with effect in accordance with Sch. 33 para. 20(3)(4) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 20(1)
- F539** 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)
- F540** S. 444ACA repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 2(2), Sch. 27 Pt. 2(10), Note

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

<sup>F541</sup> . . . . .]

#### Textual Amendments

- F536** Ss. 444AC-444AE inserted (with effect in accordance with Sch. 33 para. 20(3)(4) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 20(1)
- F541** S. 444AD repealed (with effect in accordance with Sch. 9 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 9 para. 7(1), Sch. 27 Pt. 2(9), Note; S.I. 2008/379, art. 2

### <sup>F542</sup> 444A Transfers of business: FAFTS

- (1) Where an insurance business transfer scheme has effect to transfer the relevant financing arrangements entered into in relation to a non-profit fund of an insurance company (“the transferor”) to another person (“the transferee”), after the transfer—
  - (a) they are to be treated for the purposes of sections 83YC and 83YD of the Finance Act 1989 as having been entered into by the transferee, but
  - (b) the references in those sections to earlier periods of account of the transferee include earlier periods of account of the transferor.
- (2) But if the insurance business transfer scheme has effect—
  - (a) to transfer some but not all of the relevant financing arrangements entered into in relation to the non-profit fund of the transferor, or
  - (b) to transfer all of those relevant financing arrangements but not all to one person,any calculation required by virtue of section 83YC or 83YD in relation to a period of account of the transferor, or of the transferee or any of the transferees, ending after the transfer is to be made on a just and reasonable basis.
- (3) Subsection (4) below applies where—
  - (a) relevant financing arrangements have been entered into in relation to a non-profit fund of an insurance company (“the old company”), and
  - (b) as a result of any transaction other than an insurance business transfer scheme, another insurance company (“the new company”) becomes the debtor in respect of the money debt, or the cedant, under the financial reinsurance arrangements.
- (4) Where this subsection applies, after the transaction—
  - (a) the relevant financing arrangements are to be treated for the purposes of sections 83YC and 83YD as having been entered into by the new company, but

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- (b) the references in those sections to earlier periods of account of the new company include earlier periods of account of the old company, and
  - (c) the transaction is not to be regarded as causing the condition in section 83YD(3) to be met in relation to the old company.
- (5) But if the transaction has effect—
- (a) to transfer some but not all of the relevant financing arrangements entered into in relation to the non-profit fund of the old company, or
  - (b) to transfer all of those relevant financing arrangements but not all to one person,
- any calculation required by virtue of section 83YC or 83YD in relation to a period of account of the old company, or of the new company or any of the new companies, ending after the transaction is to be made on a just and reasonable basis.
- (6) Expressions used in this section and section 83YC or 83YD have the same meanings here as there.]

#### Textual Amendments

**F542** S. 444AE substituted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by Finance Act 2008 (c. 9), Sch. 17 para. 2

#### 444AE Transfer schemes: anti-avoidance rule

- (1) This section applies where—
- (a) as a result of the whole <sup>F543</sup> . . . of transfer scheme arrangements involving the transfer of long-term business from one person (“the transferor”) to another (“the transferee”) a [<sup>F544</sup>life assurance trade profits] 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 <sup>F543</sup> . . . of the transfer scheme arrangements is the obtaining of that <sup>F545</sup> . . . 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 [<sup>F546</sup>life assurance trade profits advantage] is obtained by the transferor (see subsection (1) of section 444AEB), the amount of the <sup>F547</sup> . . . advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the [<sup>F548</sup>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 [<sup>F549</sup>life assurance trade profits advantage] is obtained by the transferee (see subsection (1) of section 444AEC), the amount of the <sup>F550</sup> . . . advantage (see



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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 <sup>F551</sup>period of account of the transferee in which the advantage is obtained by the transferee].

(5) In this section and sections 444AEB <sup>F552</sup>to 444AEC[“relevant associated operations”, in relation to the relevant transfer scheme, means—

- (a) any other insurance business transfer scheme,
- (b) any contract of reinsurance,
- (c) any reconstruction or amalgamation involving the transferor, a dependant of the transferor which is an insurance undertaking or the transferee, or
- (d) any surplus-increasing transfer of assets,

which is effected in connection with the relevant transfer scheme.

(6) In subsection (5) above—

“dependant” and “insurance undertaking” have the same meaning as in the Insurance Prudential Sourcebook, and

“surplus-increasing transfer of assets” means a transfer of assets of the transferor's long-term insurance fund to the transferee which is not brought into account for any period of account of the transferee but increases the amount of total surplus shown in line 39 of Form 58 in any periodical return of the transferee.

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

#### Textual Amendments

**F543** Words in s. 444AEA(1)(a)(b) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1), 19(2)**

**F544** Words in s. 444AEA(1)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 145(2)(a)** (with [Sch. 2 Pts. 1, 2](#))

**F545** Words in s. 444AEA(1)(b) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 145(2)(b), Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F546** Words in s. 444AEA(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 145(3)(a)** (with [Sch. 2 Pts. 1, 2](#))

**F547** Words in s. 444AEA(3) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 145(3)(b), Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F548** Words in s. 444AEA(3) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 19(3)**

**F549** Words in s. 444AEA(4) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 145(4)(a)** (with [Sch. 2 Pts. 1, 2](#))

**F550** Words in s. 444AEA(4) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 145(4)(b), Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F551** Words in s. 444AEA(4) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 19(4)**

**F552** Words in s. 444AEA(5) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 19(5)**

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#### **444AEB<sup>F553</sup> Life assurance trade profits] advantage: transferor**

- (1) A [<sup>F554</sup>life assurance trade profits advantage] is obtained by the transferor if—
- (a) [<sup>F555</sup>section 35] profits of its life assurance business for a period of account to which this section applies [<sup>F556</sup>are, or at the relevant time are expected to be, less than they would be but for the whole] of the transfer scheme arrangements, or
  - (b) [<sup>F555</sup>section 35] losses of its life assurance business for such a period of account [<sup>F557</sup>are, or at the relevant time are expected to be, greater than they would be but for the whole] of the transfer scheme arrangements.
- (2) If [<sup>F558</sup>a life assurance trade profits advantage] is obtained by the transferor, the amount of [<sup>F559</sup>the advantage] is the aggregate of—
- (a) the amounts (if any) by which [<sup>F560</sup>section 35] profits for each period of account to which this section applies [<sup>F561</sup>are, or at the relevant time are expected to be, less than they would be but for the whole of the transfer scheme arrangements], and
  - (b) the amounts (if any) by which [<sup>F560</sup>section 35] losses for each such period of account [<sup>F562</sup>are, or at the relevant time are expected to be, greater than they would be but for the whole of the transfer scheme arrangements].
- (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.
- <sup>F563</sup>(4) In this section and sections 444AEC, 444AECB and 444AECC—
- [<sup>F564</sup>“section 35 profits”] and [<sup>F565</sup>“section 35 losses”] means profits and losses computed in accordance with the [<sup>F566</sup>life assurance trade profits provisions], and
- “the relevant time” is the time at which any application under section 444AED is made, or, if no such application is made, the transfer date.]
- (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**

- F553** Words in s. 444AEB title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(5)** (with Sch. 2 Pts. 1, 2)
- F554** Words in s. 444AEB(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(2)(a)** (with Sch. 2 Pts. 1, 2)
- F555** Words in s. 444AEB(1)(a)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(2)(b)** (with Sch. 2 Pts. 1, 2)
- F556** Words in s. 444AEB(1)(a) substituted (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), **arts. 1(1), 20(2)(a)**
- F557** Words in s. 444AEB(1)(b) substituted (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), **arts. 1(1), 20(2)(b)**
- F558** Words in s. 444AEB(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(3)(a)** (with Sch. 2 Pts. 1, 2)

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- F559** Words in s. 444AEB(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(3)(b)** (with Sch. 2 Pts. 1, 2)
- F560** Words in s. 444AEB(2)(a)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(3)(c)** (with Sch. 2 Pts. 1, 2)
- F561** Words in s. 444AEB(2)(a) substituted (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), **arts. 1(1), 20(3)(a)**
- F562** Words in s. 444AEB(2)(b) substituted (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), **arts. 1(1), 20(3)(b)**
- F563** S. 444AEB(4) substituted (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), **arts. 1(1), 20(4)**
- F564** Words in s. 444AEB(4) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(4)(a)** (with Sch. 2 Pts. 1, 2)
- F565** Words in s. 444AEB(4) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(4)(b)** (with Sch. 2 Pts. 1, 2)
- F566** Words in s. 444AEB(4) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 146(4)(c)** (with Sch. 2 Pts. 1, 2)

#### 444AEQ<sup>F567</sup> Life assurance trade profits] advantage: transferee

- (1) A <sup>F568</sup>life assurance trade profits advantage] is obtained by the transferee if—
- (a) <sup>F569</sup>section 35] profits of its life assurance business for a period of account to which this section applies <sup>F570</sup>are, or at the relevant time are expected to be, less than they would be but for the whole] of the transfer scheme arrangements, or
  - (b) <sup>F569</sup>section 35] losses of its life assurance business for such a period of account <sup>F571</sup>are, or at the relevant time are expected to be, greater than they would be but for the whole] of the transfer scheme arrangements.
- (2) If <sup>F572</sup>a life assurance trade profits advantage] is obtained by the transferee, the amount of <sup>F573</sup>the advantage] is—
- (a) the amount by which <sup>F574</sup>section 35] profits for each period of account to which this section applies <sup>F575</sup>are, or at the relevant time are expected to be, less than they would be but for the whole of the transfer scheme arrangements], or
  - (b) the amount by which <sup>F574</sup>section 35] losses for each such period of account <sup>F576</sup>are, or at the relevant time are expected to be, greater than they would be but for the whole of the transfer scheme arrangements].
- (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

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“ [F577 section 35] profits” and “ [F577 section 35] losses” [F578 and “the relevant time”], in this section.

### Textual Amendments

- F567** Words in s. 444AEC title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 147(5)** (with Sch. 2 Pts. 1, 2)
- F568** Words in s. 444AEC(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 147(2)(a)** (with Sch. 2 Pts. 1, 2)
- F569** Words in s. 444AEC(1)(a)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 147(2)(b)** (with Sch. 2 Pts. 1, 2)
- F570** Words in s. 444AEC(1)(a) substituted (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), **arts. 1(1), 21(2)(a)**
- F571** Words in s. 444AEC(1)(b) substituted (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), **arts. 1(1), 21(2)(b)**
- F572** Words in s. 444AEC(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 147(3)(a)** (with Sch. 2 Pts. 1, 2)
- F573** Words in s. 444AEC(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 147(3)(b)** (with Sch. 2 Pts. 1, 2)
- F574** Words in s. 444AEC(2)(a)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 147(3)(c)** (with Sch. 2 Pts. 1, 2)
- F575** Words in s. 444AEC(2)(a) substituted (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), **arts. 1(1), 21(3)(a)**
- F576** Words in s. 444AEC(2)(b) substituted (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), **arts. 1(1), 21(3)(b)**
- F577** Words in s. 444AEC(4) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 147(4)** (with Sch. 2 Pts. 1, 2)
- F578** Words in s. 444AEC(4) 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), **arts. 1(1), 21(4)**

### [F579] 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 [F580 life assurance trade profits] 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 [F581 . . . advantage.
- (2) In subsection (1) above “transfer scheme arrangements” has the same meaning as in section 444AEA.
- (3) If a [F582 life assurance trade profits advantage] is obtained by the transferor (see subsection (1) of section 444AECB), the amount of the [F583 . . . 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—

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- (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 [<sup>F584</sup>life assurance trade profits advantage] is obtained by the transferee (see subsection (1) of section 444AECC), the amount of the <sup>F585</sup> . . . 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 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

- F579** 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**
- F580** Words in s. 444AECA(1)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 148(2)(a)** (with [Sch. 2 Pts. 1, 2](#))
- F581** Words in s. 444AECA(1)(b) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 148(2)(b)**, **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))
- F582** Words in s. 444AECA(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 148(3)(a)** (with [Sch. 2 Pts. 1, 2](#))
- F583** Words in s. 444AECA(3) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 148(3)(b)**, **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))
- F584** Words in s. 444AECA(4) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 148(4)(a)** (with [Sch. 2 Pts. 1, 2](#))
- F585** Words in s. 444AECA(4) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 148(4)(b)**, **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

#### [<sup>F579</sup>444AECB of transfer scheme arrangements: [<sup>F586</sup>life assurance trade profits] advantage transferor

- (1) A [<sup>F587</sup>life assurance trade profits advantage] is obtained by the transferor if—
  - (a) [<sup>F588</sup>section 35] 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) [<sup>F588</sup>section 35] 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 [<sup>F589</sup>section 35 profits] to be greater or the [<sup>F590</sup>section 35 losses] to be less than they would be but for that operation, the amount by which those profits would be greater

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- or those losses would be less shall be taken into account in determining whether a <sup>F591</sup>life assurance trade profits advantage] is obtained by the transferor.
- (3) If <sup>F592</sup>a life assurance trade profits advantage] is obtained by the transferor, the amount of <sup>F593</sup>the advantage] is the aggregate of—
- (a) the amounts (if any) by which <sup>F594</sup>section 35] 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 <sup>F594</sup>section 35] 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 <sup>F595</sup>a life assurance trade profits advantage], the part of the transfer scheme arrangements as a result of which <sup>F596</sup>the advantage] is obtained.
- (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 “<sup>F597</sup>section 35] profits” and “<sup>F597</sup>section 35] losses” and “the relevant time”, in this section.]

### Textual Amendments

- F579** 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**
- F586** Words in s. 444AECB title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(7)** (with Sch. 2 Pts. 1, 2)
- F587** Words in s. 444AECB(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(2)(a)** (with Sch. 2 Pts. 1, 2)
- F588** Words in s. 444AECB(1)(a)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(2)(b)** (with Sch. 2 Pts. 1, 2)
- F589** Words in s. 444AECB(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(3)(a)** (with Sch. 2 Pts. 1, 2)
- F590** Words in s. 444AECB(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(3)(b)** (with Sch. 2 Pts. 1, 2)
- F591** Words in s. 444AECB(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(3)(c)** (with Sch. 2 Pts. 1, 2)
- F592** Words in s. 444AECB(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(4)(a)** (with Sch. 2 Pts. 1, 2)
- F593** Words in s. 444AECB(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(4)(b)** (with Sch. 2 Pts. 1, 2)
- F594** Words in s. 444AECB(3)(a)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(4)(c)** (with Sch. 2 Pts. 1, 2)
- F595** Words in s. 444AECB(5) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 149(5)(a)** (with Sch. 2 Pts. 1, 2)

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- F596** Words in s. 444AECB(5) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 149(5)(b)** (with Sch. 2 Pts. 1, 2)
- F597** Words in s. 444AECB(6) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 149(6)** (with Sch. 2 Pts. 1, 2)

[<sup>F579</sup>444AEC] **Profits of transfer scheme arrangements: [<sup>F598</sup>life assurance trade profits] advantage transferee**

- (1) A [<sup>F599</sup>life assurance trade profits advantage] is obtained by the transferee if—
- (a) [<sup>F600</sup>section 35] 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) [<sup>F600</sup>section 35] 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 [<sup>F601</sup>section 35 profits] to be greater, or the [<sup>F602</sup>section 35 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 [<sup>F603</sup>life assurance trade profits advantage] is obtained by the transferor.
- (3) If [<sup>F604</sup>a life assurance trade profits advantage] is obtained by the transferee, the amount of [<sup>F605</sup>the advantage] is—
- (a) the amount by which [<sup>F606</sup>section 35] 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 [<sup>F606</sup>section 35] 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 “[<sup>F607</sup>section 35] profits” and “[<sup>F607</sup>section 35] losses” and “the relevant time” and section 444AECB for the meaning of “the relevant part of the arrangements”, in this section.]

**Textual Amendments**

- F579** Ss. 444AECA-444AEC 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**

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- F598** Words in s. 444AECC title substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(6)** (with Sch. 2 Pts. 1, 2)
- F599** Words in s. 444AECC(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(2)(a)** (with Sch. 2 Pts. 1, 2)
- F600** Words in s. 444AECC(1)(a)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(2)(b)** (with Sch. 2 Pts. 1, 2)
- F601** Words in s. 444AECC(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(3)(a)** (with Sch. 2 Pts. 1, 2)
- F602** Words in s. 444AECC(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(3)(b)** (with Sch. 2 Pts. 1, 2)
- F603** Words in s. 444AECC(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(3)(c)** (with Sch. 2 Pts. 1, 2)
- F604** Words in s. 444AECC(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(4)(a)** (with Sch. 2 Pts. 1, 2)
- F605** Words in s. 444AECC(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(4)(b)** (with Sch. 2 Pts. 1, 2)
- F606** Words in s. 444AECC(3)(a)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(4)(c)** (with Sch. 2 Pts. 1, 2)
- F607** Words in s. 444AECC(5) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 150(5)** (with Sch. 2 Pts. 1, 2)

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

- (1) [<sup>F608</sup>Sections 444AEA and 444AECA do] 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 [<sup>F609</sup>life assurance trade profits] 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 [<sup>F609</sup>life assurance trade profits] 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 [<sup>F610</sup>life assurance trade profits] 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 [<sup>F610</sup>life assurance trade profits] 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.



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- (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 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 [<sup>F611</sup>the tribunal].
- (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 [<sup>F611</sup>the tribunal] 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 [<sup>F611</sup>the tribunal], 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.

#### Textual Amendments

**F608** Words in s. 444AED(1) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 23**

**F609** Words in s. 444AED(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 151(2)** (with [Sch. 2 Pts. 1, 2](#))

**F610** Words in s. 444AED(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 151(3)** (with [Sch. 2 Pts. 1, 2](#))

**F611** Words in s. 444AED(9)(11)(12) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 143**

#### <sup>F612</sup>Surpluses of mutual and former mutual businesses

#### Textual Amendments

**F612** [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)**

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#### **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—
  - (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 [<sup>F613</sup>section 432C applies],
 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 [<sup>F614</sup>life assurance trade profits provisions] the profits of the company's life assurance business, and
  - (b) for the purposes of so computing [<sup>F615</sup>profits of the company chargeable <sup>F616</sup>. . . under section 436A (gross roll-up business)].
- (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—

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- (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,

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).

#### Textual Amendments

**F613** Words in s. 444AF(4)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 37(2) (with Sch. 7 Pt. 2)

**F614** Words in s. 444AF(5)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 152(a) (with Sch. 2 Pts. 1, 2)

**F615** Words in s. 444AF(5)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 37(3) (with Sch. 7 Pt. 2)

**F616** Words in s. 444AF(5)(b) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 152(b), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

#### 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”).

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- (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 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

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- (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 [<sup>F617</sup> gross roll-up] 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.
- (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.

#### Textual Amendments

**F617** Words in s. 444AH heading substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 153](#) (with [Sch. 2 Pts. 1, 2](#))

#### 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).

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- (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—
  - (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—

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## 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.

### 444AK [F618 Mutual surplus: gross roll-up 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
  - [F619](b) the company carries on gross roll-up business.]
- (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 [F620]life assurance trade profits provisions] the profits for the relevant period of [F621]the company's gross roll-up business].
- (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

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- (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 [<sup>F622</sup>section 432C applies],
- 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—
- 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.

#### Textual Amendments

- F618** S. 444AK heading substituted (with effect in accordance with s. 38(2) of the amending Act) by virtue of Finance Act 2007 (c. 11), **Sch. 7 para. 38(5)** (with Sch. 7 Pt. 2)
- F619** S. 444AK(1)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 38(2)** (with Sch. 7 Pt. 2)
- F620** Words in s. 444AK(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 154** (with Sch. 2 Pts. 1, 2)
- F621** Words in s. 444AK(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 38(3)** (with Sch. 7 Pt. 2)
- F622** Words in s. 444AK(5)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 38(4)** (with Sch. 7 Pt. 2)

#### 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.



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- (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>F623</sup> Provisions applying in relation to overseas life insurance companies*

**Textual Amendments**

**F623** S. 444B and cross heading inserted (27.7.1993) by 1993 c.34, s. 97(1)

<sup>F624</sup>**444B Modification of Act in relation to overseas life insurance companies.**

<sup>F625</sup> .....]

**Textual Amendments**

**F624** S. 444B and cross heading inserted (27.7.1993) by 1993 c. 34, s. 97(1)

**F625** S. 444B repealed (31.12.2006 with effect in accordance with reg. 1 of the repealing S.I.) by The Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271), reg. 43(1), Sch. Pt. 1

*[<sup>F626</sup> Equalisation reserves*

**Textual Amendments**

**F626** Ss. 444BA-444BD and preceding cross-heading inserted (29.4.1996) by Finance Act 1996 (c. 8), s. 166, Sch. 32 para. 1

**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 [<sup>F627</sup>section 35 of CTA 2009 (charge on trade profits)], 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 [<sup>F628</sup>equalisation reserve rules], to maintain an equalisation reserve.
- (2) Those rules are—
  - (a) that amounts which, in accordance with [<sup>F628</sup>equalisation 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

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- (c) that it must be assumed that all such transfers as are required by [F628 equalisation 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 [F628 equalisation 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 [F628 equalisation 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 [F628 equalisation 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,
- 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.

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- (7) To the extent that any actual or assumed transfer in accordance with [F628equalisation 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 [F628equalisation 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 [F628equalisation 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 [F628equalisation 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 [F629the rules].
- [F630(11) In this section, and in sections 444BB to 444BD, “equalisation reserves rules” means the rules in [F631chapter 1.4 of the Insurance Prudential Sourcebook].]

#### Textual Amendments

**F627** Words in s. 444BA(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 155 (with Sch. 2 Pts. 1, 2)

**F628** 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)

**F629** 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)

**F630** 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)

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**F631** Words in s. 444BA(11) substituted (29.10.2008 with effect in accordance with art. 1 of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2008 \(S.I. 2008/2673\)](#), **art. 2**

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

- C85** 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**
- C86** S. 444BA: power to apply (with modifications) conferred (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **s. 47**
- C87** S. 444BA applied (with modifications) (1.9.2009 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Lloyd's Underwriters \(Equalisation Reserves\) \(Tax\) Regulations 2009 \(S.I. 2009/2039\)](#), **regs. 1(1), 2-5**

**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>[F632]</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 <sup>[F633]</sup>for the purposes of section 35 of CTA 2009 (charge on trade profits)], 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>[F634]</sup>permanent establishment],

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.

**Status:** Point in time view as at 21/07/2009. This version of this part contains provisions that are not valid for this point in time.

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- (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

**F632** 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\(1\)](#)

**F633** Words in s. 444BB(2)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 156](#) (with [Sch. 2 Pts. 1, 2](#))

**F634** 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 <sup>F635</sup>9.3 of the Prudential Sourcebook (Insurers)], applied for any period an accounting method described in paragraph 52 or 53 of Schedule 9A to the <sup>M9</sup>Companies Act 1985 (accounting on a non-annual basis).

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

#### Textual Amendments

**F635** 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

**M9** 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>F636</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>F636</sup>equalisation reserve rules], either—
    - <sup>F637</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>F636</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).
- (4) Without prejudice to the generality of subsection (1) above, the modifications made by virtue of that subsection may—

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- (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>F636</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>F638</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>F639</sup> . . .

<sup>F639</sup>

### Textual Amendments

- F636** 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\(5\)](#)
- F637** 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\(7\)](#)
- F638** 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\(8\)\(a\)](#)

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**F639** 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.**

F640 .....

**Textual Amendments**  
**F640** 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.**

F641 .....

**Textual Amendments**  
**F641** 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.**

F642 .....]

**Textual Amendments**  
**F642** 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*

F643 **445** .....

**Textual Amendments**  
**F643** 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.**

F644 (1) .....

F645 (2) .....

F645 (3) .....



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<sup>F646</sup>447(4) .....

**Textual Amendments**

- F644** 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
- F645** 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
- F646** S. 446(4) repealed by **Finance Act 1990** (c. 29, SIF 63:1), s. 132, **Sch. 19 Pt. IV**.

<sup>F647</sup>447(1) .....

<sup>F647</sup>(2) .....

<sup>F648</sup>(3) .....

<sup>F647</sup>(4) .....

**Textual Amendments**

- F647** 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
- F648** 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>F649</sup>448 .....

**Textual Amendments**

- F649** 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>F650</sup>449 .....

**Textual Amendments**

- F650** 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

*Underwriters*

<sup>F651</sup>450 .....

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**Textual Amendments**

**F651** 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>F652</sup>**451** .....

**Textual Amendments**

**F652** 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

<sup>F653</sup>**452** .....

**Textual Amendments**

**F653** 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>F654</sup>**453** .....

**Textual Amendments**

**F654** 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>F655</sup>**454** .....

**Textual Amendments**

**F655** 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>F656</sup>**455** .....

**Textual Amendments**

**F656** 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

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F657 **456** .....

**Textual Amendments**

**F657** 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

F658 **457** .....

**Textual Amendments**

**F658** 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.**

F659 .....

**Textual Amendments**

**F659** Ss. 458, 458A repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 39, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

[<sup>F660</sup>**458A Capital redemption business: power to apply life assurance provisions.**

<sup>F661</sup> .....

**Textual Amendments**

**F660** S. 458A inserted (29.4.1996) by Finance Act 1996 (c. 8), s. 168(3)  
**F661** Ss. 458, 458A repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 39, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

**CHAPTER II**

**FRIENDLY SOCIETIES, TRADE UNIONS AND EMPLOYERS’ ASSOCIATIONS**

*Unregistered friendly societies*

**459 Exemption from tax.**

<sup>M10</sup>An unregistered friendly society [<sup>F662</sup>(that is, a friendly society which is neither an incorporated friendly society nor a registered friendly society)] whose income does

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not exceed £160 a year shall, on making a claim, be entitled to exemption from <sup>F663</sup> . . . corporation tax (whether on income or chargeable gains).

#### Textual Amendments

**F662** 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**

**F663** Words in s. 459 repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 79, **Sch. 3 Pt. 1** (with Sch. 2)

#### Marginal Citations

**M10** Source—1970 s.331

### *Registered friendly societies*

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

(1) <sup>M11</sup> Subject to subsection (2) below, a [<sup>F664</sup>friendly society] shall, on making a claim, be entitled to exemption from <sup>F665</sup> . . . corporation tax (whether on income or chargeable gains) on its profits arising from life or endowment business.

(2) Subsection (1) above—

(a) <sup>M12</sup> shall not, subject to section 462, exempt a [<sup>F666</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>F667</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>M13</sup> shall not apply to profits arising from [<sup>F668</sup>gross roll-up business];

(c) <sup>M14</sup> shall not apply to profits arising from life or endowment business consisting—

[<sup>F669</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>F670</sup>(ai) where the profits relate to contracts made on or after the day on which the Finance Act 1991 was passed [<sup>F671</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>F672</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>F673</sup>£150] or of the granting of annuities of annual amounts exceeding £156;

[<sup>F674</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

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- contracts under which the total premiums payable in any period of 12 months exceed £100 [<sup>F675</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>F676</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>F677</sup>and]
- [<sup>F678</sup>(cb) <sup>F679</sup>.....]
- (d) <sup>M15</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>M16</sup>In determining for the purposes of [<sup>F680</sup><sup>F681</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>F682</sup>or disability] is involved shall be disregarded;
- and in applying the limit of £156 in [<sup>F683</sup><sup>F681</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 or accrues upon such an assurance by reference to an increase in the value of any investments shall be disregarded.
- [<sup>F684</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>F685</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>F686</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>M17</sup>A [<sup>F687</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>M18</sup>In the case of a [<sup>F687</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

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- (b) references in this Chapter to tax exempt life or endowment business shall be construed accordingly.
- (7) <sup>M19</sup>Where at any time a [<sup>F687</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>F687</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>F687</sup>friendly society] not within subsection (5) above acquires by way of transfer of engagements or amalgamation from another [<sup>F687</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>F687</sup>friendly society] within subsection (5) above acquires by way of transfer of engagements or amalgamation from another [<sup>F687</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 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>F688</sup>(10A) [<sup>F689</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>F690</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>F691</sup>(10B) <sup>F692</sup>.....]
- (11) <sup>M20</sup>Where at any time a [<sup>F693</sup>friendly society] ceases <sup>F694</sup>... by virtue of [<sup>F693</sup>section 91 of the Friendly Societies Act 1992] (conversion into company) to be registered under [<sup>F695</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>F696</sup>continue to be exempt from corporation tax (whether on income or chargeable gains) on profits arising from it.]

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- [<sup>F697</sup>(12) Where at any time an insurance company acquires by way of transfer of engagements from a 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 continue to be exempt from corporation tax (whether on income or chargeable gains) on profits arising from it.
- (13) But if any contracts constituting or forming part of the business of a company covered by subsection (11) or (12) above are varied during an accounting period of the company so as to increase the premiums payable under them, the business relating to those contracts is not exempt from corporation tax for that or any subsequent accounting period.
- (14) For the purposes of the Corporation Tax Acts any part of a company's business which is exempt from corporation tax by virtue of subsection (11) or (12) above shall be treated as a separate business from any other business carried on by the company.]
- [<sup>F698</sup>(15) The Treasury may by regulations provide that, where any part of the business of a company is exempt from corporation tax by virtue of subsection (11) or (12) above, the Corporation Tax Acts have effect subject to such modifications (or exceptions) as the Treasury consider appropriate.
- (16) Regulations under subsection (15) 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

- F664** 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**
- F665** Words in s. 460(1) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 80, Sch. 3 Pt. 1** (with Sch. 2)
- F666** 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**
- F667** 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**
- F668** Words in s. 460(2) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 40(a)** (with Sch. 7 Pt. 2)
- F669** S. 460(2)(c)(zai) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(2)**
- F670** S. 460(2)(ai) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(3)**
- F671** Words in s. 460(2)(c)(ai) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(3)**
- F672** Words in s. 460(2)(c)(i) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(4)**
- F673** 1990 s.49(1)(a) Previously £100
- F674** 1990 s.49(1)(b).
- F675** Words in s. 460(2)(c)(ia) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(5)**
- F676** 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)**
- F677** Word at the end of s. 460(2)(ca) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 40(b)** (with Sch. 7 Pt. 2)
- F678** S. 460(2)(cb) inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, **Sch. 25 para. 8(1)**

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- F679** S. 460(2)(cb) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 40(c), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F680** Words in s. 460(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(7)(a)**
- F681** Words in s. 460(3) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(4)**
- F682** Words in s. 460(3)(b) inserted (retrospectively) by Finance Act 2003 (c. 14), s. 172(5)(6)
- F683** Words in s. 460(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(7)(b)**
- F684** S. 460(4A)(4B) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 1(8)**
- F685** Words in s. 460(4A) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(5)**
- F686** Words in s. 460(4B) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 1(6)**
- F687** 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**
- F688** 1990 s. 48 and Sch. 9 para. 6 in relation to transfers of business on or after 1 January 1990
- F689** 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)**
- F690** 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)**
- F691** 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)**
- F692** S. 460(10B) repealed (with effect in accordance with Sch. 9 para. 17(1) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 9 para. 1(2)(d), **Sch. 27 Pt. 2(9)**, Note
- F693** 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**
- F694** 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)**
- F695** 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)**
- F696** Words in s. 460(11) substituted (retrospectively) by Finance Act 2007 (c. 11), Sch. 12 paras. 1(3), **6(1)**
- F697** S. 460(12)-(14) substituted for s. 460(12) (with effect in accordance with Sch. 12 para. 6(3) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 1(4)**
- F698** S. 460(15)(16) inserted (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 12 para. 1(5)**

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

- C88** 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)**)
- C89** 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

- M11** Source—1970 s.332(1), 1974 s.27(1)(a)
- M12** Source—1970 s.333(1)
- M13** Source—1970 s.332(2)(aa); 1987 (No.2) Sch.2 2(1)
- M14** Source—1970 s.332(2)(a); 1984 s.73(2); 1987 s.30(2)
- M15** Source—1970 s.332(2)(b)
- M16** Source—1970 s.332(3); 1987 s.30(3)
- M17** Source—1970 s.332(4); 1975 (No.2) s.52(1); 1980 s.57(1)



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- M18** Source—1970 s.332(5); 1975 (No.2) s.52(1); 1984 s.73(3)
- M19** Source—1970 s.332(6)—(9); 1975 (No.2) s.52(1)
- M20** Source—1970 s.332(10); 1976 s.48(1)

#### 461 Taxation in respect of other business.

(1) <sup>M21</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 <sup>F699</sup> . . . corporation tax (whether on income or chargeable gains) on its profits other than those arising from life or endowment business.

(2) <sup>M22</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>F700</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>F700</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>F701</sup>(7)] below is in force.

(3) <sup>M23</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>F702</sup>(3A) <sup>F703</sup> . . . . .]

(4) <sup>M24</sup> Where a registered friendly society—  
(a) at any time ceases <sup>F704</sup> . . . by virtue of [<sup>F705</sup>section 91 of the Friendly Societies Act 1992] (conversion into company) to be registered under [<sup>F706</sup>that Act]; and  
(b) immediately before that time was exempt from <sup>F707</sup> . . . 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.

[<sup>F708</sup>(4A) Where—

- (a) at any time an insurance company acquires by way of transfer of engagements from a registered friendly society any business other than life or endowment business, and

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- (b) immediately before that time the society was exempt from corporation tax on profits arising from that business,  
the insurance company shall be exempt from corporation tax on its profits arising from any part of that business which relates to contracts made before that time.
- (4B) But if during an accounting period of the insurance company there is an increase in the scale of benefits which it undertakes to provide in the course of carrying on any such part of that business, the company shall not be exempt from corporation tax by virtue of subsection (4A) above for that or any subsequent accounting period.]
- (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) [F709 or (4A)] above shall be treated as a separate business from any other business carried on by the company.
- (6) <sup>M25</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 [F710 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 [F710 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;
- [F711 the Board may give a direction to the society under subsection (7) below.]
- [F712 (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 <sup>F713</sup> . . . 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.
- [F714 (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

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- (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.]

[<sup>F715</sup>(12) The Treasury may by regulations provide that, where any part of the business of a company is exempt from corporation tax by virtue of subsection (4) or (4A) above, the Corporation Tax Acts have effect subject to such modifications (or exceptions) as the Treasury consider appropriate.

(13) Regulations under subsection (12) 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

**F699** Words in s. 461(1) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 81\(2\)](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F700** 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)**

**F701** 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)**

**F702** S. 461(3A) inserted (6.4.2001) by [Finance Act 2001 \(c. 9\), s. 76, Sch 25 para. 8\(2\)](#)

**F703** S. 461(3A) repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 41, Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))

**F704** 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)**

**F705** 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**

**F706** 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)**

**F707** Words in s. 461(4)(b) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 81\(3\)](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F708** S. 461(4A)(4B) inserted (with effect in accordance with [Sch. 12 para. 6\(3\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 12 para. 4\(2\)](#)

**F709** Words in s. 461(5) inserted (with effect in accordance with [Sch. 12 para. 6\(3\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 12 para. 4\(3\)](#)

**F710** 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)**

**F711** 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)**

**F712** 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)**

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**F713** Words in s. 461(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 144](#)

**F714** 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\(6\)](#)

**F715** S. 461(12)(13) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 12 para. 4\(4\)](#)

#### Marginal Citations

**M21** Source—1970 s.332(1); 1974 s.27(1)(a)

**M22** Source—1974 s.27(2)

**M23** Source—1974 s.27(1)(b)

**M24** Source—1970 s.332(11), (12)(b); 1976 s.48(1)

**M25** Source—1974 s.27(3)—(7); 1985 s.41(10); 1987 Sch.15 6

### [461A] <sup>F716</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>F717</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>F718</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.]]

#### Textual Amendments

**F716** 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](#)

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- F717** 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\(2\)](#)
- F718** 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\(3\)](#)

**F719 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 <sup>F720</sup> . . . 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>F721</sup>(2A) <sup>F722</sup> . . . . .]

- (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>F723</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 <sup>F724</sup> . . . 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.

[<sup>F725</sup>(6) But if during an accounting period of the company there is an increase in the scale of benefits which it undertakes to provide in the course of carrying on any such part of its business, the company shall not be exempt from corporation tax by virtue of subsection (5) above for that or any subsequent accounting period.

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(6A) Where—

- (a) at any time an insurance company acquires by way of transfer of engagements from a qualifying society any business other than life or endowment business, and
- (b) immediately before that time the society was exempt from corporation tax on profits arising from that business,

the insurance company shall be exempt from corporation tax on its profits arising from any part of that business which relates to contracts made before that time.

(6B) But if during an accounting period of the insurance company there is an increase in the scale of benefits which it undertakes to provide in the course of carrying on any such part of that business, the company shall not be exempt from corporation tax by virtue of subsection (6A) above for that or any subsequent accounting period.]

(7) Any part of a company's business to which an exemption under subsection (5) [<sup>F726</sup>or (6A)] 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.

[<sup>F727</sup>(8) The Treasury may by regulations provide that, where any part of the business of a company is exempt from corporation tax by virtue of subsection (5) or (6A) above, the Corporation Tax Acts have effect subject to such modifications (or exceptions) as the Treasury consider appropriate.

(9) Regulations under subsection (8) 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

- F719** 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**
- F720** Words in s. 461B(1) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 82(2)**, **Sch. 3 Pt. 1** (with **Sch. 2**)
- F721** S. 461B(2A) inserted (6.4.2001) by Finance Act 2001 (s. 9), s. 76, **Sch. 25 para. 8(3)**
- F722** S. 461B(2A) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 42**, **Sch. 27 Pt. 2(7)**, Note (with **Sch. 7 Pt. 2**)
- F723** 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**
- F724** Words in s. 461B(5) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 82(3)**, **Sch. 3 Pt. 1** (with **Sch. 2**)
- F725** S. 461B(6)-(6B) substituted for s. 461B(6) (with effect in accordance with **Sch. 12 para. 6(3)** of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 5(2)**
- F726** Words in s. 461B(7) inserted (with effect in accordance with **Sch. 12 para. 6(3)** of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 5(3)**
- F727** S. 461B(8)(9) inserted (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 12 para. 5(4)**

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**<sup>F728</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>F729</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>F730</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>F731</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>F732</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>F733</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>F733</sup>Board] may [<sup>F734</sup>give a direction to the society under subsection (4) below.]

[<sup>F735</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 <sup>F736</sup>. . . 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.]

#### Textual Amendments

**F728** 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**

**F729** 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)**

**F730** 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)**

**F731** 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)**

**F732** 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)**

**F733** 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)**

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- F734** 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\(4\)\(b\)](#)
- F735** 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\(5\)](#)
- F736** Words in s. 461C(5) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 145](#)

## [<sup>F737</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
  - (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**

- F737** 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\(1\)](#)



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## 462 Conditions for tax exempt business.

- [<sup>F738</sup>(1) Subject to [<sup>F739</sup>subsection (2)] below, section 460 does not afford any exemption from corporation tax in relation to so much of the profits arising to a friendly society or insurance company from any business as is attributable to a policy which—
- (a) is not a qualifying policy (by virtue of sub-paragraph (2) of paragraph 6 of Schedule 15) and is not an excluded policy, and
  - (b) would not be a qualifying policy (by virtue of that sub-paragraph) if all excluded policies were left out of account.
- (1A) For the purposes of subsection (1) above a policy is an excluded policy if—
- (a) it is a policy held otherwise than with the friendly society or insurance company, or
  - (b) the person who has the contract effecting the policy acquired the rights under it on an assignment (or, in Scotland, assignation) otherwise than for money or money's worth.]

(2) [<sup>F740M26</sup>Section 460(2)(a) or (aa)] and subsection (1) above shall not withdraw exemption [<sup>F741</sup>in relation to profits arising from any part of a] business relating to contracts made not later than 3rd May 1966.

<sup>F742</sup>(3) .....

<sup>F742</sup>(4) .....

### Textual Amendments

- F738** S. 462(1)(1A) substituted for s. 462(1) (retrospective to 1.1.2007) by Finance Act 2007 (c. 11), s. 45(2)(6)
- F739** Words in s. 462(1) substituted (21.7.2008) by Finance Act 2008 (c. 9), Sch. 18 para. 5(2)
- F740** 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
- F741** Words in s. 462(2) substituted (retrospective to 1.1.2007) by Finance Act 2007 (c. 11), s. 45(3)(6)
- F742** S. 462(3)(4) omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), Sch. 18 para. 5(1)(a)

### Marginal Citations

- M26** Source—1970 s.336; 1985 Sch.10 Part II

## [<sup>F743</sup>462A] Election as to tax exempt business.

<sup>F744</sup> .....

### Textual Amendments

- F743** S. 462A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, Sch. 9 para. 2
- F744** S. 462A omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), Sch. 18 para. 5(1)(b)

## 463 [<sup>F745</sup>Long-term] business: application of the Corporation Tax Acts.

- (1) <sup>M27</sup>Subject to section 460(1), the Corporation Tax Acts shall apply to [<sup>F746</sup>long-term] business carried on by [<sup>F747</sup>friendly societies] in the same way as they apply to mutual life assurance business [<sup>F748</sup>(or other [<sup>F749</sup>long-term] business)] carried on by insurance

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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>F750</sup>(2) The provisions of the Corporation Tax Acts which apply on the transfer of the whole or part of the [<sup>F749</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>F749</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

- F745** Words in s. 463 heading substituted (21.7.2008) by Finance Act 2008 (c. 9), Sch. 18 para. 4
- F746** Words in s. 463(1) substituted (21.7.2008) by Finance Act 2008 (c. 9), Sch. 18 para. 4
- F747** 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
- F748** 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)
- F749** 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)
- F750** 1990 s.50(2).

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

- C90** See 1990 s.50(1)—s.463 was renumbered as s.463(1).
- C91** For regulations see Part III Vol.5 (under “Friendly Societies”).

#### Marginal Citations

- M27** Source—1970 s.335(1)

### 464 Maximum benefits payable to members.

[<sup>F751</sup>(1) Subject to subsections (2) and (3) below, a person is not entitled to have at any time outstanding contracts with any one or more friendly societies, registered branches or insurance companies which (taking them all together) are for the assurance of—

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- (a) more than £750 by way of gross sum under business which is afforded exemption from corporation tax by section 460, or
- (b) more than £156 by way of annuity under such 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) [<sup>F752</sup>With respect to contracts for the assurance of gross sums under business which is afforded exemption from corporation tax by section 460, a person is not entitled to have outstanding at any time with any one or more friendly societies, registered branches or insurance companies—]

[<sup>F753</sup>(zza) contracts under which the total premiums payable in any period of 12 months exceed £270; or]

[<sup>F754</sup>(za) contracts [<sup>F755</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>F756</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>F757</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>F758</sup>(4A) Subsection (4B) below applies to contracts for the assurance of gross sums under [<sup>F759</sup>business which is afforded exemption from corporation tax by section 460 if they are] made after 31st August 1987 and before the day on which [<sup>F760</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>F761</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 (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;

- [<sup>F762</sup>(b) any policy of insurance or annuity contract by means of which the benefits to be provided under an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) are secured or any annuity contract which constitutes a registered pension scheme or is issued or held in

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- connection with a registered pension scheme other than such an occupational pension scheme;]
- (c) any increase in a benefit under a friendly society contract, as defined in section 6 of the <sup>M28</sup>Decimal 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 [<sup>F763</sup>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 [<sup>F764</sup>person has outstanding with one or more societies, branches or companies] 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 [<sup>F765</sup>friendly society [<sup>F766</sup>, registered branch or insurance company]] may require a [<sup>F767</sup>person] to make and sign a statutory declaration that the total amount assured under outstanding contracts entered into by that [<sup>F767</sup>person] with any one or more [<sup>F765</sup>friendly societies][<sup>F768</sup>, registered branches or insurance companies (taken together)] 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

- F751** S. 464(1): first sentence substituted (with effect in accordance with Sch. 12 para. 6(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 2(2)**
- F752** Words in s. 464(3) substituted (with effect in accordance with Sch. 12 para. 6(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 2(3)**
- F753** S. 464(3)(zza) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 2(2)**
- F754** S. 464(3)(za) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 3(2)**
- F755** Words in s. 464(3)(za) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 2(3)**
- F756** Words in s. 464(3)(a) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 3(3)**
- F757** 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
- F758** S. 464(4A)(4B) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 3(4)**
- F759** Words in s. 464(4A) substituted (with effect in accordance with Sch. 12 para. 6(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 2(4)**
- F760** Words in s. 464(4A) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 2(4)**
- F761** Words in s. 464(4B) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 10 para. 2(5)**
- F762** S. 464(5)(b) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), **Sch. 35 para. 21** (with Sch. 36)

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- F763** 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**
- F764** Words in s. 464(6) substituted (with effect in accordance with Sch. 12 para. 6(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 2(5)**
- F765** 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**
- F766** Words in s. 464(7) substituted (with effect in accordance with Sch. 12 para. 6(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 2(6)(a)**
- F767** Words in s. 464(7) substituted (with effect in accordance with Sch. 12 para. 6(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 2(6)(b)**
- F768** Words in s. 464(7) substituted (with effect in accordance with Sch. 12 para. 6(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 12 para. 2(6)(c)**

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

- C92** 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

- M28** 1969 c. 19.

## 465 Old societies.

- (1) <sup>M29</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>F769</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 <sup>F770</sup> . . . 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>F771</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

- F769** Words in s. 465(3) repealed by Finance Act 1991 (c. 31, SIF 63:1), s. 123, **Sch. 19 Pt. V**, Note 7
- F770** Words in s. 465(5) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 146**

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**F771** 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

**M29** Source—1985 Sch.10 Part III

### [465A <sup>F772</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

**F772** 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>F773</sup>[<sup>F774</sup>(1) In this Chapter “life or endowment business” means, subject to subsections (1A) and (1B) below—

(a) any life assurance business, and

[<sup>F775</sup>(b) any PHI business (as defined in section 431) if—

(i) the contract is one made before 1 September 1996, or

(ii) the contract is one made on or after that date and the effecting and carrying out of the business also constitutes business within paragraphs I, II or III of Part II of Schedule 1 to the Financial Services and Markets Act (Regulated Activities) Order 2001.]]

(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.

(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

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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>F776F777</sup> “friendly society”, without qualification, means (except in section 459) an incorporated friendly society or a registered friendly society;

[<sup>F776</sup> “gross roll-up business” shall be construed in accordance with section 431;]

“incorporated friendly society” means a society incorporated under the Friendly Societies Act 1992;]

[<sup>F778</sup> “insurance company” shall be construed in accordance with section 431;]

<sup>F779</sup> . . . . .

[<sup>F780</sup> [<sup>F781</sup> “long-term] business” shall be construed in accordance with section 431;]

[<sup>F782</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;]

<sup>F783</sup> . . . . .

“policy”, in relation to life or endowment business, includes an instrument evidencing a contract to pay an annuity upon human life;

[<sup>F784</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>F785</sup> . . . . .

“tax exempt life or endowment business” has, subject to subsections (7) to [<sup>F786</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>F787</sup> include, in the case of a registered friendly society, references to any branch of that society].

[<sup>F788</sup>(2ZA) <sup>F789</sup> . . . . .]

[<sup>F790</sup>(2A) <sup>F789</sup> . . . . .]

(2B) <sup>F789</sup> . . . . .]

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- (3) <sup>M30</sup>It is hereby declared that for the purposes of this Chapter (except where provision to the contrary is made) a [<sup>F791</sup>friendly society] formed on the amalgamation of two or more friendly societies is to be treated as different from the amalgamated societies.
- (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>F792</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

- F773** S. 466(1)-(1B) substituted for s. 466(1) (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [s. 171\(1\)](#)
- F774** S. 466(1) substituted (with effect in accordance with [s. 38\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 43\(2\)](#) (with [Sch. 7 Pt. 2](#))
- F775** S. 466(1)(b) substituted (with effect in accordance with [Sch. 18 para. 2\(2\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 18 para. 2\(1\)](#)
- F776** S. 466(2): definition of "gross roll-up business" inserted (with effect in accordance with [s. 38\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 43\(3\)\(b\)](#) (with [Sch. 7 Pt. 2](#))
- F777** 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](#)
- F778** S. 466(2): definition of "insurance company" inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [s. 171\(2\)\(a\)](#)
- F779** S. 466(2): definition of "life assurance business" repealed (with effect in accordance with [s. 38\(2\)](#) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 43\(3\)\(a\)](#), [Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))
- F780** S. 466(2): definition of "long term business" inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [s. 171\(2\)\(b\)](#)
- F781** 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\(2\)\(j\)](#)
- F782** 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](#)
- F783** S. 466(2): definition of "pension business" repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [s. 284\(1\)](#), [Sch. 35 para. 22\(2\)](#), [Sch. 42 Pt. 3](#), Note (with [Sch. 36](#))
- F784** 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](#)
- F785** 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](#)



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- F786** 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)
- F787** 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
- F788** S. 466(2ZA) inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 83 (with Sch. 2)
- F789** S. 466(2ZA)(2A)(2B) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 43(4), Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)
- F790** S. 466(2A)(2B) inserted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 35 para. 22(3) (as amended by Finance Act 2005 (c. 5), Sch. 9 para. 18(5)-(7)) (with Sch. 36)
- F791** 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
- F792** 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)

- C93** S. 466(2) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), regs. 1, 5, 17
- C94** 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

- M30** 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>M31</sup> A trade union which is precluded by Act of Parliament or by its rules from assuring to any person a sum exceeding [<sup>F793</sup>£4,000] by way of gross sum or [<sup>F794</sup>£825] by way of annuity shall on making a claim be entitled [<sup>F795</sup>to exemption from corporation tax]—
- <sup>F796</sup> . . . in respect of its income which is not trading income and which is applicable and applied for the purpose of provident benefits;
  - <sup>F797</sup> . . . 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>F798</sup>spouse][<sup>F799</sup>or civil partner] 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>F800</sup>£825] by way of annuity, there shall be disregarded any [<sup>F801</sup>annuity contract which constitutes a registered pension scheme or is issued or held in connection with a registered pension scheme other than an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004)].

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[<sup>F802</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>M32</sup>any trade union the name of which is entered in the list of trade unions maintained by the [<sup>F803</sup>Certification Officer] under [<sup>F804</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>F803</sup>Certification Officer] under [<sup>F805</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;
- [<sup>F806</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>M33</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

- F793** Words in s. 467(1) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 74(2)(a),(6)
- F794** Words in s. 467(1) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 74(2)(b),(6)
- F795** Words in s. 467(1) inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 84(2) (with Sch. 2)
- F796** Words in s. 467(1)(a) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 84(3), Sch. 3 Pt. 1 (with Sch. 2)
- F797** Words in s. 467(1)(b) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 84(4), Sch. 3 Pt. 1 (with Sch. 2)
- F798** 1988(F) s.35 and Sch.3 para.17 for chargeable period beginning on or after 6 April 1990. Previously “wife”.
- F799** Words in s. 467(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), 74
- F800** Words in s. 467(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 74(3)(6)
- F801** Words in s. 467(3) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 35 para. 23 (with Sch. 36)
- F802** S. 467(3A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 74(4)
- F803** Words in s. 467(4)(a)(b) substituted (retrospectively) by Finance Act 1991 (c. 31, SIF 63:1), s. 74(5)(a),(7)
- F804** 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)
- F805** 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)

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**F806** 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)**

**C95** See 1970 s.338 for amounts applicable in earlier years.

**C96** 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**

**M31** Source—1970 s.338(1)—(3); 1982 s.36(1); 1974 s.28(1)(b); 1987 s.31

**M32** Source—1974 s.28(1)(a)

**M33** Source—1977 s.47

**CHAPTER III**

**UNIT TRUST SCHEMES, DEALERS IN SECURITIES ETC.**

*Unit trust schemes*

**468 Authorised unit trusts.**

- (1) <sup>M34</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—
- (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>F807</sup>but paragraph (b) above is without prejudice to the making of distributions which are interest distributions (within the meaning of <sup>F808</sup>regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see regulation 18(3) of the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964))) to unit holders].

<sup>F809</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 <sup>F810</sup>basic rate] is charged for the year of assessment which begins on 6th April in the financial year concerned <sup>F811</sup>and section 13 shall not apply].]

(2) <sup>F812</sup>.....

(3) References in the Corporation Tax Acts to a body corporate shall be construed in accordance with <sup>F813</sup>subsection (1) above], and section <sup>F814</sup>234A] shall apply with any necessary modifications.

(4) <sup>F815</sup>.....

(5) <sup>F816</sup>.....

(6) <sup>F817</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>F818</sup>243 of the Financial Services and Markets Act 2000] is in force during the whole or part of that accounting period;

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F819

“unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme; <sup>F820</sup> . . .

F820

[<sup>F821</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>F818</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.]

### Textual Amendments

- F807** 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\(2\)](#)
- F808** Words in s. 468(1) substituted (1.4.2006 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), [regs. 1\(1\)](#), [88\(2\)](#)
- F809** 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\(1\)](#)
- F810** Words in s. 468(1A) substituted (with effect in accordance with [Sch. 1 para. 65](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 41](#)
- F811** Words in s. 468(1A) substituted (with effect in accordance with s. 26(8)-(11) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 26\(4\)](#)
- F812** 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
- F813** 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\(4\)](#)
- F814** Words in s. 468(3) substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 32\(3\)\(4\)](#)
- F815** 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
- F816** S. 468(5) repealed by [Finance Act 1990 \(c. 29\)](#), s. 52, [Sch. 19 Pt. 4](#), Note 7
- F817** 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\(1\)](#)
- F818** 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\(1\)](#)

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- F819** 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
- F820** S. 468(6): definition of "unit trust scheme" and preceding word repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 85(3), **Sch. 3 Pt. 1** (with Sch. 2)
- F821** 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)**

- C97** 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**)
- C98** S. 468(1A) excluded by The Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964), **reg. 14B** (as inserted (1.1.2009 with effect in accordance with reg. 1(2) of the amending S.I.) by The Authorised Investment Funds (Tax) (Amendment No. 3) Regulations 2008 (S.I. 2008/3159), **regs. 1(1), 11**)
- C99** Definition employed for the purposes of s.46(7)—insurance companies: annual deemed disposal of holdings of unit trusts etc.

**Marginal Citations**

- M34** Source—1970 ss.354, 358; 1980 s.60; 1987 s.38, 40(1); 1987 (No.2) s.40(1)

[<sup>F822</sup>**468AA** **Authorised unit trusts: futures and options.**

<sup>F823</sup> .....]

**Textual Amendments**

- F822** S. 468AA inserted by Finance Act 1990 (c. 29), s. **81(1)(5)**
- F823** 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>F824</sup>**468AC** **Certified unit trusts.**

<sup>F825</sup> .....]

**Textual Amendments**

- F824** Ss. 468A-468C inserted by Finance Act 1989 (c. 26), s. **78**
- F825** Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, **Sch. 19 Pt. 4**, Note 7

[<sup>F826</sup>**468AD** **Open-ended investment companies**

- (1) In relation to an open-ended investment company the rate of corporation tax for the financial year 2005 and subsequent financial years shall be deemed to be the rate at which income tax at the [<sup>F827</sup>basic rate] is charged for the year of assessment which begins on 6th April in the financial year concerned [<sup>F828</sup>(and section 13 shall not apply)].

*Status: Point in time view as at 21/07/2009. This version of this part contains provisions that are not valid for this point in time.*

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- (2) In this section “open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of the Financial Services and Markets Act 2000 applies.
- (3) Each of the parts of an umbrella company shall be regarded for the purposes of this section as an open-ended investment company and the umbrella company as a whole shall not be so regarded (and shall not, unless an enactment expressly provides otherwise, be regarded as a company for any other purpose of the Tax Acts).
- (4) In subsection (3) “umbrella company” means an open-ended investment company—
  - (a) in respect of which the instrument of incorporation provides arrangements for separate pooling of the contributions of the shareholders and the profits or income out of which payments are to be made to them, and
  - (b) the shareholders of which are entitled to exchange rights in one pool for rights in another,
 and a reference to part of an umbrella company is a reference to a separate pool.]

**Textual Amendments**

**F826** S. 468A inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [s. 16](#)

**F827** Words in [s. 468A\(1\)](#) substituted (with effect in accordance with [Sch. 1 para. 65](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 42](#)

**F828** Words in [s. 468A\(1\)](#) substituted (with effect in accordance with [s. 26\(8\)-\(11\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 26\(5\)](#)

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

**C100** [S. 468A\(2\)\(3\)\(4\)](#) applied (1.4.2009 with effect in accordance with [s. 1329\(1\)](#) of the affecting Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [s. 488](#) (with [Sch. 2 Pts. 1, 2](#))

**<sup>F829</sup> 468B Certified unit trusts: corporation tax.**

**F830** .....

**Textual Amendments**

**F829** Ss. 468A-468C inserted by [Finance Act 1989 \(c. 26\)](#), [s. 78](#)

**F830** Ss. 468A-468D repealed by [Finance Act 1990 \(c. 29\)](#), [s. 52](#), [Sch. 19 Pt. 4](#), Note 7

**<sup>F831</sup> 468C Certified unit trusts: distributions.**

**F832** .....

**Textual Amendments**

**F831** Ss. 468A-468C inserted by [Finance Act 1989 \(c. 26\)](#), [s. 78](#)

**F832** Ss. 468A-468D repealed by [Finance Act 1990 \(c. 29\)](#), [s. 52](#), [Sch. 19 Pt. 4](#), Note 7

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[<sup>F833</sup> **468D** Funds of funds: distributions.

F834 .....]

**Textual Amendments**

**F833** S. 468D inserted by Finance Act 1989 (c. 26), s. 79

**F834** Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, Sch. 19 Pt. 4, Note 7

[<sup>F835</sup> **468EA** Authorised unit trusts: corporation tax.

F836 .....]

**Textual Amendments**

**F835** Ss. 468E-468G inserted by Finance Act 1990 (c. 29), s. 51

**F836** 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>F837</sup> **468EE** Corporation tax: cases where lower rate applies.

F838 .....]

**Textual Amendments**

**F837** S. 468EE inserted (3.5.1994) by Finance Act 1994 (c. 9), s. 111(2)

**F838** 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>F839</sup> **468FA** Authorised unit trusts: distributions.

F840 .....

**Textual Amendments**

**F839** Ss. 468E-468G inserted by Finance Act 1990 (c. 29), s. 51

**F840** 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>F841</sup> **468G** Dividends paid to investment trusts.

F842 .....

**Textual Amendments**

**F841** Ss. 468E-468G inserted by Finance Act 1990 (c. 29), s. 51

**F842** 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

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### *F<sup>843</sup> Distributions of authorised unit trusts: general*

#### **Textual Amendments**

**F843** 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.**

F844 .....

#### **Textual Amendments**

**F844** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, **art. 2**) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), **Sch. 11 Pt. 2(3)**, Note 2

#### **468I Distribution accounts.**

F845 .....

#### **Textual Amendments**

**F845** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, **art. 2**) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), **Sch. 11 Pt. 2(3)**, Note 2

### *Dividend and foreign income distributions*

#### **468J Dividend distributions.**

F846 .....

#### **Textual Amendments**

**F846** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, **art. 2**) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), **Sch. 11 Pt. 2(3)**, Note 2

#### **468K Foreign income distributions.**

F847 .....

#### **Textual Amendments**

**F847** 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)**



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### Interest distributions

#### 468L Interest distributions.

F848 .....

##### Textual Amendments

**F848** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, art. 2) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), Sch. 11 Pt. 2(3), Note 2

#### [<sup>F849</sup>468M Cases where no obligation to deduct tax

F850 .....]

##### Textual Amendments

**F849** 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)

**F850** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, art. 2) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), Sch. 11 Pt. 2(3), Note 2

#### 468O Residence condition [<sup>F851</sup>and reputable intermediary condition].

F852 .....

##### Textual Amendments

**F851** 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)

**F852** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, art. 2) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), Sch. 11 Pt. 2(3), Note 2

#### 468P Residence declarations.

F853 .....

##### Textual Amendments

**F853** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, art. 2) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), Sch. 11 Pt. 2(3), Note 2

#### [<sup>F854</sup>Section 468O(1A): consequences of reasonable but incorrect belief

<sup>F855</sup>468PA .....

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#### Textual Amendments

- F854** 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)
- F855** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, art. 2) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), Sch. 11 Pt. 2(3), Note 2

### 468PB Regulations supplementing sections 468M to 468PA

F856 .....]

#### Textual Amendments

- F854** 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)
- F856** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, art. 2) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), Sch. 11 Pt. 2(3), Note 2

### *Distributions to corporate unit holder*

### 468Q Dividend distribution to corporate unit holder.

F857 .....

#### Textual Amendments

- F857** Ss. 468H-468Q repealed (in force in accordance with S.I. 2006/982, art. 2) by Finance (No. 2) Act 2005 (c. 22), ss. 17(1)(a), 19(1), Sch. 11 Pt. 2(3), Note 2

### 468R Foreign income distribution to corporate unit holder.

F858 .....

#### Textual Amendments

- F858** 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>M35</sup>any unit trust scheme [<sup>F859</sup>that is [<sup>F860</sup>an unauthorised unit trust within the meaning of section 989 of ITA 2007]]; <sup>F861</sup> . . .
- (b) <sup>F861</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 [<sup>F862</sup>Corporation Tax Acts] as income of the trustees (and not as income of the

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unit holders) <sup>F863</sup>; 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>F864</sup> . . . .

- [<sup>F865</sup>(2A) <sup>F866</sup> . . . . .
- [<sup>F867</sup>(2B) <sup>F866</sup> . . . . .]]
- (3) <sup>F866</sup> . . . . .
- (4) <sup>F866</sup> . . . . .
- [<sup>F868</sup>(4A) <sup>F869</sup> . . . . .
- (4B) <sup>F869</sup> . . . . .
- (4C) <sup>F869</sup> . . . . .
- (4D) <sup>F869</sup> . . . . .]
- (5) <sup>F869</sup> . . . . .
- [<sup>F870</sup>(5A) <sup>F871</sup> . . . . .
- (5B) <sup>F871</sup> . . . . .
- (5C) <sup>F871</sup> . . . . .
- (5D) <sup>F871</sup> . . . . .]
- (6) <sup>F869</sup> . . . . .
- [<sup>F872</sup>(6A) <sup>F873</sup> . . . . .]
- (7) <sup>F871</sup> . . . . .
- (8) <sup>F871</sup> . . . . .
- (9) <sup>F871</sup> . . . . .
- (10) <sup>F871</sup> . . . . .

(11) This section shall have effect in relation to distribution periods beginning on or after 6th April 1987.

#### Textual Amendments

- F859** 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)
- F860** Words in s. 469(1) substituted (3.2.2009 with effect in accordance with art. 1(2) of the amending S.I.) by The Income Tax Act 2007 (Amendment) Order 2009 (S.I. 2009/23), arts. 1(1), 2(2)
- F861** 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)
- F862** Words in s. 469(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 87(2)(a) (with Sch. 2)
- F863** Words in s. 469(2) inserted (3.2.2009 with effect in accordance with art. 1(2) of the amending S.I.) by The Income Tax Act 2007 (Amendment) Order 2009 (S.I. 2009/23), arts. 1(1), 2(3)
- F864** Words in s. 469(2) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 87(2)(b), Sch. 3 Pt. 1 (with Sch. 2)

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- F865** 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)**
- F866** S. 469(2A)-(4) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 87(3), **Sch. 3 Pt. 1** (with Sch. 2)
- F867** S. 469(2B) substituted (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. 181(3)** (with Sch. 2)
- F868** S. 469(4A)-(4D) inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 87(4)** (with Sch. 2)
- F869** S. 469(4A)-(5)(6) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 157, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F870** S. 469(5A)-(5D) inserted by Finance Act 1988 (c. 39), **s. 71**
- F871** S. 469(5A)-(5D)(7)-(10) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 87(6), **Sch. 3 Pt. 1** (with Sch. 2)
- F872** S. 469(6A) inserted (with effect in accordance with s. s. 113(4)-(11) of the amending Act) by Finance Act 1994 (c. 9), **s. 113(3)(b)**
- F873** S. 469(6A) omitted (3.2.2009 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of The Income Tax Act 2007 (Amendment) Order 2009 (S.I. 2009/23), **arts. 1(1), 2(4)**

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

- C101** S. 469 extended (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. 1 para. 22(1)(2)**

#### **Marginal Citations**

- M35** Source—1970 s.354A; 1987 s.39; 1987 (No.2) s.40(1)

### **[<sup>F874</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>M36</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>F875</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>F876</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>F877</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>F878</sup> . . . . .]

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#### Textual Amendments

- F874** S. 469A inserted (with effect in accordance with s. 68(3)-(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 68\(1\)](#)
- F875** 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\(2\)](#)
- F876** S. 469A(1A) inserted (with effect in accordance with s. 183(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 183\(3\)](#)
- F877** 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\(17\)](#)
- F878** 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

- M36** 1982 c.53.

### 470 Transitional provisions relating to unit trusts.

- (1) <sup>F879</sup> .....
- <sup>F880</sup> (2) .....
- (3) <sup>F879</sup> .....

#### Textual Amendments

- F879** S. 470(1)(3) repealed (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. 3\(23\)](#)
- F880** 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.

- <sup>F881</sup> .....

#### Textual Amendments

- F881** 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.

- <sup>F882</sup> .....

#### Textual Amendments

- F882** 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

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**Trading profits etc. from securities: taxation of amounts taken to reserves**  
 [ F883 472A F884 ..... ]

**Textual Amendments**

**F883** 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))

**F884** S. 472A repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 158, Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

**473 Conversion etc. of securities held as circulating capital.**

F885 .....

**Textual Amendments**

**F885** S. 473 repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 159, Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

**474 Treatment of tax-free income.**

- (1) F886 .....
- (2) F887 .....
- [ F886 ..... ]  
 F888 (3)

**Textual Amendments**

**F886** 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)

**F887** 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

**F888** 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.**

[ F889 (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 [ F890 the Income 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.]

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- (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 <sup>F890</sup>the Income Tax Acts] of the profits (or losses) arising from the business <sup>F891</sup> . . . . , <sup>F892</sup> . . . .
  - <sup>F893</sup>(b) <sup>F892</sup> . . . . .]
- (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>F894</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>F895</sup> . . . . .
- (5) <sup>F896</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>F897</sup> . . . . .
- (7) <sup>F897</sup> . . . . .
- (8) For the purposes of this section the cost of a holding of [<sup>F894</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 or basis period, applied to the average amount of the holding in the accounting or basis period, <sup>F898</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

- F889** 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)**
- F890** Words in s. 475(1)(b)(2)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 160(a)** (with Sch. 2 Pts. 1, 2)
- F891** 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
- F892** S. 475(2)(b) and preceding word repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 160(b), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F893** 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)
- F894** 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)**
- F895** Words in s. 475(4) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 160(c), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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- F896** 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
- F897** 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
- F898** 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.**

**F899** .....

**Textual Amendments**  
**F899** 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.**

**F900** .....

**Textual Amendments**  
**F900** S. 477 repealed by [Finance Act 1990 \(c. 29\)](#), Sch. 5 para. 3, [Sch. 19 Pt. 4](#), Note 8

#### **[<sup>F902</sup>477A Building societies: [<sup>F901</sup>loan relationships].**

- (1) <sup>F903</sup> .....
- <sup>F904</sup>(1A) [<sup>F903</sup> .....
- (2) <sup>F903</sup> .....
- <sup>F905</sup>(2A) [<sup>F903</sup> .....
- (3) <sup>F906</sup> ... 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>F907</sup>(a) <sup>F908</sup> .....
  - (aa) <sup>F908</sup> .....
  - (b) no part of any such dividends or interest <sup>F909</sup> ... shall be treated as a distribution of the society or as franked investment income of any company resident in the United Kingdom.
- <sup>F910</sup>(3A) [<sup>F911</sup> .....



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(3B) <sup>F911</sup> .....

(3C) <sup>F911</sup> .....]

(4) <sup>F908</sup> .....

(5) <sup>F912</sup> .....

(6) <sup>F912</sup> .....

(7) <sup>F913</sup> .....

(8) <sup>F914</sup> .....

[<sup>F915</sup>(9) In this section “dividend” includes any distribution (whether or not described as a dividend).]

[<sup>F908</sup> .....]]  
<sup>F916</sup>(10)

#### Textual Amendments

- F901** Words in s. 477A sidenote substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **Sch. 1 para. 88(7)** (with Sch. 2)
- F902** 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)**
- F903** S. 477A(1)-(2A) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), Sch. 1 para. 88(2), **Sch. 3 Pt. 1** (with Sch. 2)
- F904** S. 477A(1A) inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 52(1), **Sch. 11 para. 2(2)**
- F905** S. 477A(2A) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), s. 111(4)
- F906** Words in s. 477A(3) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), Sch. 1 para. 88(3)(a), **Sch. 3 Pt. 1** (with Sch. 2)
- F907** 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)
- F908** S. 477A(3)(a)(aa)(4)(10) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), Sch. 1 para. 161, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F909** Words in s. 477A(3)(b) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), Sch. 1 para. 88(3)(b), **Sch. 3 Pt. 1** (with Sch. 2)
- F910** S. 477A(3A)-(3C) inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 52(2)(3)
- F911** 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)
- F912** S. 477A(5)(6) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), Sch. 1 para. 184(3), **Sch. 3** (with Sch. 2)
- F913** S. 477A(7) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), Sch. 1 para. 88(4), **Sch. 3 Pt. 1** (with Sch. 2)
- F914** 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
- F915** S. 477A(9) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **Sch. 1 para. 88(5)** (with Sch. 2)
- F916** S. 477A(10) inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 52(1), **Sch. 11 para. 2(3)**

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

- C102** S. 477A applied (with effect in accordance with s. 56 of the affecting Act) by [Finance Act 2005 \(c. 7\)](#), **Sch. 2** para., 5

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**C103** 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>F917</sup>**477B** **Building societies: incidental costs of issuing qualifying shares.**

<sup>F918</sup> .....]

**Textual Amendments**  
**F917** S. 477B inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 51, **Sch. 10 para. 3(1)(2)**  
**F918** S. 477B repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 162, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**478 Building societies: time for payment of tax.**

<sup>F919</sup> .....

**Textual Amendments**  
**F919** 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.**

<sup>F920</sup> .....

**Textual Amendments**  
**F920** 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.**

<sup>F921</sup> .....

**Textual Amendments**  
**F921** S. 480 repealed by Finance Act 1990 (c. 29), Sch. 5 para. 6, **Sch. 19 Pt. 4**, Note 8

[<sup>F922</sup>**480A** **Relevant deposits: deduction of tax from interest payments.**

<sup>F923</sup> .....]

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**Textual Amendments**

**F922** 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)**

**F923** Ss. 480A-482 repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 89, **Sch. 3 Pt. 1** (with Sch. 2)

[<sup>F924</sup>**480B Relevant deposits: exception from section 480A.**

<sup>F925</sup> .....

**Textual Amendments**

**F924** 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)**

**F925** Ss. 480A-482 repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 89, **Sch. 3 Pt. 1** (with Sch. 2)

[<sup>F926</sup>**480C Relevant deposits: computation of tax on interest.**

<sup>F927</sup> .....

**Textual Amendments**

**F926** 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)**

**F927** S. 480C repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 185, **Sch. 3** (with Sch. 2)

**481 “Deposit-taker”, “deposit” and “relevant deposit”.**

<sup>F928</sup> .....

**Textual Amendments**

**F928** Ss. 480A-482 repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 89, **Sch. 3 Pt. 1** (with Sch. 2)

**482 Supplementary provisions.**

<sup>F929</sup> .....

**Textual Amendments**

**F929** Ss. 480A-482 repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 89, **Sch. 3 Pt. 1** (with Sch. 2)

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**[<sup>F930</sup> 482A Audit powers in relation to non-residents.**

<sup>F931</sup> .....]

**Textual Amendments**  
**F930** S. 482A inserted by [Finance Act 1991 \(c. 31, SIF 63:1\), s.75](#)  
**F931** 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>F932</sup>(1) .....

<sup>F932</sup>(2) .....

<sup>F932</sup>(3) .....

(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>F932</sup>(5) .....

**Textual Amendments**  
**F932** 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>F933</sup> .....

**Textual Amendments**  
**F933** 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>F934</sup> .....

**Textual Amendments**  
**F934** 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)

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**486 Industrial and provident societies and co-operative associations.**

(1) <sup>M37</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>F935</sup>for the purposes of corporation tax]<sup>F936</sup> . . . .

(2) <sup>F937</sup> . . . . .

(3) <sup>F937</sup> . . . . .

(4) <sup>F938</sup> . . . . .

(5) <sup>F939</sup> . . . . .

(6) <sup>F937</sup> . . . . .

(7) <sup>F938</sup> . . . . .

(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) <sup>F940</sup> . . . . .

(11) <sup>F940</sup> . . . . .

(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 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>F941</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;

<sup>F942</sup> . . . . .

“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;

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and references to the payment of share interest or loan interest include references to the crediting of such interest.

#### Textual Amendments

- F935** Words in s. 486(1) 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. 188\(2\)\(a\)](#) (with [Sch. 2](#))
- F936** Words in s. 486(1) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 163\(2\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F937** S. 486(2)(3)(6) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 90\(2\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F938** S. 486(4)(7) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 163\(3\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F939** S. 486(5) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 188\(4\)](#), [Sch. 3](#) (with [Sch. 2](#))
- F940** S. 486(10)(11) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 163\(4\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F941** 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](#)
- F942** S. 486(12): definition of "registered industrial and provident society" repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 163\(5\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

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

- C104** See 1988(F) Sch.8 para.1—*re-basing* to 1982.
- C105** S. 486(8) excluded (with effect in accordance with s. 131(4) of the affecting Act) by [Finance Act 1995 \(c. 4\)](#), [s. 131\(1\)\(2\)\(b\)](#)
- C106** 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

- M37** Source—1970 s.340, 345; CUA 1979 s.25(2)

### 487 Credit unions.

F943

#### Textual Amendments

- F943** S. 487 repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 164](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

### 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>M38</sup>rent to which the association was entitled from its members for the year or part shall be disregarded for tax purposes; and

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- (b) any yearly interest payable by the association for the year or part shall be treated for tax purposes [<sup>F944</sup>in relation to the association as if there were no interest so payable].
- (c) <sup>F945</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>F946</sup> . . .
- (b) <sup>F946</sup> .....
- (3) <sup>F947</sup> .....
- (4) Where a claim under subsection (1) above has effect, any adjustment of the liability to tax of <sup>F948</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>M39</sup>Industrial and Provident Societies Act 1965 or the <sup>M40</sup>Industrial and Provident Societies Act (Northern Ireland) 1969, and is a housing association within the meaning of the <sup>M41</sup>Housing Associations Act 1985 or [<sup>F949</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 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>F950</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>F951</sup>(7A) The Secretary of State may delegate any of his functions under subsections (6) and (7)—

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- (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>F952</sup> . . .
- (b) <sup>F952</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>M42</sup>Statutory Rules (Northern Ireland) Order 1979.

- <sup>F953</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>F954</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, shall be treated during the first six months after the death as if it were occupation by a member.

- <sup>F955</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>F956</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>F957</sup>return] or, as the case may be, to the claim, the liability of <sup>F958</sup>the association] to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise.]



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(12) <sup>F959</sup> .....

### Textual Amendments

- F944** 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)**
- F945** 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
- F946** 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
- F947** 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
- F948** 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
- F949** 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**
- F950** 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**
- F951** 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.)
- F952** 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**
- F953** 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)**
- F954** 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)**
- F955** 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)**
- F956** 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**
- F957** 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**
- F958** 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)**
- F959** 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

### Modifications etc. (not altering text)

- C107** 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**
- C108** See reference to approved housing associations in 1988(F) s.43(3) and 44.
- C109** 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

- M38** Source—1970 s.341; 1972 Sch.11 6
- M39** 1965 c. 12.
- M40** 1969 c.24 (N.I.).
- M41** 1985 c. 68.
- M42** S.I. 1979/1573 (N.I.12.).

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#### **489 Self-build societies.**

- (1) <sup>M43</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>M44</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>F960</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>F961</sup> . . .
  - (b) <sup>F961</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 any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.
  - [<sup>F962</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>F963</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;

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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>F964</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>F965</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>F966</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>M45</sup>Housing Associations Act 1985 or, in Northern Ireland, Part VII of the <sup>M46</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>M47</sup>Industrial and Provident Societies Act 1965 shall be construed as a reference to the <sup>M48</sup>Industrial and Provident Societies Act (Northern Ireland) 1969; and
- (c) for subsection (6) there shall be substituted the following subsection—

“(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

**F960** 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.)

**F961** 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](#)

**F962** 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\(2\)](#)

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- F963** 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)**
- F964** 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)**
- F965** 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**
- F966** 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)

- C110** 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**
- C111** See 1976(D)—*exemption of certain housing associations from development land tax*. 1976(D)*repealed from 19March 1985*.
- C112** See reference to *approved self-build societies in 1988(F) s.43(3) and s.44*.
- C113** 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

- M43** Source—1970 s.341A
- M44** 1965 c. 12.
- M45** 1985 c. 68.
- M46** S.I. 1981/156 (N.I. 3).
- M47** 1965 c. 12.
- M48** 1969 c. 24 (N.I.).

### 490 Companies carrying on a mutual business or not carrying on a business.

- (1) <sup>M49</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>F967</sup> . . . . <sup>F968</sup> . . . .
- (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>F969</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

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distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income <sup>F970</sup> . . . .

(5) <sup>F971</sup> . . . . .

**Textual Amendments**

- F967** 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
- F968** 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
- F969** 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)**
- F970** 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
- F971** 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)**

- C114** S. 490 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)

**Marginal Citations**

- M49** Source—1970 s.346

**491 Distribution of assets of body corporate carrying on mutual business.**

<sup>F972</sup> . . . . .

**Textual Amendments**

- F972** S. 491 repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 165, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**CHAPTER V**

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

- C115** Pt. 12 Ch. 5 modified (27.7.1999) by Finance Act 1999 (c. 16), s. 98

*PETROLEUM EXTRACTION ACTIVITIES*

**492 Treatment of oil extraction activities etc. for tax purposes.**

- (1) Where a person carries on as part of a trade—
  - (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,

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those activities shall be treated [<sup>F973</sup>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) <sup>F974</sup> .....

(3) Relief in respect of a loss incurred by a person shall not be given under section [<sup>F975</sup>393A(1)] against his ring fence profits except to the extent that the loss arises from oil extraction activities or from oil rights.

[<sup>F976</sup>(3A) No deduction under [<sup>F977</sup>section 1219 of CTA 2009] (expenses of management of investment business) shall be allowed from a company's ring fence profits.]

[<sup>F978</sup>(4) In any case where—

- (a) in any accounting period a company incurs a loss in activities (“separate activities”) which, for that or any subsequent accounting 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 accounting period any of its 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 subsection (1) above, the amount of the loss may be set off, in accordance with section 393(1), against so much of its trading income in any subsequent accounting 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 [<sup>F979</sup>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 [<sup>F980</sup>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 [<sup>F981</sup>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.

#### Textual Amendments

**F973** Words in s. 492(1) substituted (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. 190(2)** (with Sch. 2)

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- F974** S. 492(2) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 92(2), Sch. 3 Pt. 1** (with Sch. 2)
- F975** Words in s. 492(3) substituted by **Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)(4)(5), Sch. 15 para. 17**
- F976** S. 492(3A) inserted (with effect in accordance with s. 112(2)-(5) of the amending Act) by **Finance Act 2008 (c. 9), s. 112(1)**
- F977** Words in s. 492(3A) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by **Corporation Tax Act 2009 (c. 4), Sch. 1 para. 166** (with Sch. 2 Pts. 1, 2)
- F978** S. 492(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 92(3)** (with Sch. 2)
- F979** 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)**
- F980** 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)**
- F981** 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)**

- C116** 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.**

[<sup>F982</sup>(A1) Where the conditions in subsection (A2) below are met in the case of a disposal of oil by a person, section 2(5A) of the Oil Taxation Act 1975 (“the 1975 Act”) (transportation etc) is to apply in determining the amount which the person is to bring into account for the purposes of the charge to corporation tax on income in respect of the disposal as it applies (or would apply) for the purposes of petroleum revenue tax.

(A2) The conditions are that—

- (a) the oil is oil won from an oil field in the United Kingdom,
- (b) the disposal is a disposal of the oil by the person crude in a sale at arm's length, as defined in paragraph 1 of Schedule 3 to the 1975 Act,
- (c) the circumstances are such that the price received or receivable—
  - (i) falls to be taken into account under section 2(5)(a) of that Act in computing for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to the person in any chargeable period from the oil field, or
  - (ii) would fall to be so taken into account, had the oil field been a taxable field, as defined in section 185 of the Finance Act 1993,
- (d) the terms of the contract are such as are described in the opening words of section 2(5A) of the 1975 Act,
- (e) apart from subsection (A1) above, the person is not entitled to a transportation allowance in respect of the oil (see subsection (A3)) in computing his ring fence profits,
- (f) the person does not claim a transportation allowance in respect of the oil in computing for the purposes of corporation tax any profits of his that are not ring fence profits.

(A3) In subsection (A2) above “transportation allowance”, in relation to any oil, means any of the following—

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- (a) a deduction in respect of the expense of transporting the oil as mentioned in the opening words of section 2(5A) of the 1975 Act,
  - (b) a deduction in respect of any costs of or incidental to the transportation of the oil as there mentioned,
  - (c) any such reduction in the price to be regarded as received or receivable for the oil as would result from the application of section 2(5A) of the 1975 Act, if that provision applied for the purposes of corporation tax.]
- (1) Where a person disposes of any oil in circumstances such that the market value of that oil <sup>F983</sup> . . . falls to be taken into account under section 2 of [<sup>F984</sup>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).
- [<sup>F985</sup>(1A) Where an excess of nominated proceeds in a chargeable period (within the meaning given by section 61 of the Finance Act 1987) is taken into account in computing a person's profits under section 2(5)(e) of the 1975 Act (or would be taken into account if the person were chargeable to tax under that Act in respect of a field)—
- (a) for the purposes of subsection (1) the amount of the excess shall be added to the consideration which the person is deemed to have received in respect of oil disposed of by him in the period, and
  - (b) for the purposes of corporation tax, that amount shall be available to the person as a deduction in computing the profits of any trade to which section 492(1) does not apply.]
- (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 <sup>F986</sup> . . . 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 [<sup>F987</sup>falling within the definition of “oil-related activities” in section 16(2) of ITTOIA 2005 or within section 492(1)(a) or (b) above]; 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.



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(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 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<sup>F988</sup> . . . .

(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<sup>F989</sup> . . . .

[<sup>F990</sup>(5) For the purposes of subsections (3) and (4) above, paragraph 2 of Schedule 3 to the 1975 Act shall apply as it applies for the purposes of Part 1 of that Act, but with the following modifications—

(a) sub-paragraph (4) shall be treated as omitted;

(b) any reference in paragraphs 2 and 2A to oil being relevantly appropriated shall be construed as a reference to its being appropriated as mentioned in section 493(4) of the Taxes Act; and

(c) any reference in paragraph 2 to the notional delivery day for the actual oil shall be construed as a reference to the day on which the oil is disposed of or appropriated as mentioned in subsection (3) or (4) above.]

[<sup>F991</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

**F982** S. 493(A1)-(A3) inserted (with effect in accordance with s. 147(1)(2) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 18 para. 12(2)**

**F983** Words in s. 493(1) omitted (with effect in accordance with s. 147(1)(2) of the repealing Act) by virtue of Finance Act 2006 (c. 25), **Sch. 18 para. 12(3)(a)**

**F984** Words in s. 493(1) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 18 para. 12(3)(b)**

**F985** S. 493(1A) inserted (with effect in accordance with s. 151(2) of the amending Act) by Finance Act 2006 (c. 25), **s. 151(1)**

**F986** Words in s. 493(2) omitted (with effect in accordance with s. 147(1)(2) of the repealing Act) by virtue of Finance Act 2006 (c. 25), **Sch. 18 para. 12(4)**

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- F987** Words in s. 493(2)(a)(i) substituted (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. 191** (with Sch. 2)
- F988** Words in s. 493(3) omitted (with effect in accordance with s. 147(1)(2) of the repealing Act) by virtue of **Finance Act 2006 (c. 25), Sch. 18 para. 12(5)**
- F989** Words in s. 493(4)(b) omitted (with effect in accordance with s. 147(1)(2) of the repealing Act) by virtue of **Finance Act 2006 (c. 25), Sch. 18 para. 12(6)**
- F990** S. 493(5) substituted (with effect in accordance with s. 147(1)(2) of the amending Act) by **Finance Act 2006 (c. 25), Sch. 18 para. 12(7)**
- F991** 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)**

**494** [<sup>F992</sup>**Loan relationships etc.**]

(1) <sup>F993</sup> . . . [<sup>F994</sup>[<sup>F995</sup>Part 5 of CTA 2009] (loan relationships)] shall have effect subject to the following provisions of this section.

[<sup>F996</sup>(2) Debts shall not be brought into account for the purposes of [<sup>F997</sup>Part 5 of CTA 2009] 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 debits falling to be brought into account by virtue of [<sup>F998</sup>section 329] 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>F999</sup>and]
- (c) in the case of debits in respect of [<sup>F1000</sup>a relationship to which [<sup>F1001</sup>Chapter 2 of Part 6 (relevant non-lending relationships)] of that Act applies.] to the extent that—
  - [<sup>F1002</sup>(i) the payment of interest under that relationship is expenditure incurred as mentioned in sub-paragraph (i) of paragraph (a) above; [<sup>F1003</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>F1004</sup> . . .

(d) <sup>F1004</sup> . . . . .

In this subsection “debtor relationship” and “creditor relationship” have the same meanings as in [<sup>F997</sup>Part 5 of CTA 2009], and references to a loan relationship, in relation to the borrowing of money, do not include references to [<sup>F1005</sup>any relationship to which [<sup>F1001</sup>Chapter 2 of Part 6 (relevant non-lending relationships)] of that Act applies.]

Section 839 shall apply for the purposes of this subsection.  
<sup>F1006</sup>[<sup>F1007</sup> . . . . .]

[<sup>F1008</sup>(2ZA) Credits in respect of exchange gains from a company’s loan relationships shall not be brought into account for the purposes of [<sup>F1009</sup>Part 5 of CTA 2009] in respect of any

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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>F1010</sup>(2A) Where any debit [<sup>F1011</sup>or credit]—
- (a) falls to be brought into account for the purposes of [<sup>F1012</sup>Part 5 of CTA 2009] in respect of any loan relationship of a company, but
  - (b) in accordance with subsection (2) [<sup>F1013</sup>or (2ZA)] above cannot be brought into account in a manner that results in any reduction [<sup>F1014</sup>or, as the case may be, increase] of what would otherwise be the company's ring fence profits,
- then (notwithstanding anything in [<sup>F1015</sup>section 297] of that Act) that debit [<sup>F1016</sup>or credit] shall be brought into account for those purposes as a non-trading debit [<sup>F1017</sup>or, as the case may be, non-trading credit].]

- [<sup>F1018</sup>(2B) <sup>F1019</sup>.....]
- (3) <sup>F1020</sup>.....
- [<sup>F1021</sup>(4) <sup>F1022</sup>.....]
- (5) <sup>F1022</sup>.....]

### Textual Amendments

- F992** S. 494 sidenote substituted (with effect in accordance with s. 38(7)-(13) of the amending Act) by virtue of Finance (No. 2) Act 2005 (c. 22), s. 38(5)
- F993** Words in s. 494(1) repealed (with effect in accordance with s. 38 of the repealing Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 11 Pt. 2(7), Note
- F994** 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)
- F995** Words in s. 494(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 167(2) (with Sch. 2 Pts. 1, 2)
- F996** 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)
- F997** Words in s. 494(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 167(3)(a) (with Sch. 2 Pts. 1, 2)
- F998** Words in s. 494(2)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 167(3)(b) (with Sch. 2 Pts. 1, 2)
- F999** 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)
- F1000** 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))
- F1001** Words in s. 494(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 167(3)(c) (with Sch. 2 Pts. 1, 2)
- F1002** 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))
- F1003** 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))
- F1004** 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

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- F1005** 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))
- F1006** 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))
- F1007** 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
- F1008** 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))
- F1009** Words in s. 494(2ZA) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 167(4) (with Sch. 2 Pts. 1, 2)
- F1010** 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)
- F1011** 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))
- F1012** Words in s. 494(2A)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 167(5)(a) (with Sch. 2 Pts. 1, 2)
- F1013** 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))
- F1014** 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))
- F1015** Words in s. 494(2A) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 167(5)(b) (with Sch. 2 Pts. 1, 2)
- F1016** 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))
- F1017** 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))
- F1018** 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))
- F1019** 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
- F1020** S. 494(3) repealed (with effect in accordance with s. 38 of the repealing Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 11 Pt. 2(7), Note
- F1021** 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)
- F1022** 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>F1023</sup> 494 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>F1024</sup> generally accepted accounting practice], to be treated in the accounts of the lessee as a finance charge,<sup>F1025</sup> . . . <sup>F1026</sup> or]

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- (b) <sup>F1025</sup> . . . . .
- <sup>F1027</sup>(c) [ falls, if the case is one where the lease is a long funding operating lease, to be deductible in computing the profits of the lessee for the purposes of corporation tax (after first making against any such expenditure any reductions falling to be made by virtue of section 502K).]
- (3) The expenditure shall not be allowable in computing for the purposes of [<sup>F1028</sup>Part 3 of CTA 2009] 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 [<sup>F1029</sup>Part 3 of CTA 2009] 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 [<sup>F1030</sup>Part 5 of CTA 2009] 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 [<sup>F1031</sup>—
- “long funding operating lease” means a long funding operating lease for the purposes of Part 2 of the Capital Allowances Act (see section 70YI(1) of that Act);]
- “lease”, in relation to an asset, has the same meaning as in sections 781 to 784.]

#### Textual Amendments

- F1023**S. 494AA inserted (with application in accordance with s. 100(2)(3) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 100\(1\)](#)
- F1024**Words in s. 494AA(2) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), [s. 103\(4\)\(a\)](#)
- F1025**S. 494AA(2)(b) and preceding word repealed (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), [Sch. 40 Pt. 3\(16\)](#)
- F1026**Word at the end of s. 494AA(2)(a) inserted (with effect in accordance with [Sch. 9 para. 1\(5\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 9 para. 1\(2\)](#)
- F1027**S. 494AA(2)(c) inserted (with effect in accordance with [Sch. 9 para. 1\(5\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 9 para. 1\(3\)](#)
- F1028**Words in s. 494AA(3) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 168\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F1029**Words in s. 494AA(5)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 168\(3\)\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F1030**Words in s. 494AA(5) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 168\(3\)\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F1031**S. 494AA(6): definition of "long funding operating lease" inserted (with effect in accordance with [Sch. 9 para. 1\(5\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 9 para. 1\(4\)](#)

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**[<sup>F1032</sup>494A] Computation of amount available for surrender by way of group relief.**

- (1) In section 403(3) (availability of charges, [<sup>F1033</sup>UK property business 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, <sup>F1034</sup> . . .
  - (b) <sup>F1034</sup> . . . . .
 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, <sup>F1035</sup> . . .
  - (b) <sup>F1035</sup> . . . . .]

**Textual Amendments**

**F1032S.** 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](#))

**F1033** Words in s. 494A(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009](#) (c. 4), [Sch. 1 para. 169](#) (with [Sch. 2 Pts. 1, 2](#))

**F1034S.** 494A(2)(b) and preceding word repealed (with effect in accordance with s. 38 of the repealing Act) by [Finance \(No. 2\) Act 2005](#) (c. 22), [Sch. 11 Pt. 2\(7\)](#), Note

**F1035S.** 494A(3)(b) and preceding word repealed (with effect in accordance with s. 38 of the repealing Act) by [Finance \(No. 2\) Act 2005](#) (c. 22), [Sch. 11 Pt. 2\(7\)](#), Note

**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>F1036</sup>Part 2 <sup>F1037</sup> . . . or 6 of the Capital Allowances Act (capital allowances relating to plant and machinery <sup>F1037</sup> . . . 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 [<sup>F1038</sup>section 16(1) of ITTOIA 2005 or section 492(1) above] 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.
- (3) Subsections (4) to (6) below apply where—

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- (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>M50</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>F1039</sup>Part 2 <sup>F1040</sup> . . . 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>F1041</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

**F1036** 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\(1\)](#)

**F1037** Words in s. 495(1)(b) omitted (with effect in accordance with Sch. 27 para. 30(1) of the repealing Act) by virtue of [Finance Act 2008 \(c. 9\), Sch. 27 para. 21\(a\)](#)

**F1038** Words in s. 495(2) substituted (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. 192](#) (with Sch. 2)

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**F1039** 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\(2\)](#)

**F1040** Word in s. 495(3)(b) omitted (with effect in accordance with Sch. 27 para. 30(1) of the repealing Act) by virtue of [Finance Act 2008 \(c. 9\), Sch. 27 para. 21\(b\)](#)

**F1041** 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\(3\)](#)

#### Marginal Citations

**M50** 1982 c. 39

### 496 [F1042-Tariff receipts and tax-exempt tariffing receipts]

(1) Any sum which—

- (a) constitutes a tariff receipt [F1043 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 [F1044 section 16(1) of ITTOIA 2005 or section 492(1) above],

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 [F1045 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 [F1046 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 [F1047 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 <sup>M51</sup>the Oil Taxation Act 1983.

#### Textual Amendments

**F1042** 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\(5\)](#)

**F1043** 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\(2\)](#)

**F1044** Words in s. 496(1)(c) substituted (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. 193](#) (with Sch. 2)

**F1045** 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\(3\)](#)



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**F1046** 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\(4\)\(a\)](#)

**F1047** 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**

**M51** 1983 c. 56.

[<sup>F1048</sup>**496A Exploration expenditure supplement**

Schedule 19B to this Act (exploration expenditure supplement) shall have effect.]

**Textual Amendments**

**F1048** S. 496A inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 286\(2\)](#)

[<sup>F1049</sup>**496B Ring fence expenditure supplement**

Schedule 19C to this Act (ring fence expenditure supplement) shall have effect.]

**Textual Amendments**

**F1049** 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.**

**F1050** .....

**Textual Amendments**

**F1050** 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.**

**F1051** .....

**Textual Amendments**

**F1051** 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.**

**F1052** .....

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### Textual Amendments

**F1052S. 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

## 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
  - <sup>F1053</sup>(b) if that chargeable period ends after the accounting period of the company in or at the end of which the company—
    - (i) ceases to carry on the trade giving rise to the income referred to above, or
    - (ii) ceases to be within the charge to corporation tax in respect of that trade,
 that accounting period.]
- (4) <sup>F1054</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>F1055</sup>calendar year] in which the first-mentioned tax was repaid.
- <sup>F1056</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;

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- (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”<sup>F1057</sup> means—
    - (i) the accounting period in or at the end of which ends the operative chargeable period, or
    - (ii) if the company ceases to carry on its ring fence trade (or to be within the charge to corporation tax in respect of that trade) before the end of the operative chargeable period, the last accounting period of that trade (or, as the case requires, the accounting period during or at the end of which the company ceased to be within the charge to corporation tax in respect 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—
- (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

**F1053S.** 500(3)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 170(2)** (with Sch. 2 Pts. 1, 2)

**F1054** Words in s. 500(4) inserted by Finance Act 1990 (c. 29), **s. 62(1)(a)**

**F1055** Words in s. 500(4) substituted by Finance Act 1990 (c. 29), **s. 62(1)(b)**

**F1056S.** 500(5)-(10) substituted for s. 500(5) by Finance Act 1990 (c. 29), **s. 62(2)**

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**F1057** Words in s. 500(6)(d) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 170(3) (with Sch. 2 Pts. 1, 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>F1058</sup>501 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 [<sup>F1059</sup>20 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.
- (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 [<sup>F1060</sup>Part 5 of CTA 2009] (loan relationships) [<sup>F1061</sup>, other than debits in respect of exchange losses from such relationships (see [<sup>F1062</sup>section 475] of that Act)];
  - <sup>F1063</sup>(b) any exchange gain or loss from a debtor relationship, within the meaning of [<sup>F1064</sup>that Part] (see [<sup>F1065</sup>section 475] of that Act), in relation to debt finance;]
  - <sup>F1066</sup>(c) any credit or debit falling to be brought into account [<sup>F1067</sup>in accordance with Part 7 of CTA 2009 (derivative contracts)] in relation to debt finance;]
  - (d) the financing cost implicit in a payment under a finance lease;
    - <sup>F1068</sup>[ where the company is the lessee under a long funding operating lease, the amount deductible in respect of payments under the lease in computing the profits of the lessee for the purposes of corporation tax (after first making against any such amount any reductions falling to be made by virtue of section 502K); 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—

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- (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.
- (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
  - <sup>F1069</sup>(b) are drawn up in accordance with generally accepted accounting practice.]
- [ In this section “long funding operating lease” means a long funding operating lease for
- <sup>F1070</sup>(11) the purposes of Part 2 of the Capital Allowances Act (see section 70YI(1) of that Act).]
- [ This section is subject to Schedule 44 to the Finance Act 2009.]]
- <sup>F1071</sup>(12)

#### Textual Amendments

**F1058S.** 501A inserted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), **ss. 91, 93**

**F1059** Words in s. 501A(1) substituted (with effect in accordance with s. 152(2)(3) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **s. 152(1)**

**F1060** Words in s. 501A(5)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 171(a)** (with Sch. 2 Pts. 1, 2)

**F1061** 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))

**F1062** Words in s. 501A(5)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 171(a)** (with Sch. 2 Pts. 1, 2)

**F1063S.** 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))

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- F1064** Words in s. 501A(5)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 171(b)** (with Sch. 2 Pts. 1, 2)
- F1065** Words in s. 501A(5)(b) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 171(b)** (with Sch. 2 Pts. 1, 2)
- F1066** 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)
- F1067** Words in s. 501A(5)(c) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 171(c)** (with Sch. 2 Pts. 1, 2)
- F1068** S. 501A(5)(dd) substituted for word at the end of s. 501A(5)(d) (with effect in accordance with Sch. 9 para. 2(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 9 para. 2(2)**
- F1069** S. 501A(10)(b) substituted (with effect in accordance with s. 80(4) of the amending Act) by Finance Act 2005 (c. 7), **Sch. 4 para. 23**
- F1070** S. 501A(11) inserted (with effect in accordance with Sch. 9 para. 2(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 9 para. 2(3)**
- F1071** S. 501A(12) inserted (with effect in accordance with s. 90(3) of the amending Act) by Finance Act 2009 (c. 10), **s. 90(2)**

## <sup>F1072</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**

- F1072** S. 501B inserted (24.7.2002) by Finance Act 2002 (c. 23), **ss. 92(1), 93**

## **502 Interpretation of Chapter V.**

- (1) In this Chapter—

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“the 1975 Act” means the Oil Taxation Act 1975 <sup>M52</sup>;

“oil” means any substance won or capable of being won under the authority of a licence granted under either [<sup>F1073</sup>Part I of the Petroleum Act 1998] or the <sup>M53</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>F1074</sup> . . . oil extracted at any such place not on dry land under rights authorising the extraction and so held [<sup>F1075</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>F1076</sup> meaning given by subsection (1A) below] or, in any case where that subsection does not apply, means ring fence income; [<sup>F1077</sup>and

“ring fence trade” means activities which—

- (a) fall within [<sup>F1078</sup> the definition of “oil-related activities” in section 16(2) of ITTOIA 2005 or within section 492(1) above]; and
- (b) constitute a separate trade (whether by virtue of [<sup>F1079</sup>section 16(1) of ITTOIA 2005 or section 492(1) above] or otherwise)].

[<sup>F1080</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>M54</sup>Continental Shelf Act 1964;
- (b) “initial treatment” has the same meaning as in Part I of the 1975 Act; and
- (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

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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>F1081</sup>(3A) Section 413(6) applies for the purposes of subsection (3)(c) above <sup>F1082</sup>. . . .]

- (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

- F1073S.** 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)**
- F1074S.** 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**
- F1075S.** 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)**
- F1076S.** 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))
- F1077S.** 502(1): definition of "ring fence trade" added by [Finance Act 1990 \(c. 29\)](#), **s. 62(3)**
- F1078S.** 502(1): words in definition of "ring fence trade" substituted (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. 194(a)** (with Sch. 2)
- F1079S.** 502(1): words in definition of "ring fence trade" substituted (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. 194(b)** (with Sch. 2)
- F1080S.** 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))
- F1081S.** 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**
- F1082** Words in s. 502(3A) repealed (22.4.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 45 para. 4**

#### Marginal Citations

- M52** 1975 c. 22.  
**M53** 1964 c. 28 (N.I.)  
**M54** 1964 c. 29.



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## [<sup>F1083</sup>CHAPTER 5A

### SPECIAL RULES FOR LONG FUNDING LEASES OF PLANT OR MACHINERY: CORPORATION TAX

#### Textual Amendments

**F1083 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](#)

#### Introductory

#### 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)

**C117 S. 502B** excluded (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 20 para. 11\(2\)](#)  
**C118 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.
- (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

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- (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)**

**C119** S. 502C excluded (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), **Sch. 20 para. 11(8)**

**C120** 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,
- 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.

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- (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;
- “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,

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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;
  - “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

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- (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.
- (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,

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- (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.

<sup>F1084</sup> Lessors under long funding finance or operating leases: avoidance etc

#### Textual Amendments

**F1084S. 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\(2\)](#)

#### **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.
- (5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (4).

#### <sup>F1085</sup> **502GB Cases where ss. 502B to 502G do not apply: lessor also lessee under non-long funding lease**

- (1) This section applies if—

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- (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

**F1085S.** 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>F1086</sup>502G] 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.
- (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.

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- (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

**F1086S.** 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\(4\)](#)

#### [<sup>F1087</sup> 502GD **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).]

#### Textual Amendments

**F1087S.** 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**

<sup>F1088</sup> .....

#### Textual Amendments

**F1088S.** 502H omitted (with effect in accordance with [Sch. 17 para. 17\(12\)](#) of the repealing Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 17\(10\)\(11\)\(b\)](#)



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### *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.
- (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

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- (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 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.

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- (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.

## CHAPTER VI

### MISCELLANEOUS BUSINESSES AND BODIES

#### <sup>F1090</sup>**503 Letting of furnished holiday accommodation treated as a trade for certain** <sup>F1089</sup>**corporation tax] purposes.**

- (1) For the purposes [<sup>F1091</sup>of Chapter 2 of Part 10 (loss relief for corporation tax)]—
  - (a) a [<sup>F1092</sup>UK property business] which consists in, or so far as it consists in, the commercial letting of furnished holiday accommodation <sup>F1093</sup> . . . shall be treated as if it were a [<sup>F1094</sup>trade carried on wholly or partly in the United Kingdom the profits of which are chargeable to corporation tax under Part 3 of CTA 2009,] and
  - (b) all such lettings made by a [<sup>F1095</sup>particular company or partnership] shall be treated as one trade.

The “commercial letting of furnished holiday accommodation” is defined below in section 504.

- (2) <sup>F1096</sup> . . . . .
- (3) <sup>F1096</sup> . . . . .
- (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 [<sup>F1097</sup>Chapter 2 of Part 10] as applied by this section and under any other provision of the [<sup>F1098</sup>Corporation] Tax Acts.]

#### **Textual Amendments**

**F1089** Words in s. 503 sidenote 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. 195(5)** (with Sch. 2)

**F1090** 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)

**F1091** Words in s. 503(1) substituted (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. 195(2)(a)** (with Sch. 2)

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- F1092** Words in s. 503(1)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 172(a)** (with Sch. 2 Pts. 1, 2)
- F1093** Words in s. 503(1)(a) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 195(2)(b), **Sch. 3** (with Sch. 2)
- F1094** Words in s. 503(1)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 172(b)** (with Sch. 2 Pts. 1, 2)
- F1095** Words in s. 503(1)(b) substituted (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. 195(2)(d)** (with Sch. 2)
- F1096** S. 503(2)(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 195(3), **Sch. 3** (with Sch. 2)
- F1097** Words in s. 503(5) substituted (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. 195(4)(a)** (with Sch. 2)
- F1098** Word in s. 503(5) 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. 195(4)(b)** (with Sch. 2)

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

- C121** 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)
- C122** 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.**

**F1099** . . . . .

**Textual Amendments**

- F1099** S. 504 repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 173, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**[<sup>F1100</sup>504 Letting of furnished holiday accommodation treated as trade for certain income tax purposes**

**F1101** . . . . . ]

**Textual Amendments**

- F1100** 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)
- F1101** S. 504A repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 93, **Sch. 3 Pt. 1** (with Sch. 2)

**505 [<sup>F1102</sup>Charitable companies]: general.**

- (1) <sup>M55</sup> Subject to subsections (2) and (3) below, the following exemptions shall be granted on a claim in that behalf to the Board—
  - <sup>F1103</sup>(a) exemption from tax [<sup>F1104</sup>under Parts 3 and 4 of CTA 2009]<sup>F1105</sup> . . . in respect of any profits or gains arising in respect of rents or other receipts from an estate,

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- interest or right in or over any land (whether situated in the United Kingdom or elsewhere) to the extent that the profits or gains—
- (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>F1106</sup>(aa) exemption from tax [<sup>F1107</sup>under Parts 3 and 4 of CTA 2009], or under Parts 2 and 3 of ITTOIA 2005, in respect of distributions to which section 121 of the Finance Act 2006 (Real Estate Investment Trusts: distributions) applies to the extent that the distributions—
- (i) arise in respect of shares vested in a person for charitable purposes; and
  - (ii) are applied to charitable purposes only;]
- <sup>F1108</sup>(b) . . . . .
- (c) exemption—
- (i) <sup>F1109</sup> . . . . .
  - [<sup>F1110</sup>[<sup>F1111</sup>(ii) from tax under section 299 of CTA 2009 (non-trading profits in respect of loan relationships),
  - [<sup>F1112</sup>(iizza) from tax under Part 9A of CTA 2009 (company distributions),]
  - (iiza) from tax under Chapter 5 of Part 10 of that Act (distributions from unauthorised unit trusts),
  - (iizb) from tax under Chapter 7 of that Part (annual payments not otherwise charged),]
  - (iia) <sup>F1113</sup> . . . . .
  - [<sup>F1114</sup>(iiaa) <sup>F1115</sup> . . . . .]
  - [<sup>F1116</sup>(iib) <sup>F1117</sup> . . . . .]
  - [<sup>F1118</sup>[<sup>F1119</sup>(ic) from tax under Part 8 of CTA 2009 in respect of non-trading gains on intangible fixed assets,]]
  - (iii) <sup>F1115</sup> . . . . .
- where the income in question forms part of the income of a [<sup>F1120</sup>charitable company], 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>F1121</sup>(d) exemption from tax <sup>F1122</sup> . . . <sup>F1123</sup> . . . 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 [<sup>F1124</sup>Part 3 of CTA 2009]. . . in respect of the profits of any trade carried on by a [<sup>F1125</sup>charitable company][<sup>F1126</sup>(whether in the United Kingdom or elsewhere)], if the profits are applied solely to the purposes of the [<sup>F1125</sup>charitable company] and either—
- (i) the trade is exercised in the course of the actual carrying out of a primary purpose of the [<sup>F1125</sup>charitable company]; or
  - (ii) the work in connection with the trade is mainly carried out by beneficiaries of the [<sup>F1125</sup>charitable company];
- [<sup>F1127</sup>(f) exemption from tax under Schedule D <sup>F1128</sup> . . . in respect of profits accruing to a [<sup>F1129</sup>charitable company] from [<sup>F1130</sup> a lottery if the profits are applied solely to the charitable company's purposes and—

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- (i) the lottery is an exempt lottery within the meaning of the Gambling Act 2005 by virtue of Part 1 or 4 of Schedule 11 to that Act;
  - (ii) the lottery is promoted in accordance with a lottery operating licence within the meaning of Part 5 of that Act; or
  - (iii) the lottery is promoted and conducted in accordance with Article 133 or 135 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.]]
- [<sup>F1131</sup>(1AA) In subsection [<sup>F1132</sup>(1)(c)(iib)]“relevant foreign distribution” means any distribution of a company not resident in the United Kingdom [<sup>F1133</sup>which is not chargeable under Chapter 2 of Part 10 of CTA 2009.]]
- [<sup>F1134</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.]
- [<sup>F1135</sup>(1B) For the purpose of subsection (1)(e)—
- (a) where a trade is exercised partly in the course of the actual carrying out of a primary purpose of the [<sup>F1136</sup>charitable company] and partly otherwise, each part shall be treated as a separate trade (for which purpose reasonable apportionment of expenses and receipts shall be made), and
  - (b) where the work in connection with the trade is carried out partly but not mainly by beneficiaries, the part in connection with which work is carried on by beneficiaries and the other part shall be treated as separate trades (for which purpose reasonable apportionment of expenses and receipts shall be made).]
- (2) <sup>M56</sup>Any payment which—
- (a) is received by [<sup>F1137</sup>a charitable company] from another charity; and
  - (b) is not made for full consideration in money or money’s worth; and
  - (c) is not chargeable to [<sup>F1138</sup>corporation 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 <sup>F1139</sup> . . . [<sup>F1140</sup>chargeable to corporation] tax under [<sup>F1141</sup>the charge to corporation tax on income] but shall be eligible for relief from tax under subsection (1)(c) above as if it were an annual payment.
- [<sup>F1142</sup>(3) In subsections (4) to (7)—
- (a) “charitable expenditure” has the meaning given by section 506,
  - (b) “relief” means relief or exemption under—
    - (i) subsection (1) above,
    - (ii) section 56(3)(c) above,
    - (iii) section 761(6) below,
    - (iv) section 256 of the 1992 Act (charities), or
    - (v) section 46 of the Finance Act 2000 (small trades),
  - (c) “relievable income and gains” means income and gains which would be eligible for relief or exemption under any of those provisions (disregarding subsections (4) to (6)), and
  - (d) “total income and gains” means the aggregate of—
    - (i) relievable income and gains,

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- (ii) income and gains, other than relievable income and gains, chargeable to tax, and
  - (iii) donations, legacies and other similar receipts that are not chargeable to tax.
- (4) If a [<sup>F1143</sup>charitable company] incurs (or is treated as incurring) non-charitable expenditure in [<sup>F1144</sup>an accounting] period, relief shall be disallowed in respect of such amount of relievable income and gains as equals the amount of the non-charitable expenditure.
- (5) If in [<sup>F1145</sup>an accounting] period a [<sup>F1146</sup>charitable company's] non-charitable expenditure exceeds its total income and gains the excess shall be treated as non-charitable expenditure of the previous period for the purposes of subsection (4); and any necessary adjustments shall be made, whether by making assessments or otherwise.
- (6) Subsection (5) may apply to [<sup>F1147</sup>an accounting] period wholly or partly as a result of the application of that subsection in respect of a later period; but no excess of non-charitable expenditure shall be treated as non-charitable expenditure of [<sup>F1147</sup>an accounting] period which ended more than six years before the end of the period in which the expenditure was actually incurred.
- (7) Where an amount of a [<sup>F1148</sup>charitable company's] relievable income and gains is disallowed for relief by subsection (4) (whether or not as a result of the application of subsection (5))—
- (a) the [<sup>F1149</sup>charitable company] may by notice to the Board specify which items of income or gains are to be disallowed, but
  - (b) if the Board requires the [<sup>F1149</sup>charitable company] to give a notice under paragraph (a) and the [<sup>F1149</sup>charitable company] fails to comply within the period of 30 days beginning with the date on which the requirement is imposed, the Board shall determine which items to disallow.]

#### Textual Amendments

- F1102** Words in s. 505 sidenote substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **Sch. 1 para. 94(10)** (with [Sch. 2](#))
- F1103** 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)**
- F1104** Words in s. 505(1)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 174(2)** (with [Sch. 2 Pts. 1, 2](#))
- F1105** Words in s. 505(1)(a) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 94\(2\)\(a\)](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))
- F1106** S. 505(1)(aa) inserted (with effect in accordance with s. 52(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 17 para. 17**
- F1107** Words in s. 505(1)(aa) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **Sch. 1 para. 174(3)** (with [Sch. 2 Pts. 1, 2](#))
- F1108** *Repealed by 1988(F) s.148 and Sch.14 Part V from 6 April 1988.*
- F1109** 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](#))
- F1110** 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)**

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- F1111** S. 505(1)(c)(ii)-(iizb) substituted for s. 505(1)(c)(ii) (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 174(4)(a)** (with Sch. 2 Pts. 1, 2)
- F1112** S. 505(1)(c)(iizza) inserted (with effect in accordance with Sch. 14 para. 31 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 14 para. 4(2)**
- F1113** S. 505(1)(c)(iia) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 174(4)(b), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F1114** S. 505(1)(c)(iiaa) 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. 198(2)(d)** (with Sch. 2)
- F1115** S. 505(1)(c)(iiaa)(iii) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 94(2)(b)(ii), **Sch. 3 Pt. 1** (with Sch. 2)
- F1116** S. 505(1)(c)(iib) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 174(4)(c)** (with Sch. 2 Pts. 1, 2)
- F1117** S. 505(1)(c)(iib) omitted (with effect in accordance with Sch. 14 para. 31 of the repealing Act) by virtue of Finance Act 2009 (c. 10), **Sch. 14 para. 4(3)**
- F1118** S. 505(1)(c)(iic) inserted (24.7.2002) by Finance Act 2002 (c. 23), **Sch. 30 para. 3**
- F1119** S. 505(1)(c)(iic) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 174(4)(d)** (with Sch. 2 Pts. 1, 2)
- F1120** Words in s. 505(1)(c) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 94(2)(b)(iii)** (with Sch. 2)
- F1121** 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)
- F1122** Words in s. 505(1)(d) repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 174(5), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F1123** Words in s. 505(1)(d) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 94(2)(c), **Sch. 3 Pt. 1** (with Sch. 2)
- F1124** Words in s. 505(1)(e) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 174(6)** (with Sch. 2 Pts. 1, 2)
- F1125** Words in s. 505(1)(e) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 94(2)(d)(ii)** (with Sch. 2)
- F1126** 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)**
- F1127** 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)**
- F1128** Words in s. 505(1)(f) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 94(2)(e)(i), **Sch. 3 Pt. 1** (with Sch. 2)
- F1129** Words in s. 505(1)(f) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 94(2)(e)(ii)** (with Sch. 2)
- F1130** Words in s. 505(1)(f) substituted (1.9.2007) by Finance Act 2007 (c. 11), Sch. 25 paras. 1, **23(2)**; S.I. 2007/2532, **art. 2** (with art. 3)
- F1131** S. 505(1AA) 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. 198(3)** (with Sch. 2)
- F1132** Words in s. 505(1AA) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 94(3)** (with Sch. 2)
- F1133** Words in s. 505(1AA) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 174(7)** (with Sch. 2 Pts. 1, 2)
- F1134** 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)
- F1135** S. 505(1B) inserted (with effect in accordance with s. 56(2) of the amending Act) by Finance Act 2006 (c. 25), **s. 56(1)**
- F1136** Words in s. 505(1B)(a) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 94(4)** (with Sch. 2)



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- F1137** Words in s. 505(2)(a) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(5)(a)** (with Sch. 2)
- F1138** Words in s. 505(2)(c) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(5)(b)** (with Sch. 2)
- F1139** Words in s. 505(2) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(5)(c), Sch. 3 Pt. 1** (with Sch. 2)
- F1140** Words in s. 505(2) 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. 198(4)** (with Sch. 2)
- F1141** Words in s. 505(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by **Corporation Tax Act 2009 (c. 4), Sch. 1 para. 174(8)** (with Sch. 2 Pts. 1, 2)
- F1142** S. 505(3)-(7) substituted for s. 505(3)-(8) (with effect in accordance with s. 55(5) of the amending Act) by **Finance Act 2006 (c. 25), s. 55(1)**
- F1143** Words in s. 505(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(6)(a)** (with Sch. 2)
- F1144** Words in s. 505(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(6)(b)** (with Sch. 2)
- F1145** Words in s. 505(5) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(7)(a)** (with Sch. 2)
- F1146** Words in s. 505(5) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(7)(b)** (with Sch. 2)
- F1147** Words in s. 505(6) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(8)** (with Sch. 2)
- F1148** Words in s. 505(7) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(9)(a)** (with Sch. 2)
- F1149** Words in s. 505(7) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 94(9)(b)** (with Sch. 2)

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

- C123** S. 505 modified (3.5.1994) by **Finance Act 1994 (c. 9), s. 171**

#### Marginal Citations

- M55** Source—1970 s.360(1)  
**M56** Source—1986 s.30(1)

## 506 [F1150 Charitable and non-charitable expenditure]

- (1) <sup>M57</sup>In this section, section 505 and Schedule 20—  
“charity” means any body of persons or trust established for charitable purposes only;  
[<sup>F1151</sup>“charitable company” means any body of persons established for charitable purposes only;]  
[<sup>F1152</sup>“charitable expenditure” means (subject to subsections (3) to (5) below) expenditure which is exclusively for charitable purposes.]
- (2) <sup>M58</sup>For the purposes of section 505 <sup>F1153</sup>. . . , where expenditure which is not actually incurred in a particular [<sup>F1154</sup>accounting] period properly falls to be charged against the income of that [<sup>F1154</sup>accounting] period as being referable to commitments (whether or not of a contractual nature) which the [<sup>F1155</sup>charitable company] 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 [<sup>F1156</sup>charitable expenditure] by virtue of this section unless the [<sup>F1157</sup>charitable

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company] concerned has taken such steps as may be reasonable in the circumstances to ensure that the payment will be applied for charitable purposes.

- (4) <sup>M59</sup>If in any [<sup>F1158</sup>accounting] period a [<sup>F1159</sup>charitable company]—
- (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 [<sup>F1159</sup>charitable company], and, accordingly, as being [<sup>F1160</sup>non-charitable expenditure].

- (5) If, in any [<sup>F1161</sup>accounting] period, a [<sup>F1162</sup>charitable company] 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 [<sup>F1163</sup>non-charitable expenditure] incurred in that period.

- (6) <sup>F1164</sup>.....

#### Textual Amendments

**F1150** S. 506(3) heading substituted (with effect in accordance with s. 55(5) of the amending Act) by Finance Act 2006 (c. 25), s. 55(2)(g)

**F1151** S. 506(1): definition of "charitable company" inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 95(2) (with Sch. 2)

**F1152** S. 506(1): definition of "charitable expenditure" substituted for definitions of "qualifying expenditure" and "non-qualifying expenditure" (with effect in accordance with s. 55(5) of the amending Act) by Finance Act 2006 (c. 25), s. 55(2)(a)

**F1153** Words in s. 506(2) repealed (with effect in accordance with s. 55(5) of the repealing Act) by Finance Act 2006 (c. 25), s. 55(2)(b), Sch. 26 Pt. 3(5)

**F1154** Words in s. 506(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 95(3)(a) (with Sch. 2)

**F1155** Words in s. 506(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 95(3)(b) (with Sch. 2)

**F1156** Words in s. 506(3) substituted (with effect in accordance with s. 55(5) of the amending Act) by Finance Act 2006 (c. 25), s. 55(2)(c)

**F1157** Words in s. 506(3) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 95(4) (with Sch. 2)

**F1158** Word in s. 506(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 95(5)(a) (with Sch. 2)

**F1159** Words in s. 506(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 95(5)(b) (with Sch. 2)

**F1160** Words in s. 506(4) substituted (with effect in accordance with s. 55(5) of the amending Act) by Finance Act 2006 (c. 25), s. 55(2)(d)

**F1161** Word in s. 506(5) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 95(6)(a) (with Sch. 2)

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**F1162** Words in s. 506(5) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 95(6)(b) (with Sch. 2)

**F1163** Words in s. 506(5) substituted (with effect in accordance with s. 55(5) of the amending Act) by Finance Act 2006 (c. 25), s. 55(2)(e)

**F1164** S. 506(6) repealed (with effect in accordance with s. 55(5) of the repealing Act) by Finance Act 2006 (c. 25), s. 55(2)(f), Sch. 26 Pt. 3(5)

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

**C124** 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

**M57** Source—1970 s.360(3); 1986 s.31(1)(a), (c), Sch.7 1(1)

**M58** Source—1986 Sch.7 1(2), (3)

**M59** Source—1986 s.31(4)-(6)

### **[<sup>F1165</sup>506A] Transactions with substantial donors**

- (1) This section applies to the following transactions—
  - (a) the sale or letting of property by a [<sup>F1166</sup>charitable company] to a substantial donor,
  - (b) the sale or letting of property to a [<sup>F1166</sup>charitable company] by a substantial donor,
  - (c) the provision of services by a [<sup>F1166</sup>charitable company] to a substantial donor,
  - (d) the provision of services to a [<sup>F1166</sup>charitable company] by a substantial donor,
  - (e) an exchange of property between a [<sup>F1166</sup>charitable company] and a substantial donor,
  - (f) the provision of financial assistance by a [<sup>F1166</sup>charitable company] to a substantial donor,
  - (g) the provision of financial assistance to a [<sup>F1166</sup>charitable company] by a substantial donor, and
  - (h) investment by a [<sup>F1166</sup>charitable company] in the business of a substantial donor.
- (2) For the purposes of this section a person is a substantial donor to a [<sup>F1166</sup>charitable company] in respect of [<sup>F1167</sup>an accounting] period if—
  - (a) the [<sup>F1166</sup>charitable company] receives relievably gifts of at least £25,000 from him in a period of 12 months in which [<sup>F1168</sup>the accounting] period wholly or partly falls, or
  - (b) the [<sup>F1166</sup>charitable company] receives relievably gifts of at least [<sup>F1169</sup>£150,000] from him in a period of six years in which [<sup>F1168</sup>the accounting] period wholly or partly falls;and if a person is a substantial donor to a [<sup>F1166</sup>charitable company] in respect of [<sup>F1167</sup>an accounting] period by virtue of paragraph (a) or (b), he is a substantial donor to the [<sup>F1166</sup>charitable company] in respect of the following [<sup>F1170</sup>five accounting] periods.
- (3) A payment made by a [<sup>F1166</sup>charitable company] 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.

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- (4) If the terms of a transaction to which this section applies are less beneficial to the [<sup>F1166</sup>charitable company] than terms which might be expected in a transaction at arm's length, the [<sup>F1166</sup>charitable company] 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 [<sup>F1166</sup>charitable company] of the difference in terms.
- (5) A payment by a [<sup>F1166</sup>charitable company] 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

**F1165** 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)

**F1166** Words in s. 506A substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 96(2) (with Sch. 2)

**F1167** Words in s. 506A(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 96(3)(a) (with Sch. 2)

**F1168** Words in s. 506A(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 96(3)(b) (with Sch. 2)

**F1169** Words in s. 506A(2)(b) substituted (23.4.2009) by The Substantial Donor Transactions (Variation of Threshold Limits) Regulations 2009 (S.I. 2009/1029), regs. 1, 2(a)

**F1170** Words in s. 506A(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 96(3)(c) (with Sch. 2)

#### [<sup>F1165</sup>506B] 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 [<sup>F1171</sup>charitable company] 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 [<sup>F1171</sup>charitable company], and
  - (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 [<sup>F1171</sup>charitable company] by a substantial donor if the Commissioners determine that the assistance—
  - (a) is on terms which are no less beneficial to the [<sup>F1171</sup>charitable company] than those which might be expected in a transaction at arm's length, and

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- (b) is not part of an arrangement for the avoidance of any tax.
- (4) Section 506A shall not apply to investment by a [<sup>F1171</sup>charitable company] 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 [<sup>F1172</sup>in respect of which relief is available under section 587B of this Act or section 431 of ITA 2007 (gifts of shares, securities and real property to charities etc)] 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 [<sup>F1171</sup>charitable company], or benefits arising to a substantial donor from a transaction, shall be disregarded in so far as [<sup>F1173</sup>they relate to a donation by the donor, and—
- (a) if the donation is made by a company, the payments or benefits do not prevent the donation being a qualifying donation for the purposes of section 339 because of subsection (3B)(b) of that section (restrictions on associated benefits), or
  - (b) if the donation is made by an individual, the payments or benefits do not prevent the donation being a qualifying donation for the purposes of section 416 of ITA 2007 because of subsection (7)(b) of that section (restrictions on associated benefits).]
- (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 [<sup>F1174</sup>a charitable company which owns it (or any part of it)].
- (9) A registered social landlord or housing association shall not be treated as a substantial donor in relation to a [<sup>F1171</sup>charitable company] 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 [<sup>F1171</sup>charitable company] 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

**F1165** 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)

**F1171** Words in s. 506B(1)-(4)(7)(9) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 97(2) (with Sch. 2)

**F1172** Words in s. 506B(5) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 97(3) (with Sch. 2)

**F1173** Words in s. 506B(7) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 97(4) (with Sch. 2)

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**F1174** Words in s. 506B(8) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [Sch. 1 para. 97\(5\)](#) (with Sch. 2)

**[<sup>F1165</sup>506 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—
  - [<sup>F1175</sup>(a) section 105 of CTA 2009,]
  - (b) section 339,
  - (c) sections 587B and 587C,
  - (d) <sup>F1176</sup> .....
  - (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), <sup>F1177</sup> . . .
  - (i) sections 628 and 630 of ITTOIA 2005 (gifts from settlor-interested trusts),  
<sup>F1178</sup> or
  - [<sup>F1179</sup>(j) Chapters 2 and 3 of Part 8 of ITA 2007 (gift aid and gifts of shares, securities and real property).]
- (2) A [<sup>F1180</sup>charitable company] 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 [<sup>F1181</sup>an accounting] 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 [<sup>F1180</sup>charitable company] 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) [<sup>F1182</sup>A charitable company and any other charities with which it is connected are to be treated as a single charitable company] 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 [<sup>F1183</sup>or section 501(2) of CTA 2009], and

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- (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 [<sup>F1184</sup>tribunal] may review a decision of the Commissioners in connection with section 506A.
- (9) The Treasury may by regulations vary a sum, or a period of time, specified in section 506A(2).]

#### Textual Amendments

- F1165** 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)
- F1175** S. 506C(1)(a) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 175(2) (with Sch. 2 Pts. 1, 2)
- F1176** S. 506C(1)(d) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 98(2)(a), Sch. 3 Pt. 1 (with Sch. 2)
- F1177** Word at the end of s. 506C(1)(h) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 98(2)(b), Sch. 3 Pt. 1 (with Sch. 2)
- F1178** Word at the end of s. 506C(1)(i) inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 98(2)(c) (with Sch. 2)
- F1179** S. 506C(1)(j) inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 98(2)(d) (with Sch. 2)
- F1180** Words in s. 506C(2)(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 98(3) (with Sch. 2)
- F1181** Words in s. 506C(3) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 98(4) (with Sch. 2)
- F1182** Words in s. 506C(5) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 98(5) (with Sch. 2)
- F1183** Words in s. 506C(7)(b)(ii) inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 175(3) (with Sch. 2 Pts. 1, 2)
- F1184** Word in s. 506C(8) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 147

### 507 The National Heritage Memorial Fund, the Historic Buildings and Monuments Commission for England and the British Museum.

- (1) <sup>M60</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>F1185</sup>(c) the Trustees of the British Museum;
  - (d) the Trustees of the [<sup>F1186</sup>Natural History Museum];]
  - [<sup>F1187</sup>(e) <sup>F1188</sup>.....]
  - [<sup>F1189</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 [<sup>F1190</sup>charitable company] the whole income of which is applied to charitable purposes.
- <sup>F1191</sup>(2).....

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### Textual Amendments

- F1185** 1989 s.60(1) *in relation to accounting periods ending on or after 14 March 1989.*
- F1186** 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](#)
- F1187** S. 507(1)(e) inserted (1.11.1992) by [S.I. 1992/2383, reg. 2\(2\), Sch. para.11](#)
- F1188** 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
- F1189** S. 507(1)(f) inserted (2.7.1998) by [National Lottery Act 1998 \(c. 22\), s. 24\(1\), 27\(4\)\(b\)](#)
- F1190** Words in s. 507(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 99](#) (with [Sch. 2](#))
- F1191** *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)

- C125** *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

- M60** Source—1980 s.118(1); 1983 s.46(1)

## 508 Scientific research organisations.

**F1192** .....

### Textual Amendments

- F1192** S. 508 repealed (1.4.2010 with effect in accordance with s. 1184(1) of the repealing Act) by [Corporation Tax Act 2010 \(c. 4\), Sch. 1 para. 78, Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## [<sup>F1193</sup> 508A Investment trusts investing in housing.

**F1194** .....

### Textual Amendments

- F1193** 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](#)
- F1194** Ss. 508A, 508B repealed (with effect in accordance with s. 145(2) of the repealing Act) by [Finance Act 2006 \(c. 25\), s. 143\(a\), Sch. 26 Pt. 4](#)

## 508B Interpretation of section 508A.

**F1195** ..... ]

### Textual Amendments

- F1193** 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](#)



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**F1195** Ss. 508A, 508B repealed (with effect in accordance with s. 145(2) of the repealing Act) by Finance Act 2006 (c. 25), s. 143(a), **Sch. 26 Pt. 4**

## 509 Reserves of marketing boards and certain other statutory bodies.

**F1196** .....

### Textual Amendments

**F1196** S. 509 repealed (1.4.2009 with effect in accordance with s. 1329(1) of the repealing Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 176, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

## 510 Agricultural societies.

- (1) <sup>M61</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

**M61** Source—1970 s.361

## <sup>F1197</sup> 510A European economic interest groupings.

- (1) <sup>M62</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 <sup>F1198</sup> [corporation tax] 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; <sup>F1199</sup> . . .
  - (b) <sup>F1199</sup> .....<sup>F1200</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.
- (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).

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- (6) <sup>F1201</sup> . . . Where any trade or profession is carried on by a grouping it shall be regarded for the purposes of charging [<sup>F1202</sup>corporation tax] as carried on in partnership by the members of the grouping.
- [<sup>F1204</sup>Part 5 of CTA 2009] (loan relationships) shall have effect in relation to a grouping
- <sup>F1203</sup>(6A) as it has effect in relation to a partnership (see in particular [<sup>F1204</sup>Chapter 9 of that Part and sections 467 and 472 to 474 of] that Act.)
- (7) <sup>F1205</sup> . . . . .
- (8) <sup>F1205</sup> . . . . .]

**Textual Amendments**

**F1197** S. 510A inserted (retrospective to 1.7.1989) by Finance Act 1990 (c. 29), Sch. 11 paras. 1, 5

**F1198** Words in s. 510A(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 101(2) (with Sch. 2)

**F1199** S. 510A(3)(b) and preceding word repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 101(3), Sch. 3 Pt. 1 (with Sch. 2)

**F1200** 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)

**F1201** 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)

**F1202** Words in s. 510A(6) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), Sch. 1 para. 101(4) (with Sch. 2)

**F1203** 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)

**F1204** Words in s. 510A(6A) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), Sch. 1 para. 177 (with Sch. 2 Pts. 1, 2)

**F1205** 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**

**M62** Source—O.J. No. L199/1.

**511 The Electricity Council and Boards, the Northern Ireland Electricity Service and the Gas Council.**

- (1) <sup>F1206</sup> . . . . .
- (2) <sup>F1206</sup> . . . . .
- (3) <sup>F1206</sup> . . . . .
- <sup>F1207</sup>(4) . . . . .
- <sup>F1207</sup>(5) . . . . .
- (6) <sup>F1206</sup> . . . . .
- (7) <sup>M63</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>M64</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

**F1206S.** 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](#)

**F1207S.** 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)

**C126** 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

**M63** Source—1970 s.350(3)

**M64** 1948 c. 67.

### 512 Atomic Energy Authority and National Radiological Protection Board.

F1208  
.....

#### Textual Amendments

**F1208S.** 512 repealed (with effect in accordance with s. 46(4)(c)-(e) of the repealing Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 46(2)(c)(d), [Sch. 11 Pt. 2\(12\)](#), Note (with s. 46(7)); and s. 512(2) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#), Note (with Sch. 36)

### 513 British Airways Board and National Freight Corporation.

- (1) <sup>M65</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>M66</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>M67</sup>Transport Act 1980 shall be treated for those purposes as if it were the same person as the National Freight Corporation.
- (2) <sup>M68</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>F1209</sup>170(12) of the 1992 Act].

#### Textual Amendments

**F1209** 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))

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#### Marginal Citations

- M65** Source—1973 s.36(1)  
**M66** 1980 c.60.  
**M67** 1980 c.34.  
**M68** Source—1980 s.119(1)-(3)

### 514 Funds for reducing the National Debt.

**F1210** .....

#### Textual Amendments

- F1210S. 514** repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 200, Sch. 3](#) (with Sch. 2)

### 515 Signatories to Operating Agreement for INMARSAT.

**F1211** .....

#### Textual Amendments

- F1211S. 515** repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 102, Sch. 3 Pt. 1](#) (with Sch. 2)

### 516 Government securities held by non-resident central banks.

**F1212** .....

#### Textual Amendments

- F1212S. 516** repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 103, Sch. 3 Pt. 1](#) (with Sch. 2)

### 517 Issue departments of the Reserve Bank of India and the State Bank of Pakistan.

<sup>M69</sup>There shall be exempt from [<sup>F1213</sup>corporation] 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>M70</sup>Indian Independence Act 1947.

#### Textual Amendments

- F1213**Word in [s. 517](#) inserted (6.4.2007 with effect in accordance with [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 104](#) (with Sch. 2)

#### Marginal Citations

- M69** Source—1970 s.371

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M70 1947 c. 30.

## 518 Harbour reorganisation schemes.

(1) <sup>M71</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.

[<sup>F1214</sup>(2) For the purposes of provisions of the Corporation Tax Acts that apply—

- (a) only if a person starts to carry on a trade, or
- (b) only if a person ceases to carry on a trade,

the transferor is not treated as ceasing to carry on the trade, and the transferee is not treated as starting to carry it on.]

(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>F1215</sup>393A(1)].

(4) There shall be made to or on the transferee in accordance with [<sup>F1216</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>F1217</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>M72</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>M73</sup>In this section—

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“harbour authority” has the same meaning as in the <sup>M74</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

- F1214S.** 518(2) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 178** (with Sch. 2 Pts. 1, 2)  
**F1215** 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)**  
**F1216** 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**  
**F1217S.** 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

- M71** Source—1970 s.352(1)-(6); 1971 Sch.8 16; 1986 s.56(7)(a), Sch.13 2(5)(a)  
**M72** Source—1970 s.352(8), (9)  
**M73** Source—1970 s.352(11)  
**M74** 1964 c. 40.

### 519 Local authorities.

- [<sup>F1218</sup>(1) A local authority in the United Kingdom shall be exempt from corporation tax.]
- (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;
- 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>F1219</sup>(4) .....

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### Textual Amendments

**F1218S. 519(1)** substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by **Income Tax Act 2007 (c. 3), Sch. 1 para. 105** (with Sch. 2)

**F1219** Subs.(4) repealed by 1990 s.127 and Sch.18 para.5(2) and 132 and Sch.19 Part IV on and after 1 April 1990.

### Modifications etc. (not altering text)

**C127 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**

**C128** Definition applied for purposes of—1979(C) s.149B(3)—*miscellaneous exemptions*. 1988 s.832(1)—*interpretation of Tax Acts*.

## **[<sup>F1220</sup>519] Health service bodies.**

**[<sup>F1221</sup>(1)** A health service body shall be exempt from corporation tax.]

(2) In this section “health service body” means—

- [<sup>F1222</sup>(a)** a [<sup>F1223</sup>Strategic Health Authority [<sup>F1224</sup>established under section 13 of the National Health Service Act 2006]]<sup>F1225</sup> . . . <sup>F1226</sup> . . . ;
- (aa) a Special Health Authority established under [<sup>F1227</sup>section 28 of that Act or section 22 of the National Health Service (Wales) Act 2006];
- [<sup>F1228</sup>(ab)** a Primary Care Trust;]
- [<sup>F1229</sup>(aba)** a Local Health Board;]
- (b) a National Health Service trust established under [<sup>F1230</sup>section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006];
- [<sup>F1231</sup>(bb)** an NHS foundation trust]
- (c) <sup>F1232</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) <sup>F1233</sup> . . . . .
- (f) <sup>F1234</sup> . . . . .
- (g) the Scottish Dental Practice Board; <sup>F1235</sup> . . .
- (h) <sup>F1236</sup> . . . . .
- [<sup>F1237</sup>(i)** 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;
- (j) 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.]

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- [ The Treasury may by order disapply <sup>F1239</sup>subsection (1)] in relation to a specified <sup>F1238</sup>(3) activity, 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 <sup>F1239</sup>subsection (1)].
- (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 <sup>F1240</sup>section 43(1) of the National Health Service Act 2006] shall not be treated as an activity of a commercial nature for the purposes of subsection (7)(a).]]

#### Textual Amendments

**F1220S. 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**

**F1221S. 519A(1)** substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **Sch. 1 para. 106(2)** (with [Sch. 2](#))

**F1222S. 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](#))



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- F1223** 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**
- F1224** Words in s. 519A(2)(a) inserted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 100(a)(i)**
- F1225** Words in s. 519A(2)(a) omitted (1.4.2007) by virtue of The References to Health Authorities Order 2007 (S.I. 2007/961), art. 1(1), **Sch. para. 19**
- F1226** Words in s. 519A(2)(a) omitted (1.3.2007) by virtue of National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 100(a)(ii)**
- F1227** Words in s. 519A(2)(aa) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 100(b)**
- F1228** 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)**
- F1229** 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.**
- F1230** Words in s. 519A(2)(b) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 100(c)**
- F1231** 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**
- F1232** 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)
- F1233** S. 519A(2)(e) repealed (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 1, **Sch. 2**; and s. 519A(2)(e) repealed (E.W.N.I.) (5.10.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078), art. 1(1), **Sch. 3**
- F1234** S. 519A(2)(f) repealed (1.4.2006) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1), **Sch. 14 Pt. 4**; S.I. 2005/2925, **art. 11**
- F1235** Word in s. 519A(2)(g) repealed by S.I. 1991/195, **art. 6**
- F1236** S. 519A(2)(h) repealed (1.4.2005) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 190(2), 199(1), Sch. 13 para. 5, **Sch. 14 Pt. 7**; S.I. 2005/457, **art. 2(1)(a)(b)**
- F1237** S. 519A(2)(i) (j) (k) added by S.I. 1991/195, **art. 6**
- F1238** S. 519A(3)-(8) added (22.7.2004) by Finance Act 2004 (c. 12), **s. 148**
- F1239** Words in s. 519A(3)(4) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 106(3)** (with Sch. 2)
- F1240** Words in s. 519A(8) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 101**

**Status:**

Point in time view as at 21/07/2009. 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 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.