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# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XII **U.K.**

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

### CHAPTER I **U.K.**

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

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

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

*Insurance companies: general*

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

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

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**431 Interpretative provisions relating to insurance companies. U.K.**

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

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

“annuity business” means the business of granting annuities on human life [F1, other than the business of granting immediate needs annuities (within the meaning of [F2section 725 of ITTOIA 2005 (immediate needs annuities))];

F3 .....

F3 .....

[F4F5 .....

F6 .....

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

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

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

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

[F9“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;]

[F10F11 .....

[F12“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 over the aggregate of —

- (a) the value of the liabilities of that business,
- (b) any money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) of the company not within paragraph (a) above which are owed in respect of that business, and
- (c) the amount of the shareholders' excess assets within the meaning given by section 432A(8)(b));]

F13 .....

[F14[F15“insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section;

“insurance company” means—

- (a) a person (other than a friendly society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act or a firm qualifying for authorisation under Schedule 4 to that Act which—

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- (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>F16</sup>“the Integrated Prudential Sourcebook” means the Integrated Prudential Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000;]

[<sup>F17F18</sup>.....]

[<sup>F19F20</sup>.....]

[<sup>F21</sup>“liabilities”, in relation to an insurance company, means—

- (a) the mathematical reserves of the company as determined in accordance with chapter 7.3 of the Integrated Prudential Sourcebook, and
- (b) liabilities of the company (whose value falls to be determined in accordance with chapter 1.3 of that Sourcebook) which arise from deposit back arrangements;

and for this purpose “deposit back arrangements” has the same meaning as in that Sourcebook;]]

“life assurance business” includes annuity business;

[<sup>F22</sup>“life reinsurance business” has the meaning given by section 431C;

[<sup>F23</sup>[<sup>F24</sup>“linked assets”, and related expressions, shall be construed in accordance with section 432ZA;]

[<sup>F25</sup>“long-term business” means business which consists of the effecting or carrying out of contracts of long-term insurance;]

“[<sup>F26</sup>long-term insurance fund]” means the fund maintained by an insurance company in respect of its [<sup>F27</sup>long-term] business <sup>F28</sup> . . . ;]

[<sup>F29F30</sup>.....]

[<sup>F31</sup>.....]

[<sup>F32F33</sup>.....]

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

[<sup>F35</sup>“overseas life assurance business” has the meaning given by section 431D;

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

“overseas life insurance company” means an insurance company [<sup>F36</sup>not resident in] the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom; <sup>F37</sup> . . .

[<sup>F38</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>F39</sup>Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers)].

[<sup>F40</sup>“period of account” means the period covered by a periodical return;]

[<sup>F41</sup>“the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000 <sup>X1</sup>;]

[<sup>F42</sup>.....]

[<sup>F43</sup>“reinsurance business” includes retrocession business;

[<sup>F44</sup>“shareholders' excess assets” has the meaning given by section 432A(8)(b));]

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[<sup>F46</sup>.....]  
[<sup>F47</sup> [<sup>F48</sup>“value”, in relation to an asset of an insurance company, means the value of the asset as determined in accordance with chapter 1.3, as read with chapter 3.2, of the Integrated Prudential Sourcebook;]

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

[ Subsections (2ZB) and (2ZC) below apply where an insurance business transfer <sup>F49</sup>(2ZA) scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).

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

- (a) opening liabilities of the transferor,
- (b) opening values or net values of assets of the transferor, <sup>F50</sup> . . .
- (c) the opening amount of the [<sup>F51</sup>free assets amount] of the transferor, [<sup>F52</sup> or
- (d) the opening amount of the [<sup>F53</sup>shareholders'] excess assets of the transferor,]

for the period of account, so far as relating to the business transferred, are to the part of those liabilities, [<sup>F54</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>F55</sup> . . .
- (c) the closing amount of the [<sup>F56</sup>free assets amount] of the transferee, [<sup>F57</sup> or
- (d) the closing amount of the shareholder's excess assets of the transferor,]

for the period of account, so far as relating to the business transferred, are to the part of those liabilities, [<sup>F58</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>F60</sup>.....]  
<sup>F59</sup>(2A)

(3) <sup>F60</sup>.....

(4) <sup>F60</sup>.....

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- (5) <sup>F60</sup> .....
- (6) <sup>F60</sup> .....|||]

### Editorial Information

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

### Textual Amendments

- F1** S. 431(2): words in definition of "annuity business" inserted (with effect in accordance with s. 147(4) (5) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 147\(2\)](#)
- F2** S. 431(2): words in definition of "annuity business" 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. 175](#) (with [Sch. 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 "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\(2\)](#)
- F10** S. 431(2): definition of "foreign income dividends" inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 16 para. 4](#)
- F11** 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
- F12** 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\(2\)\(a\)](#)
- F13** 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\(26\)](#)
- F14** 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\(1\)](#)
- F15** 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\(3\)](#)
- F16** 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\(2\)](#)
- F17** 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](#)

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- F18** 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)**
- F19** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), **Sch. 6 para. 1(2)**
- F20** 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
- F21** 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)**
- F22** 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**
- F23** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), **Sch. 6 para. 1(2)**
- F24** 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)**
- F25** 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)**
- F26** 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)**
- F27** 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)**
- F28** 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)**
- F29** 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)**
- F30** 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
- F31** 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
- F32** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), **Sch. 6 para. 1(2)**
- F33** 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)**
- F34** 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
- F35** 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**
- F36** 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)**
- F37** 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
- F38** 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**
- F39** 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)**
- F40** S. 431(2): definition of "period of account" inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 29**

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- F41** 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\(8\)](#)
- F42** 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
- F43** 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](#)
- F44** 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\(2\)\(c\)](#)
- F45** 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\(2\)\(3\)](#)
- F46** 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
- F47** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F48** 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\(5\)](#)
- F49** 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\(1\)](#)
- F50** 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\(3\)\(a\)](#)
- F51** 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\(3\)\(b\)](#)
- F52** 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\(3\)\(c\)](#)
- F53** Word in s. 431(2ZB)(d) substituted (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 \(S.I. 2006/1358\)](#), [art. 2](#)
- F54** 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\(3\)\(d\)](#)
- F55** 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\(4\)\(a\)](#)
- F56** 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\(4\)\(b\)](#)
- F57** 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\(4\)\(c\)](#)
- F58** 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\(4\)\(d\)](#)
- F59** S. 431(2A) inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(3\)](#)
- F60** 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

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

- C5** 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)
- C6** 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)
- C7** 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)
- C8** 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
- C9** S. 431(2) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), **regs. 1**, 5, 7
- C10** 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
- C11** 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)**

#### **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)

VALID FROM 21/07/2008

#### **[<sup>F61</sup>431Z~~A~~ Election that assets not be foreign business assets **U.K.****

- (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**

- F61** 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)**



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[<sup>F62</sup> [<sup>F63</sup> **431A** Amendment of Chapter etc **U.K.**

- (1) The Treasury may by order amend any insurance company taxation provision 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 power conferred by that subsection includes power to provide for the amendment to have effect in relation to that period.
- (3) The Treasury may by order amend any of the following provisions—
  - (a) sections 432ZA, 432A, 432B to 432G and 755A and Schedule 19AA;
  - (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) The Treasury may by order amend subsection (4)(b) above by substituting for “1st October 2006” a date no later than 1st October 2007.
- (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) In this section “insurance company taxation provision” means any of the following—
  - (a) a provision of this Chapter;
  - (b) any other provision of the Tax Acts so far as relating to insurance companies.]]

**Textual Amendments**

- F62** S. 431A inserted (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 2, **11(2)** (with Sch. 6 para. 12)  
**F63** S. 431A substituted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 3**

[<sup>F64</sup> **431AA** Relevant benefits for purposes of section 431(4)(d) and (e). **U.K.**

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

**Textual Amendments**

- F64** S. 431AA inserted (with application in accordance with s. 143(5) of the amending Act) by Finance Act 1994 (c. 9), **s. 143(4)**  
**F65** 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

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**[<sup>F66</sup>Classes of life assurance business]**

#### Textual Amendments

**F66** 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>F67</sup>431B**Meaning of “pension business”. **U.K.**

- (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

**F67** 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)

VALID FROM 19/07/2007

#### **[<sup>F68</sup>431B**Meaning of “child trust fund business” **U.K.**

- (1) In this Chapter “child trust fund business” means so much of a company's life assurance business as is referable to child trust fund policies (but not including the reinsurance of such business).
- (2) In this section “child trust fund policy” means a policy of life insurance which is an investment under a child trust fund (within the meaning of the Child Trust Funds Act 2004).]

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#### Textual Amendments

**F68** Ss. 431BA, 431BB inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 8 (with Sch. 7 Pt. 2)

VALID FROM 19/07/2007

#### [<sup>F68</sup>431B] Meaning of “individual savings account business” U.K.

- (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

**F68** 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”. U.K.

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

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

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

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

- (1) In this Chapter “overseas life assurance business” means life assurance business, other than pension business [<sup>F69</sup>, life reinsurance business or business of any description excluded from this section by regulations made by the Board], which—

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- (a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and
- (b) in the case of reinsurance business, is—
- (i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or
  - (ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph.
- [<sup>F70</sup>(2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.
- (3) The Board may by regulations—
- (a) make provision as to the circumstances in which a trustee who is a policy holder or annuitant residing in the United Kingdom is to be treated for the purposes of this section as not so residing; and
  - (b) provide that nothing in Chapter II of Part XIII [<sup>F71</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 (1) or (3) above may contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.]

#### Textual Amendments

- F69** Words in s. 431D(1) substituted (28.7.2000) by [Finance Act 2000 \(c. 17\), s. 108\(1\)](#) (with s. 108(3))
- F70** 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))
- F71** 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)

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

- C15** S. 431D(1) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\), regs. 1, 5, 8](#)
- C16** S. 431D(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\(1\)](#)

### 431E Overseas life assurance business: regulations. **U.K.**

- (1) The Board may by regulations make provision for giving effect to section 431D.
- (2) Such regulations may, in particular—
  - (a) provide that, in such circumstances as may be prescribed, any prescribed issue as to whether business is or is not overseas life assurance business (or overseas life assurance business of a particular kind) shall be determined by reference to such matters (including the giving of certificates or undertakings, the giving or possession of information or the making of declarations) as may be prescribed,
  - (b) require companies to obtain certificates, undertakings, information or declarations from policy holders or annuitants, or from trustees or other companies, for the purposes of the regulations,

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- (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.

VALID FROM 19/07/2007

[<sup>F72</sup> **431E** Meaning of “gross roll-up business” **U.K.**

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**

- F72** 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”. **U.K.**

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

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

- C17** S. 431F modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998](#) (S.I. 1998/1871), [regs. 1, 5, 9](#)
- C18** 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>F73</sup> Separation of different categories of business]**

### Textual Amendments

**F73** Cross-heading before s. 432 inserted (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 8 para. 51(2)** (with [Sch. 8 para. 55\(2\)](#))

VALID FROM 19/07/2007

### **[<sup>F74</sup> 431G Company carrying on life assurance business U.K.]**

- (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 in accordance with Case I of Schedule D and not otherwise.
- (4) Where—
  - (a) the profits of the life assurance business of an insurance company for any accounting period are charged to tax under the I minus E basis, and
  - (b) had those profits been charged to tax in accordance with Case I of Schedule D, a loss would have arisen to the company from that business for the period, the loss (after being reduced in accordance with section 434A(2)(a)) may be set-off under section 393A or section 403(1).
- (5) The application, in relation to the life assurance business of an insurance company, of any provision of Case I of Schedule D is not to be taken—
  - (a) to prevent the application of the I minus E basis in relation to that business of the company for any accounting period, or
  - (b) to affect the operation of the I minus E basis in relation to the that business of the company for any accounting period except as specifically provided by the Corporation Tax Acts.]

### Textual Amendments

**F74** [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](#))

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

- C19** S. 431G modified by [The Insurance Companies \(Taxation of Reinsurance Business\) Regulations 1995 \(S.I. 1995/1730\)](#), **reg. 12** (as amended (13.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Insurance Companies \(Taxation of Reinsurance Business\) \(Amendment\) Regulations 2007 \(S.I. 2007/2087\)](#), **regs. 1(1), 8**)

VALID FROM 19/07/2007

[<sup>F75</sup>**431H** **Company carrying on life assurance business and other insurance business** **U.K.**]

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

**Textual Amendments**

- F75** Ss. 431G, 431H and preceding cross-heading substituted for s. 432 and preceding cross-heading (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 8 para. 4** (with [Sch. 8 Pt. 2](#))

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

- C20** S. 431H modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), **reg. 7A** (as inserted (14.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2007 \(S.I. 2007/2134\)](#), **regs. 1(1), 7**; and as amended by S.I. 2008/1937, **regs. 1(1)(2), 5**)

**432 Separation of different [<sup>F76</sup>categories] of business. **U.K.****

- (1) <sup>M3</sup>Where an insurance company carries on life assurance business in conjunction with insurance business of any other [<sup>F77</sup>category], the life assurance business shall, for the purposes of the Corporation Tax Acts, be treated as a separate business from any other [<sup>F77</sup>category] of business carried on by the company.
- (2) <sup>F78</sup>.....

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### Textual Amendments

- F76** S. 432: word in sidenote substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 51(3) (with Sch. 8 para. 55(2))
- F77** Words in s. 432 substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 12(3) (with Sch. 8 para. 55(2))
- F78** S. 432(2) repealed (with effect in accordance with s. 167(10), Sch. 41 Pt. 5(26) Note of the repealing Act) by Finance Act 1996 (c. 8), s. 167(1), Sch. 41 Pt. 5(26)

### Modifications etc. (not altering text)

- C21** S. 432 modified (20.3.1997 with effect in accordance with reg. 8(1) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), regs. 1(1), 8(2)
- C22** S. 432 modified (12.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), regs. 1(1), 8 (and that modifying reg. 8 is omitted by virtue of S.I. 2007/2134, regs. 1(1)(2), 8)

### Marginal Citations

- M3** Source—1970 s.307

VALID FROM 08/01/2007

## <sup>F79</sup> 432Y Long-term business other than life assurance business — adjustment consequent on change in Insurance Prudential Sourcebook **U.K.**

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



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- (b) make provision for the voluntary discontinuance of policies or contracts using a prudent lapse rate assumption; and
- (c) set negative liabilities against positive liabilities (subject to overall liabilities not being less than nil);

in accordance with the Insurance Prudential Sourcebook; and

B is the company's long term business provision for that period of account in respect of business which is not life assurance business, calculated without taking into account the matters referred to in paragraphs (a) to (c) of the definition of A.

(4) In a case falling within subsection (1)(b)—

- (a) the relevant amount shall be reduced (but not below nil) by so much (if any) of the amount shown in paragraph 4(12) of Appendix 9.4 to the periodical return as is reflected in column 1 of line 51 of the Form 14 for that period of account relating to the non-profit fund in question; and
- (b) the references in subsection (3) to long term business provision and to liabilities are respectively to long term business provision and to liabilities relating to the non-profit fund in question.

(5) In this section—

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

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

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

#### Textual Amendments

**F79** S. 432YA inserted (8.1.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment No. 2\) Order 2006 \(S.I. 2006/3387\)](#), arts. 1(1), 2

#### <sup>F80</sup>432Z **Linked assets.** **U.K.**

- (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>F81</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>F82</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>F82</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.

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(3) Where an asset is linked to more than one category of [<sup>F82</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>F83</sup>the proportion A/B where—

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

B is the total of the linked liabilities of the company which are liabilities of that fund.]

(5) For the purposes of sections 432A to 432F—

- (a) income arising in any period from assets linked but not solely linked to a category of business,
- (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>F84</sup>(6) In this section—

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

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

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

(7) In the case of a policy or contract the effecting of which constitutes a class of life assurance business the fact that it also constitutes [<sup>F82</sup>long-term] business other than life assurance business shall be disregarded for the purposes of this section unless the benefits to be provided which constitute [<sup>F82</sup>long-term] business other than life assurance business are to be determined by reference to the value of assets.]

#### Textual Amendments

**F80** 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))

**F81** 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)

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- F82** 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)
- F83** 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)
- F84** S. 432ZA(6) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(2)

**[<sup>F85</sup>432A Apportionment of income and gains. U.K.]**

[<sup>F86</sup>(1) This section has effect [<sup>F87</sup>for determining for the purposes of any provision of the Corporation Tax Acts in relation to any period for which an insurance company carries on business] what parts of—

- (a) income arising from the assets of the company's [<sup>F88</sup>long-term insurance fund], or
- (b) gains or losses accruing on the disposal of such assets, are referable to any category of business.

[<sup>F89</sup>(1A) If the company carries on only one category of business in the period, all of the income and gains or losses referred to in subsection (1) above shall be referable to that category of business; but if the company carries on more than one category of business in the period, the following provisions shall apply.]

(2) The categories of business referred to in [<sup>F90</sup>subsections (1) and (1A)] above are—

- (a) pension business;
- (b) life reinsurance business;
- (c) overseas life assurance business;
- [<sup>F91</sup>(d) basic life assurance and general annuity business; and]
- (f) [<sup>F92</sup>long-term] business other than life assurance business.

(3) Income arising from, and gains or losses accruing on the disposal of, assets linked to any category of business (apart from overseas life assurance business) shall be referable to that category of business.]

(4) Income arising from, and gains or losses accruing on the disposal of, assets of the overseas life assurance fund (and no other assets) shall be referable to overseas life assurance business.

(5) There shall be referable to any category of business (apart from overseas life assurance business) the relevant fraction of any income, gains or losses not directly referable to [<sup>F93</sup>any category] of business.

(6) For the purposes of subsection (5) above “the relevant fraction”, in relation to [<sup>F94</sup>basic life assurance and general annuity business], is the fraction of which—

- (a) the numerator is the aggregate of—
  - (i) the mean of the opening and closing liabilities [<sup>F95</sup>of that category of business], reduced [<sup>F96</sup>(but not below nil)] by the mean of the opening and closing [<sup>F97</sup>net values] of any assets directly referable [<sup>F98</sup>to that category], [<sup>F99</sup> . . .
  - [<sup>F100</sup>(ii) if there has been a relevant reattribution, the mean of the opening and closing amounts of the shareholders' excess assets, and

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- (iii) the mean of the appropriate parts of the opening and closing amounts of the free assets amounts; and]
- [<sup>F101</sup>(b) the denominator is the aggregate of—
- (i) the numerator given by paragraph (a) above; and
  - (ii) the numerators given by [<sup>F102</sup>subsection (6A)(a) below] in relation to the other categories of business.]
- [ For the purposes of subsection (5) above “the relevant fraction”, in relation to any
- <sup>F103</sup>(6A) other category of business other than basic life assurance and general annuity business and overseas life assurance business, is the fraction of which—
- (a) the numerator is the aggregate of—
    - (i) the mean of the opening and closing liabilities of the category, reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to the category, and
    - (ii) the mean of the appropriate parts of the opening and closing amounts of the free assets amounts; and
  - (b) the denominator is the aggregate of—
    - (i) the numerator given by paragraph (a) above
    - (ii) the numerators given by that paragraph in relation to the other categories of business; and
    - (iii) the numerators given by subsection (6)(a) above in relation to the basic life assurance and general annuity business.]
- [<sup>F104</sup>(7) For the purposes of subsections [<sup>F105</sup>(5), (6) and (6A)] above—
- (a) income, gains or losses are directly referable to a category of business if referable to that category by virtue of subsection (3) or (4) above, <sup>F106</sup> . . .
  - (b) assets are directly referable to a category of business if income arising from the assets is, and gains or losses accruing on the disposal of the assets are, so referable by virtue of subsection (3) above, [<sup>F107</sup> and
  - (c) amounts are directly referable to basic life assurance and general annuity business if they fall within any of the following provisions—
    - (i) sections 438B, 441B and 442A,
    - (ii) section 85(2C)(c) of the Finance Act 1989.]]
- [<sup>F108</sup>(8) In subsections (6) and (6A) 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;

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—
 

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; and

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- (b) the amount of the shareholders' excess assets in relation to any period of account of the company is the amount equal to SXA — L27 where—
- (i) SXA is the aggregate amount of the assets shown in its non-participating funds which are attributed to its shareholders as a result of a relevant reattribution; and
  - (ii) L27 is the amount (if any) shown in line 27 of Form 19 in its periodical return for the relevant period of account.

(8A) In this section—

“non-participating funds” means accounts which relate exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus;

“reattribution” in relation to an insurance company which has an inherited estate, means the attribution of assets to shareholders' interests as a result of—

- (a) an agreement between the company and the relevant regulator as to the amount of that estate and its attribution between shareholders and policy holders; or
- (b) a decision of the company to specify and identify an amount of assets (otherwise than in connection with a transfer to the company's long-term insurance fund) as attributable only to shareholders' interests;

a reattribution is “relevant” if it arises as a result of any of the following—

- (a) a transfer of business under—
  - (i) section 49 of, or Schedule 2C to, the Insurance Companies Act 1982;
  - (ii) an insurance business transfer scheme (within the meaning of section 431(2));
- (b) a scheme of arrangement under section 425 of the Companies Act 1985;
- (c) an order under section 68 of the Insurance Companies Act 1982;
- (d) a waiver under section 148 of the Financial Services and Markets Act 2000;
- (e) an amendment to the company's memorandum, articles of association or other instrument regulating the company.

(8B) In subsection (8A) above—

“inherited estate” has the same meaning as it has in the Integrated Prudential Sourcebook; and

“relevant regulator” means the Financial Services Authority, the Treasury or the Secretary of State.]

[<sup>F109</sup>(9) Where a company carries on overseas life assurance business—

- (a) references in this section to liabilities do not include liabilities of that business, and
- (b) the appropriate part of the [<sup>F110</sup>free assets amount] as defined by paragraph 4(2)(a) of Schedule 19AA shall be left out of account in determining [<sup>F111</sup>that amount] for the purposes of this section.]

[ In this section and sections 432C and 432D “net value”, in relation to any assets, means <sup>F112</sup>(9A) the excess of the value of the assets over [<sup>F113</sup>the value of money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) attributable to an internal linked fund which are not owed in respect of [<sup>F114</sup>liabilities].]

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(9B) F115 ..... ]

F116 (10) ..... ]

### Textual Amendments

- F85** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F86** 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)**
- F87** Words in s. 432A(1) substituted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(2)**
- F88** 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)**
- F89** S. 432A(1A) inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(3)**
- F90** Words in s. 432A(2) substituted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(4)**
- F91** S. 432A(2)(d) substituted for s. 432A(2)(d)(e) (with effect in accordance with s. 167(10) of the amending Act) by Finance Act 1996 (c. 8), **s. 167(2)**
- F92** Words in s. 432A(2)(f)(8)(a)(b)(9B) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(2)(c)**
- F93** 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))
- F94** Words in s. 432A(6) 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(2)(a)**
- F95** Words in s. 432A(6)(a)(i) 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(2)(b)(i)**
- F96** Words in s. 432A(6)(a) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(a)(4)(a)**
- F97** Words in s. 432A(6)(a) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(a)(4)(a)**
- F98** Words in s. 432A(6)(a)(i) 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(2)(b)(ii)**
- F99** Word at the end of s. 432A(6)(a)(i) 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(2)(c)**
- F100** S. 432A(6)(a)(ii)(iii) substituted for s. 432A(6)(a)(ii) (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(2)(d)**
- F101** S. 432A(6)(b) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(b)(4)(a)**
- F102** Words in s. 432A(6)(b)(ii) 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(2)(e)**
- F103** S. 432A(6A) 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(3)**
- F104** 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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- F105** 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)**
- F106** 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)**
- F107** 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)**
- F108** 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)**
- F109** S. 432A(9) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 13(5)** (with Sch. 8 para. 55(2))
- F110** Words in s. 432A(9)(b) 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(6)(a)**
- F111** Words in s. 432A(9)(b) 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(6)(b)**
- F112** 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)**
- F113** Words in s. 432A(9A) substituted (with effect in accordance with Sch. 33 para. 28 of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 26**
- F114** Word in s. 432A(9A) substituted (with effect in accordance with Sch. 9 para. 4(3) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 4(2)**
- F115** 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)**
- F116** S. 432A(10) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, ss. 91(2)(a), 213, **Sch. 23 Pt. III** (8), Note

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

- C23** S. 432A modified (3.5.1994) by Finance Act 1994, (c. 9), s. 169, Sch. 18 para 1(4)
- C24** 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**)
- C25** 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)
- C26** S. 432A applied (19.3.1997) by Finance Act 1997 (c. 16), **Sch. 12 para 19**
- C27** 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**)
- C28** 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)**)
- C29** 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)**
- C30** 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**)

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- C31** 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**
- C32** S. 432A(2) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), **regs. 1, 5, 10**
- C33** 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>F117</sup>432A] Schedule A business or overseas property business. U.K.**

- (1) An insurance company is treated as carrying on separate Schedule A businesses, or overseas property businesses, in accordance with the following rules.
- (2) The exploitation of land held as an asset of the company's [<sup>F118</sup>long-term insurance fund] is treated as a separate business from the exploitation of land not so held.
- (3) The exploitation of land held as an asset of the company's overseas life assurance fund is treated as a separate business from the exploitation of other land held as an asset of its [<sup>F118</sup>long-term insurance fund].
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
  - (a) pension business;
  - (b) life reinsurance business;
  - (c) basic life assurance and general annuity business;
  - (d) [<sup>F119</sup>long-term] business other than life assurance business.
- (5) Accordingly, the exploitation of land held as an asset of the company's [<sup>F118</sup>long-term insurance fund] otherwise than as mentioned in subsection (3) or (4) is treated as a separate business from any other.
- (6) In this section “land” means any estate, interest or rights in or over land.]

**Textual Amendments**

- F117** 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)
- F118** 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)**
- F119** Word in s 432AA(4)(d) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), **art. 52(2)(d)**

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

- C34** 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**)
- C35** 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**)
- C36** S. 432AA(4) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), **regs. 1, 5, 11**



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**C37** 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>F117</sup>**432AB** **Losses from Schedule A business or overseas property business.** **U.K.**

- (1) This section applies to any loss arising in a Schedule A business or overseas property business.
- (2) A loss arising from any category of business mentioned in section 432A(2) shall be apportioned under that section in the same way as income.
- [<sup>F120</sup>(3) So far as a loss is referable to basic life assurance and general annuity business, it shall be treated for the purposes of section 76 as expenses payable which fall to be brought into account at Step 3 in subsection (7) of that section.]
- (4) Where a company is treated under section 432AA as carrying on—
  - (a) more than one Schedule A business, or
  - (b) more than one overseas property business,then, in relation to either kind of business, the reference in subsection (3) above to a loss referable to basic life assurance and general annuity business shall be construed as a reference to any aggregate net loss after setting the losses from those businesses which are so referable against any profits from those businesses that are so referable.
- (5) The provisions of section 392A or 392B (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.
- (6) Where a company is treated under section 432AA as carrying on—
  - (a) more than one Schedule A business, or
  - (b) more than one overseas property business,and, in relation to either kind of business, there are losses and profits referable to business which is not life assurance business, those losses shall be set against those profits before being used under section 392A or 392B.]

**Textual Amendments**

**F117** 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](#))

**F120** S. 432AB(3) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), [Sch. para. 17\(2\)](#)

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

**C38** 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](#))

**C39** 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](#)

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**[<sup>F121</sup>432B] Apportionment of receipts brought into account. U.K.**

- (1) This section and [<sup>F122</sup>sections 432C to 432F] have effect where it is necessary in accordance with section 83 of the Finance Act 1989 to determine what parts of any items [<sup>F123</sup>brought into account, within the meaning of that section,] are referable to life assurance business or any [<sup>F124</sup>category] of life assurance business.
- [<sup>F125</sup>(2) Where for that purpose reference falls to be made to more than one account recognised for the purposes of that section, the provisions of sections 432C to 432F apply separately in relation to each account.]
- (3) Sections 432C and 432D apply where the business with which an account is concerned (“the relevant business”) relates exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus; and [<sup>F126</sup>sections 432E and 432F apply] where the relevant business relates wholly or partly to other policies or contracts. ]
- [<sup>F127</sup>(4) The following provisions of this section have effect where sections 432C and 432D—
  - (a) apply in relation to any account for a fund in which shareholders' excess assets are held, and
  - (b) apply in relation to that account in relation to any period of account beginning on or after 1st January 2005 and ending before 1st October 2006.
- (5) The part of the amount brought into account as income which is referable in accordance with section 432C to any category of business apart from—
  - (a) basic life assurance and general annuity business, and
  - (b) overseas life assurance business,
 is reduced by the relevant fraction of the shareholders' excess income.
- (6) The part of the amount brought into account as the increase or decrease in the value of assets or as other income which is referable in accordance with section 432D to any category of business apart from basic life assurance and general annuity business is reduced or increased as follows.
- (7) The part of that amount is—
  - (a) reduced by the relevant fraction of the shareholders' excess gains, or
  - (b) increased by the relevant fraction of the shareholders' excess losses,
 as the case may be.
- [<sup>F128</sup>(8) But if, in relation to the fund in question, an election in accordance with Rule 9.10(c) of the Prudential Sourcebook (Insurers) has effect for the period of account, the following rules apply.
  - (8A) In any case where there are adjusted shareholders' excess gains (“amount A”) and an adjusted increase in value of inherited estate assets (“amount B”), the part of the amount mentioned in subsection (6) (“the relevant amount”) is reduced by the relevant fraction of the lower of amounts A and B.
  - (8B) The difference between amounts A and B is carried forward to the next period of account—
    - (a) as shareholders' excess gains (if amount A is the greater amount), or
    - (b) as an increase in value of inherited estate assets (if amount B is the greater amount).

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- (8C) In any case where there are adjusted shareholders' excess losses ("amount C") and an adjusted decrease in value of inherited estate assets ("amount D"), the relevant amount is increased by the relevant fraction of the lower of amounts C and D.
- (8D) The difference between amounts C and D is carried forward to the next period of account—
- (a) as shareholders' excess losses (if amount C is the greater amount), or
  - (b) as a decrease in value of inherited estate assets (if amount D is the greater amount).
- (8E) In any other case—
- (a) the relevant amount is neither reduced nor increased, and
  - (b) the adjusted shareholders' excess gains or losses, and the adjusted increase or decrease in value of inherited estate assets, are carried forward to the next period of account as shareholders' excess gains or losses and an increase or decrease in value of inherited estate assets (as the case may be).
- (8F) For the purposes of subsections (8A) to (8E), in relation to any period of account ("the relevant period"), the adjusted shareholders' excess gains or losses, and the adjusted increase or decrease in value of inherited estate assets, are determined as follows.

#### *Step 1*

Find the amount of shareholders' excess gains or losses, and the amount of the increase or decrease in value of inherited estate assets, for the relevant period.

#### *Step 2*

Find the amount (if any) of shareholders' excess gains or losses, and the amount (if any) of the increase or decrease in value of inherited estate assets, carried forward to the relevant period (without being taken into account for the purposes of step 3 or 4 in any previous period of account).

#### *Step 3*

This step applies if, for the relevant period, there are shareholders' excess gains or an increase in value of inherited estate assets.

In such a case—

- (a) increase that amount by the amount of any such gains or (as the case may be) of any such increase in value so carried forward to the relevant period, or
- (b) reduce that amount (but not below nil) by the amount of any shareholders' excess losses or (as the case may be) of any decrease in value of inherited estate assets so carried forward to the relevant period.

The resulting amount is the adjusted shareholders' excess gains or (as the case may be) the adjusted increase in value of inherited estate assets for the relevant period.

#### *Step 4*

This step applies if, for the relevant period, there are shareholders' excess losses or a decrease in value of inherited estate assets.

In such a case—

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- (a) increase that amount by the amount of any such losses or (as the case may be) of any such decrease in value so carried forward to the relevant period, or
- (b) reduce that amount (but not above nil) by the amount of any shareholders' excess gains or (as the case may be) of any increase in value of inherited estate assets so carried forward to the relevant period.

The resulting amount is the adjusted shareholders' excess losses or (as the case may be) the adjusted decrease in value of inherited estate assets for the relevant period.

- (8G) For the purposes of subsections (8A) to (8F), in relation to any company and any period of account,—

“decrease in value of inherited estate assets” means so much of the amount of the decrease in value of assets brought into account in line 13 of Form 40 in the periodical return of the company for that period as relates to shareholders' excess assets;

“increase in value of inherited estate assets” means so much of the amount of the increase in value of assets brought into account in line 13 of Form 40 in the periodical return of the company for that period as relates to shareholders' excess assets.]

- (9) For the purposes of this section—

“the relevant fraction”, in relation to a category of business, is the fraction of which—

- (a) the numerator is the section 83 net amount referable to the category; and
- (b) the denominator is the section 83 net amount referable to all categories of business apart from basic life assurance and general annuity business [<sup>F129</sup>and overseas life assurance business];

“the section 83 net amount” means the net amount (before giving effect to subsections (5) to [<sup>F130</sup>(8B)] above) to be taken into account in accordance with section 83(2) of the Finance Act 1989 (that is to say, the aggregate amount to be taken into account as receipts reduced by the aggregate amount to be taken into account as expenses);

“shareholders' excess gains” means the amount by which—

- (a) [<sup>F131</sup>the aggregate amount of investment gains and amounts chargeable under Case VI of Schedule D by virtue of section 85(2C)(c) of the Finance Act 1989 for the accounting periods comprised in the period of account exceeds]
- (b) [<sup>F132</sup>the aggregate amount that would be found under paragraph (a)] if section 432A(6) were amended in accordance with subsection (10) below;

“shareholders' excess income” means the amount by which—

- (a) the investment income referable to basic life assurance and general annuity business in accordance with section 432A for the [<sup>F133</sup>accounting periods comprised in the] period of account exceeds
- (b) the amount that would be so referable if section 432A(6) were amended in accordance with subsection (10) below;

“shareholders' excess losses” means the amount by which—

- (a) [<sup>F134</sup>investment losses for the accounting periods comprised in the period of account exceeds]
- (b) the amount that would be [<sup>F135</sup>found under paragraph (a)] if section 432A(6) were amended in accordance with subsection (10) below.

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(10) For the purposes of the definitions of “shareholders' excess gains”, “shareholders' excess income” and “shareholders' excess losses”, the amendments of section 432A(6) mentioned in those definitions are—

(a) in paragraph (a)(ii) the insertion after “the mean of” of “the appropriate parts of”;

(b) in paragraph (a)(ii) the insertion after “assets” of—

(and for this purpose the definition of “appropriate part” in subsection (8)

(a) below applies in relation to the shareholders' excess assets as it applies in relation to the free assets amount)

; and

(c) in paragraph (b) the substitution for sub-paragraph (ii) of—

(ii) the numerators that would be given by that paragraph in relation to the other categories of business if this subsection applied in relation to any category of business.

(11) For the purposes of subsection (9)—

(a) the amount of a company's investment gains is the greater of LG [<sup>F136</sup>+ OIG] + NTC - NTD and nil where—

[<sup>F137</sup>(i) LG is the amount of BLAGAB chargeable gains accruing from disposals of assets of the company's long-term insurance fund in each accounting period comprised in the period of account after deducting the aggregate of BLAGAB allowable losses so accruing in the accounting period and in any accounting period to which section 8(1) (b) of the Taxation of Chargeable Gains Act 1992 (company's total profits to include chargeable gains) applies];

[ OIG is the amount of offshore income gains accruing in each such <sup>F138</sup>(ia) accounting period and charged to corporation tax under Case VI of Schedule D by virtue of section 761(1)(b)(ii);]

(ii) NTC is the amount of non-trading credits for the period [<sup>F139</sup>of account] which arise to the company from increases in the fair value of the company's loan relationships or from related transactions; and

(iii) NTD is the amount of non-trading debits [<sup>F140</sup>for the period of account] which arise to the company from decreases in the fair value of the company's loan relationships or from related transactions;

(b) “investment income” means the aggregate of—

(i) the non-trading credits for the period [<sup>F141</sup>of account] which do not arise to the company from increases in the fair value of the company's loan relationships or from related transactions;

[ annuities or other annual payments in each accounting period <sup>F142</sup>(ia) comprised in the period of account that are chargeable under Case III of Schedule D by virtue of paragraph (b) of that Case;]

(ii) income [<sup>F143</sup>for each such accounting period] falling with Schedule A; and

(iii) income [<sup>F144</sup>for each such accounting period] falling within Case V of Schedule D; and

(c) the amount of a company's investment losses is the greater [<sup>F145</sup>of

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LA + NTD – OIG – NTC (where there is an amount LA in the period of account)

or

NTD – NTC – LG – OIG (where there is an amount LG in the period of account)]

and nil where—

- [<sup>F146</sup>(i) LA is the amount of the company's BLAGAB allowable losses accruing from disposals of assets of the company's long-term insurance fund in each accounting period comprised in the period of account after deducting BLAGAB chargeable gains so accruing; and]
- (ii) [<sup>F147</sup>LG, OIG,] NTC and NTD have the same meanings as they have in relation to a company's investment gains.

[ In subsection (11)—

<sup>F148</sup>(12)

“BLAGAB allowable losses” means allowable losses referable in accordance with section 432A to the company's basic life assurance and general annuity business;

“BLAGAB chargeable gains” means chargeable gains referable in accordance with section 432A to the company's basic life assurance and general annuity business;

“related transaction” has the meaning given by section 84(5) of the Finance Act 1996.]]

#### Textual Amendments

- F121** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F122** 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))
- F123** 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))
- F124** Word in s. 432B(1) substituted (with effect in accordance with Sch. 9 para. 19(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 19(1)**
- F125** 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))
- F126** 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))
- F127** 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)**
- F128** 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)**
- F129** S. 432B(9): words in para. (b) of definition of "relevant fraction" 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(3)(a)**
- F130** S. 432B(9): words in definition of "the section 83 net amount" substituted (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(3)(b)**
- F131** S. 432B(9): para. (a) of definition of "shareholders' excess gains" substituted (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(3)(c)(i)**

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- F132** S. 432B(9): words in para. (b) of definition of "shareholders' excess gains" substituted (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\(3\)\(c\)\(ii\)](#)
- F133** S. 432B(9): words in para. (a) of definition of "shareholders' excess income" 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\(3\)\(d\)](#)
- F134** S. 432B(9): para. (a) of definition of "shareholders' excess losses" substituted (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\(3\)\(e\)\(i\)](#)
- F135** S. 432B(9): words in para. (b) of definition of "shareholders' excess losses" substituted (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\(3\)\(e\)\(ii\)](#)
- F136** Words in s. 432B(11)(a) 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\(4\)\(a\)\(i\)](#)
- F137** S. 432B(11)(a)(i) substituted (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\(4\)\(a\)\(ii\)](#)
- F138** S. 432B(11)(a)(ia) 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\(4\)\(a\)\(iii\)](#)
- F139** Words in s. 432B(11)(a)(ii) substituted (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\(4\)\(a\)\(iv\)](#)
- F140** Words in s. 432B(11)(a)(iii) substituted (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\(4\)\(a\)\(v\)](#)
- F141** Words in s. 432B(11)(b)(i) substituted (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\(4\)\(b\)\(i\)](#)
- F142** S. 432B(11)(b)(ia) 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\(4\)\(b\)\(ii\)](#)
- F143** Words in s. 432B(11)(b)(ii) 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\(4\)\(b\)\(iii\)](#)
- F144** Words in s. 432B(11)(b)(iii) 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\(4\)\(b\)\(iv\)](#)
- F145** Words in s. 432B(11)(c) substituted (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\(4\)\(c\)\(i\)](#)
- F146** S. 432B(11)(c)(i) substituted (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\(4\)\(c\)\(ii\)](#)
- F147** Words in s. 432B(11)(c)(ii) 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\(4\)\(c\)\(iii\)](#)
- F148** 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\(5\)](#)

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

- C40** 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**)
- C41** Ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1992/1655, **regs. 1, 10**
- C42** S. 432B modified (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1992/1655, **regs. 1, 9(1)**

**[<sup>F149</sup>432C(Section 432B apportionment: income of non-participating funds. U.K.]**

- (1) To the extent that the amount brought into account as income is attributable to assets [<sup>F150</sup>linked] to [<sup>F151</sup>pension business, life reinsurance business, basic life assurance and general annuity business or long-term] business other than life assurance business], it shall be referable to the category of business concerned.
- (2) To the extent that that amount is attributable to assets of the overseas life assurance fund [<sup>F152</sup>or land in the United Kingdom linked to overseas life assurance business], it shall be referable to overseas life assurance business.
- (3) There shall be referable to any category of business (apart from overseas life assurance business) the relevant fraction of so much of the amount brought into account as income as is not directly referable to [<sup>F153</sup>any category of business].
- (4) For the purposes of subsection (3) above “the relevant fraction”, in relation to a category of business, is the fraction of which—
  - (a) the numerator is the mean of the opening and closing liabilities of the relevant business so far as referable to the category, reduced [<sup>F154</sup>(but not below nil)] by the mean of the opening and closing [<sup>F155</sup>net values] of any assets of the relevant business directly referable to the category; and
  - <sup>F156</sup>(b) the denominator is the aggregate of—
    - (i) the numerator given by paragraph (a) above; and
    - (ii) the numerators given by that paragraph in relation to the other categories of business.]
- (5) For the purposes of subsections (3) and (4) above—
  - (a) <sup>F157</sup>.....
  - (b) the part of the amount brought into account as income which is directly referable to a category of business is the part referable to the category by virtue of subsection (1) [<sup>F158</sup>or (2)] above and assets are directly referable to a category of business if such part of the amount brought into account as income as is attributable to them is so referable.
- <sup>F159</sup>(6) For the purposes of this section, where a company carries on overseas life assurance business “liabilities” does not include liabilities of that business.]

**Textual Amendments**

- F149** Ss. 432A-432E inserted by [Finance Act 1990 \(c. 29\)](#), **Sch. 6 para. 4**
- F150** Word in s. 432C(1) substituted (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 8 para. 12(1)(a)** (with [Sch. 8 para. 55\(2\)](#))



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- F151** Words in s. 432C(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para 14(2)** (with Sch. 8 para. 55(2))
- F152** Words in s. 432C(2) inserted (with effect in accordance with Sch. 8 para. 55(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 3** (with Sch. 8 para. 55(2))
- F153** Words in s. 432C(3) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para 14(3)** (with Sch. 8 para. 55(2))
- F154** Words in s. 432C(4)(a) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(a)(4)(b)**
- F155** Words in s. 432C(4)(a) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(a)(4)(b)**
- F156** S. 432C(4)(b) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(3)(b)(4)(b)**
- F157** S. 432C(5)(a) repealed (with effect in accordance with Sch. 8 para. 57(1) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 8 para. 14(5), **Sch. 29 Pt. 8(5)**, Note 2 (with Sch. 8 para. 55(2))
- F158** Words in s. 432C(5)(b) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(7)**
- F159** S. 432C(6) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 14(6)** (with Sch. 8 para. 55(2))

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

- C43** Ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1992/1655, **regs. 110**
- C44** S. 432C(1) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 12**
- C45** S. 432C(1) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 10**; S.I. 2004/3369, **art. 2(1)**

VALID FROM 08/04/2010

#### **F160** **432CA** Apportionment of asset value increase where line 51 amount decreases **U.K.**

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

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- (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—
- (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.]

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### Textual Amendments

**F160** 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>F161</sup>432CB] **Transfers of business involving excess assets** **U.K.**

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

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

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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.
- (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.]

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### Textual Amendments

**F161** 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>F162</sup>432D] Section 432B apportionment: value of non-participating funds. U.K.**

- (1) To the extent that the amount brought into account as the increase or decrease in the value of assets [<sup>F163</sup>or as other income] is attributable to assets [<sup>F164</sup>linked] to [<sup>F165</sup>pension business, life reinsurance business, basic life assurance and general annuity business or [<sup>F166</sup>long-term] business other than life assurance business], or to assets of the overseas life assurance fund which are [<sup>F164</sup>linked] to overseas life assurance business, it shall be referable to the category of business concerned.
- (2) There shall be referable to any category of business the relevant fraction of the amount brought into account as the increase or decrease in the value of assets [<sup>F163</sup>or as other income] except so far as the amount is attributable to assets which are directly referable to [<sup>F167</sup>any category of business].
- <sup>F168</sup>(3) For the purposes of subsection (2) above “the relevant fraction”, in relation to a category of business, is the fraction of which—
  - (a) the numerator is the mean of the opening and closing liabilities of the relevant business so far as referable to the category, reduced [<sup>F169</sup>(but not below nil)] by the mean of the opening and closing [<sup>F170</sup>net values] of any assets of the relevant business directly referable to the category; and
  - <sup>F171</sup>(b) the denominator is the aggregate of—
    - (i) the numerator given by paragraph (a) above; and
    - (ii) the numerators given by that paragraph in relation to the other categories of business.]
- (4) For the purposes of subsections (2) and (3) above, the part of the amount brought into account as the increase or decrease in the value of assets [<sup>F163</sup>or as other income] which is directly referable to a category of business is the part referable to the category by virtue of subsection (1) above and assets are directly referable to a category of business if such part of the amount brought into account as the increase or decrease in the value of assets [<sup>F163</sup>or as other income] as is attributable to them is so referable.]]

### Textual Amendments

- F162** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), Sch. 6 para. 4
- F163** Words in s. 432D inserted (with effect in accordance with Sch. 33 para. 9(1) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 9(1)
- F164** Words in s. 432D(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 12(1)(a) (with Sch. 8 para. 55(2))
- F165** Words in s. 432D(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 15(2) (with Sch. 8 para. 55(2))
- F166** Word in s. 432D(1) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 52(2)(f)
- F167** Words in s. 432D(2) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 15(3) (with Sch. 8 para. 55(2))

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| <p><b>F168</b> S. 432D(3)(4) substituted for s. 432D(3) (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), <b>Sch. 8 para. 15(4)</b> (with Sch. 8 para. 55(2))</p> <p><b>F169</b> Words in s. 432D(3)(a) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), <b>s. 109(3)(a)(4)(c)</b></p> <p><b>F170</b> Words in s. 432D(3)(a) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), <b>s. 109(3)(a)(4)(c)</b></p> <p><b>F171</b> S. 432D(3)(b) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), <b>s. 109(3)(b)(4)(c)</b></p> <hr style="border-top: 1px dotted black;"/> <p><b>Modifications etc. (not altering text)</b></p> <p><b>C46</b> Ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S. I. 1992/1655, <b>regs. 1, 10</b></p> <p><b>C47</b> S. 432D(1) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), <b>regs. 1, 5, 12</b></p> <p><b>C48</b> S. 432D(1) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), <b>regs. 1, 4, 10; S.I. 2004/3369, art. 2(1)</b></p> |
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**[<sup>F172</sup>432E Section 432B apportionment: participating funds. U.K.]**

- (1) The part of the net amount [<sup>F173</sup> to be taken into account in accordance with section 83(2) of the <sup>M4</sup>Finance Act 1989 (that is to say, the aggregate amount to be taken into account as receipts reduced by the aggregate amount to be taken into account as expenses)] which is referable to a particular category of business [<sup>F174</sup> shall be the amount determined in accordance with [<sup>F175</sup> subsections (2) and (2A)] below or, if greater, the amount determined in accordance with subsection (3) below [<sup>F176</sup> but subject to section 432G].]
- (2) For the purposes of subsection (1) above there shall be determined the amount which is such as to secure—
  - (a) <sup>F177</sup> .....
  - (b) <sup>F178</sup> ... that

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

where—

- S is the surplus of the relevant business;
- AS is so much of that surplus as is allocated to persons entitled to the benefits provided for by the policies or contracts to which the relevant business relates;
- CAS is so much of the surplus so allocated as is attributable to policies or contracts of the category of business concerned; and
- CS is so much of the surplus of the relevant business as would remain if the relevant business were confined to business of the category concerned.

<sup>F179</sup> [ In a case where [<sup>F180</sup> an amount or amounts are] taken into account under subsection (2) (2A) of section 83 of the Finance Act 1989 by virtue of subsection (2B) of that section [<sup>F181</sup> or by virtue of section 444ACA(2) of this Act], the amount determined under subsection (2) above is increased by—

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

where—

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

[<sup>F182</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;
- (b) section 444ACA(2) of this Act.]

(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 after deducting from it the mean of the opening and closing values of any assets of the relevant business [<sup>F183</sup>linked] to that category of business, and
- (b) the part of the net amount mentioned in subsection (1) above that is attributable to assets [<sup>F183</sup>linked] to that category of business.

(4) For the purposes of subsection (3) above “the applicable percentage”, in any case, is such percentage as may be determined for that case by or in accordance with an order made by the Treasury.

(5) Where the part of the net amount referable to a particular category or categories of business (“the subsection (3) category or categories”) is the amount determined in accordance with subsection (3) above, the amount determined in accordance with subsection (2) above in relation to any other category (“the relevant category”) shall be reduced by—

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

where—

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

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

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





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#### Marginal Citations

M4 1989 c. 26.

### [<sup>F186</sup>432FSection 432B apportionment: supplementary provisions. U.K.]

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

#### Textual Amendments

**F186** S. 432F inserted (with effect in accordance with Sch. 8 para. 53 of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 17(3) (with Sch. 8 para. 55(2))

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

**C53** 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>F187</sup>432GSection 432B: apportionment of business transfer-in U.K.]

- (1) This section applies where an amount falls within section 83(2)(e) of the Finance Act 1989.
- (2) Where—
  - (a) this section applies, and
  - (b) it is necessary in accordance with section 83 to determine what part of a business transfer-in is referable to life assurance business or any category of life assurance business,a business transfer-in shall be apportioned to the categories of business of the transferee in the proportions which the amount of the liabilities transferred for each of those categories bear to the whole of the liabilities transferred.]

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**Textual Amendments**

**F187** S. 432G inserted (1.1.2005 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) Order 2004 \(S.I. 2004/3266\)](#), **art. 4**

**<sup>F188</sup>433 Profits reserved for policy holders and annuitants. U.K.**

.....

**Textual Amendments**

**F188** 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>F189</sup>Miscellaneous provisions relating to life assurance business]*

**Textual Amendments**

**F189** 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. U.K.**

<sup>F190</sup><sup>F191</sup>(1) Section 208 shall not apply in relation to—

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

(1A) <sup>F192</sup> .....

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

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

(2) <sup>F193</sup> .....

<sup>F194</sup>(3) <sup>F195</sup> .....

(3A) <sup>F196</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>F197</sup>(3B) <sup>F198</sup> .....

(3C) <sup>F198</sup> .....

(3D) <sup>F198</sup> .....

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(4) <sup>F199</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>F200</sup>

(6) <sup>F195</sup> .....

[<sup>F201</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>F202</sup> ...

[<sup>F203</sup>(aa) <sup>F204</sup> .....

(ab) <sup>F204</sup> .....

(ac) <sup>F204</sup> .....]

(b) “the policy holders’ share of the relevant profits” has the same meaning as in section [<sup>F205</sup>89] of that Act.]

(7) <sup>F193</sup> .....

(8) <sup>F195</sup> .....

### Textual Amendments

- F190** 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))
- F191** 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)**
- F192** S. 434(1A) 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. 177, **Sch. 3** (with Sch. 2)
- F193** 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)**
- F194** S. 434(3)(3A) substituted for s. 434(3) by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 3(1)**
- F195** 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
- F196** 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)**
- F197** S. 434(3B)-(3D) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 5(4)**
- F198** 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
- F199** 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.
- F200** 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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**F201** 1990 s.45(7).

**F202** 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)**

**F203** S. 434(6A)(aa)-(ac) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para 5(5)**

**F204** 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

**F205** Words in s. 434(6A)(b) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 6(7)(a)**

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

**C54** S. 434 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)

**C55** S. 434(1)(1A)(1C)(1D) restricted by (Finance (No. 2) Act 1992 (c. 48), s. 65 (as amended (31.7.1997) by (Finance (No. 2) Act 1997 (c. 58), **Sch. 3 para. 15**)

#### Marginal Citations

**M5** Source—1970 s.310(6)

### **[F206][F207] 434A Computation of losses and limitation on relief. U.K.**

(1) <sup>F208</sup> .....

[F209](2) Where for any accounting period the loss arising to an insurance company from its life assurance business falls to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D—

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

(i) <sup>F210</sup> .....

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

[F211(iii) any loss for that period under section 441; and]]

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

(i) under section 393A, or

(ii) under section 403(1),

any losses for that period under section 436 [F212 or 439B] shall be reduced to nil, unless the aggregate of those losses exceeds the total of the amounts set off as mentioned in sub-paragraphs (i) and (ii) above, in which case each of those losses shall be reduced by an amount which bears to that total the proportion which the loss in question bears to that aggregate.

[F213(2A) The reference in subsection [F214(2)(a)(ii)] above to a relevant non-trading deficit for any period on a company's debtor relationships is a reference to the non-trading deficit on the company's loan relationships which would be produced by any separate computation made under paragraph 2 of Schedule 11 to the Finance Act 1996 for the company's basic life assurance and general annuity business if credits and debits given in respect of the company's creditor relationships (within the meaning of Chapter II of Part IV of that Act) were disregarded.]

(3) In the case of a company carrying on life assurance business, no relief shall be allowable <sup>F215</sup>—

(a) under Chapter II (loss relief) or Chapter IV (group relief) of Part X, 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 [F21689] of the Finance Act 1989.]]

### Textual Amendments

- F206** S. 434A inserted by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 4**
- F207** 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))
- F208** 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
- F209** 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)**
- F210** 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
- F211** 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)**
- F212** Words in s. 434A(2) substituted (with effect in accordance with Sch. 27 para. 12(1) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 27 para. 8(b)**
- F213** 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)
- F214** 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)**
- F215** 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)
- F216** Words in s. 434A(3) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 6(7)(b)**

### Modifications etc. (not altering text)

- C56** 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)
- C57** S. 434A(2) modified by Finance Act 1996 (c. 8), **Sch. 31 para. 2(3)**

VALID FROM 21/07/2009

### [F217] 434AZB Reduced loss relief for additions to non-profit funds **U.K.**

- (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)),

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- (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.]

#### Textual Amendments

**F217** Ss. 434AZA-434AZC inserted (with effect in accordance with Sch. 23 para. 3(2) of the amending Act) by Finance Act 2009 (c. 10), Sch. 23 para. 3(1)

VALID FROM 21/07/2009

#### **[<sup>F217</sup> 434AZB] Conditions to non-profit funds: amount of loss reduction U.K.**

- (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—

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- (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

**F217** Ss. 434AZA-434AZC inserted (with effect in accordance with [Sch. 23 para. 3\(2\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 23 para. 3\(1\)](#)

VALID FROM 21/07/2009

### **[<sup>F217</sup> 434AZC] Sections 434AZA and 434AZB: supplementary U.K.**

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

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

**Textual Amendments**  
**F217** 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>F218</sup>**434B**Treatment of interest and annuities. **U.K.**

- (1) <sup>F219</sup> .....
- (2) <sup>F220</sup> .....]

**Textual Amendments**  
**F218** 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))  
**F219** 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)  
**F220** 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>F221</sup>**434C**Interest on repayment of advance corporation tax. **U.K.**

- <sup>F222</sup> .....

**Textual Amendments**  
**F221** 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))  
**F222** 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>F223</sup>**434D**Capital allowances: management assets. **U.K.**

- <sup>F224</sup> .....

**Textual Amendments**  
**F223** 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))  
**F224** 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**



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**434E Capital allowances: investment assets. U.K.**

F225 .....]

**Textual Amendments**

**F223** 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))

**F225** 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

**F226 435 Taxation of gains reserved for policy holders and annuitants. U.K.**

.....

**Textual Amendments**

**F226** 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 [F227 Pension business]: separate charge on profits. U.K.**

- (1) <sup>M6</sup>Subject to the provisions of this section, profits arising to an insurance company from <sup>F228</sup> . . . pension business shall be treated as income within Schedule D, and be chargeable under Case VI of that Schedule, and for that purpose—
  - (a) [<sup>F229</sup>that business] shall be treated separately, and
  - (b) subject to paragraph (a) above, and to subsection (3) below, the profits therefrom shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (2) Subsection (1) above shall not apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its ordinary life assurance business.
- (3) <sup>M7</sup>In making the computation referred to in subsection (1) above—
  - (a) [<sup>F230</sup>sections [<sup>F231</sup>82 and 82B to 83AB] of the Finance Act 1989] shall apply with the necessary modifications <sup>F232</sup> . . . ;
  - [<sup>F233</sup>(aa) <sup>F234</sup> .....]
  - (b) *no deduction shall be allowed in respect of any expenses of management deductible under section 76;* <sup>F235</sup>
  - (c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from pension business <sup>F236</sup> . . . in any previous accounting period or year of assessment;
  - (d) <sup>F237</sup> .....
  - (e) <sup>F237</sup> .....
- (4) <sup>M8</sup>Section 396 shall not be taken to apply to a loss incurred by a company on its <sup>F238</sup> . . . pension business.
- (5) <sup>M9</sup>Nothing in section 128 or 399(1) shall affect the operation of this section.

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### Textual Amendments

- F227** 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))
- F228** Words in s. 436(1) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, 123, Sch. 7 paras. 4(1)(a), 18, **Sch. 19 Pt.V** Note 3
- F229** Words in s. 436(1)(a) substituted (for accounting periods beginning on or after 1. 1. 1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 4(1)(b), **18**
- F230** 1989 s.84 and Sch.8 para.6 and, subject to s.84(6) deemed to have come into force on 14 March 1989. Previously “section 433”.
- F231** Words in s. 436(3)(a) substituted (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 1(3)(a)**
- F232** Words in s. 436(3)(a) repealed (with effect in accordance with Sch. 33 para. 1(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 1(3)(b), **Sch. 43 Pt. 3(12)**, Note 1
- F233** S. 436(3)(aa) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 16(4)** (with Sch. 8 para. 55(2))
- F234** S. 436(3)(aa) repealed (with effect in accordance with Sch. 31 para. 10(2) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 31 para. 7(1)(a), **Sch. 41 Pt. 5(23)**, Note
- F235** Words repealed by 1989 ss.87(4) and 187 and Sch.17 Part IV with respect to accounting periods beginning on or after 1 January 1990. (See 1989 s.87(5) in relation to straddling periods).
- F236** Words in s. 436(3)(c) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(2)(a), **18** Sch. 19 Pt. V, Note 3
- F237** S. 436(3)(d)(e) repealed (with effect in accordance with Sch. 3 para. 5(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 5(1), **Sch. 8 Pt. 2(6)**, Note
- F238** Words in s. 436(4) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(3), 18, **Sch. 19 Pt. V**, Note 3

### Modifications etc. (not altering text)

- C58** S. 436 modified (with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1)**, 19, 20 (as amended by S.I. 2004/822, **regs. 1**, 12, 14)
- C59** S. 436 modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1**, 5, 13
- C60** S. 436 modified (6.4.1999) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 19A**, 20A (as inserted by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1**, 25(3)(4), and as amended by S.I. 2004/822, **regs. 1**, 13, 15)
- C61** S. 436 modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1**, 4, 11; S.I. 2004/3369, **art. 2(1)**
- C62** S. 436 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1)**, 13 (which modifying reg. 13 is omitted by virtue of S.I. 2007/2134, **regs. 1(1)(2)**, 13)
- C63** See also 1989 s.43—certain Sch.D computations involving emoluments.

### Marginal Citations

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

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VALID FROM 19/07/2007

[<sup>F239</sup>436A] **Gross roll-up business: separate charge on profits** **U.K.**

- (1) Profits arising to an insurance company from gross roll-up business—
  - (a) are to be treated as income within Schedule D, and
  - (b) are chargeable under Case VI of that Schedule.
- (2) For that purpose—
  - (a) the gross roll-up business is to be treated separately, and
  - (b) the profits from it are to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) In making that computation, sections 82 and 82B to [<sup>F240</sup>83ZA] of the Finance Act 1989 apply with the necessary modifications.
- (4) If in any accounting period an insurance company incurs a loss, to be computed on the same basis as the profits, arising from its gross roll-up business—
  - (a) the loss must be set off against the amount of any profits chargeable under this section for any subsequent accounting period, and
  - (b) accordingly, the amount of the company's profits so charged in any such accounting period is to be treated as reduced by the amount of the loss or so much of that amount as cannot be relieved under this section against profits of an earlier accounting period.
- (5) Section 396 does not apply to a loss incurred by an insurance company on its gross roll-up business.
- (6) No loss to which section 396 applies may be set off under subsection (4) above against the amount of any profits chargeable under this section.
- (7) This section does not apply in relation to an insurance company for an accounting period if the profits of its long-term business for the accounting period are charged to tax under Case I of Schedule D.]

**Textual Amendments**

**F239** 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)

**F240** S. 436A(3): "83ZA" substituted for "83AB" (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 12; S.I. 2008/379, art. 2

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

**C64** S. 436A modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/214), 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)

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VALID FROM 19/07/2007

**[<sup>F239</sup>436B] Gains referable to gross roll-up business not to be chargeable gains **U.K.****

- (1) Gains referable to gross roll-up business are not chargeable gains.
- (2) For the purposes of this section “gains referable to gross roll-up business” means gains which—
  - (a) accrue to an insurance company on the disposal by it of assets of its long-term insurance fund, and
  - (b) are referable (in accordance with section 432A) to gross roll-up business.]

**Textual Amendments**

**F239** 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. **U.K.****

[<sup>F241</sup>[<sup>F242</sup>(1A) In the computation, otherwise than in accordance with the provisions applicable to Case I of Schedule D, of the [<sup>F243</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>F244</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>F245</sup>(but subject to subsections (1CA) to (1CD) below)]—
- (a) “new annuity” means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company’s basic life assurance and general annuity business;
  - (b) “the income limit” for an accounting period of an insurance company is the difference between—
    - (i) the total amount of the new annuities paid by the company in that accounting period; and
    - (ii) the total of the capital elements [<sup>F246</sup>and amounts exempt under section 717 of ITTOIA 2005] contained in the new annuities so paid;  
<sup>F247</sup> . . .
  - (c) the capital element contained in an annuity shall be determined in accordance with Chapter V of Part XIV, but for this purpose—
    - (i) it is immaterial whether or not an annuitant claims any relief to which he is entitled under that Chapter; and
    - (ii) where, by virtue of subsection (2) of section 657, section 656 does not apply to an annuity, the annuity shall be treated as containing the capital element that it would have contained apart from that subsection; [<sup>F248</sup>and
  - (d) the amounts exempt under section 717 of ITTOIA 2005 shall be determined in accordance with Chapter 7 of Part 6 of that Act, but for this purpose—

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- (i) it is immaterial whether or not an annuitant claims any relief to which the annuitant is entitled under that section; and
- (ii) where, by virtue of section 718 of that Act, section 717 does not apply to an annuity, the annuity shall be treated as being exempt to the same extent that it would have been apart from that section.]

[ Where a new annuity (“the actual annuity”) is a steep-reduction annuity, the income<sup>F249</sup>(1CA) limit for an accounting period of the company paying the annuity shall be computed for the purposes of this section as if—

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

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

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

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

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

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

(1D) In any case where—

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

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

(1E) In any case where—

- (a) a payment in respect of an annuity is made by a reinsurer under a reinsurance treaty made in an accounting period beginning before 1st January 1992,

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- (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.]

- F250 (2) .....
- F251 (3) .....
- F252 (4) .....
- F253 (5) .....
- (6) F254 .....

### Textual Amendments

- F241** 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
- F242** 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)
- F243** 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)
- F244** 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
- F245** 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)
- F246** 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)
- F247** 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)
- F248** 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)
- F249** 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)

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- F250** 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
- F251** 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
- F252** 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
- F253** 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
- F254** 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

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

- C65** 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**)
- C66** 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**)
- C67** 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>F255</sup>437] Meaning of “steep-reduction annuity” etc. **U.K.**

- (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

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- (b) his assumed entitlement for any year shall be taken to be equal to the aggregate of the amounts which, in accordance with paragraph (a) above, are treated as accruing in that year.
- (4) In the case of an annuity to which subsection (2) above applies, the reference in section 437(1CB)(a) to the making of a reduced payment shall be construed as if it were a reference to the making of a payment in respect of that annuity which (applying subsection (3)(a) above) is taken to accrue at a rate that is substantially less than the rate at which at least one of the earlier payments in respect of that annuity is taken to accrue.
- (5) Where—
- (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

**F255** 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. **U.K.**

- (1) <sup>M10</sup>Exemption from corporation tax shall be allowed in respect of income from, and chargeable gains in respect of, investments and deposits of so much of an insurance company's [<sup>F256</sup>long-term insurance fund] as is referable [<sup>F257</sup>(in accordance with section 432A)] to pension business.
- (2) <sup>M11</sup>The exemption from tax conferred by subsection (1) above shall not exclude any sums from being taken into account as receipts in computing profits or losses for any purpose of the Corporation Tax Acts.



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- (3) <sup>F258</sup> .....
- [<sup>F259</sup>(3AA) <sup>F258</sup> .....]
- [<sup>F260</sup>(4) This section shall be disregarded in determining, in relation to an insurance company which is entitled to a tax credit in respect of a distribution, whether the condition in paragraph (a) or (b) of section 231(2) is satisfied.]
- (5) <sup>F261</sup> .....
- (6) <sup>F261</sup> .....
- [<sup>F262</sup>(6A) <sup>F263</sup> .....]
- [<sup>F264</sup>(6B) <sup>F261</sup> .....
- (6C) <sup>F261</sup> .....
- (6D) <sup>F261</sup> .....
- (6E) <sup>F261</sup> .....]
- (7) <sup>F261</sup> .....
- (8) <sup>F265</sup> .....
- [<sup>F266</sup>(9) <sup>F267</sup> .....]

#### Textual Amendments

- F256** Words in s. 438(1) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 52\(1\)\(e\)](#)
- F257** Words in s. 438(1) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(1\)\(a\)](#)
- F258** 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
- F259** S. 438(3AA) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 16 para. 6\(2\)](#)
- F260** S. 438(4) substituted (with effect in accordance with Sch. 3 para. 6(7) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [Sch. 3 para. 6\(3\)](#)
- F261** 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))
- F262** 1990 s.45(9).
- F263** 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\(6\)](#)
- F264** S. 438(6B)-(6E) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 16 para. 6\(4\)](#)
- F265** S. 438(8) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#), Note
- F266** 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))
- F267** 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)

- C68** S. 438 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)
- C69** S. 438 modified (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 18 para. 1\(5\)](#)

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|                           |  |
|---------------------------|--|
| <b>C70</b>                | S. 438 modified (6.4.1999) by <a href="#">The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871)</a> , <b>regs. 1, 5, 14</b> (and as substituted (22.8.2000) by <a href="#">The Individual Savings Account (Insurance Companies) (Amendment) Regulations 2000 (S.I. 2000/2075)</a> , <b>regs. 1, 4</b> ) |
| <b>C71</b>                | S. 438(1) modified (6.4.2005) by <a href="#">The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680)</a> , <b>regs. 1, 4, 12</b> ; S.I. 2004/3369, <b>art. 2(1)</b>  |
| <hr/>                     |  |
| <b>Marginal Citations</b> |  |
| <b>M10</b>                | Source—1970 s.314(1); 1970(F) Sch.5 Part III 11(3), (6)(c)   |
| <b>M11</b>                | Source—1970 s.314(2)   |

**[<sup>F268</sup>438A Pension business: payments on account of tax credits and deducted tax. U.K.]**

<sup>F269</sup> . . . . .]

|                           |  |
|---------------------------|--|
| <hr/>                     |  |
| <b>Textual Amendments</b> |  |
| <b>F268</b>               | S. 438A inserted (2.10.1992) by <a href="#">Finance Act 1991 (c. 31, SIF 63:1)</a> , <b>s. 49(1)</b> ; S.I. 1992/1746, <b>art.2</b>                                |
| <b>F269</b>               | S. 438A repealed (with effect in accordance with s. 87(2)(5) of the repealing Act) by <a href="#">Finance Act 2001 (c. 9)</a> , s. 87(1), <b>Sch. 33 Pt. 2(12)</b> |

**[<sup>F270</sup>438B Income or gains arising from property investment LLP U.K.]**

- (1) Where an asset held by an insurance company as an asset of its [<sup>F271</sup>long-term insurance fund] is held by the company as a member of a property investment LLP, the policy holders' share of any income arising from, or chargeable gains accruing on the disposal of, the asset which—
  - (a) is attributable to the company, and
  - (b) would otherwise be referable by virtue of section 432A to pension business, shall be treated for the purposes of the Corporation Tax Acts as referable to basic life assurance and general annuity business.
- (2) For the purposes of this section the property business of the insurance company for the purposes of which the asset is held shall be treated as a separate business.  
 “Property business” means a Schedule A business or overseas property business.
- (3) Where (apart from this subsection) an insurance company would not be carrying on basic life assurance and general annuity business, it shall be treated as carrying on such business if any income or chargeable gains of the company are treated as referable to the business by virtue of subsection (1) above.
- (4) A company may be charged to tax by virtue of this section—
  - (a) notwithstanding section 439A, and
  - (b) whether or not the income or chargeable gains to which subsection (1) above applies is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.
- (5) The policy holders' share of income or chargeable gains to which subsection (1) above applies—
  - (a) shall not be treated as relevant profits for the purposes of section 88 of the Finance Act 1989 (corporation tax on policy holders' fraction of profits),  
<sup>F272</sup> . . . . .

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(b)

but the whole of the income or gains to which that subsection applies shall be chargeable to tax at the rate provided by [<sup>F273</sup>that section].

- (6) So far as income is brought into account as mentioned in section 83(2) of the Finance Act 1989, sections 432B to 432F (apportionment of receipts brought into account) have effect as if subsection (1) above did not apply.]

#### Textual Amendments

- F270** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, Sch. 25 para. 5
- F271** Words in s. 438B(1) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 52(1)(f)
- F272** S. 438B(5)(b) repealed (with effect in accordance with Sch. 33 para. 13(11) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 13(6)(a), Sch. 43 Pt. 3(12), Note 3
- F273** Words in s. 438B(5) substituted (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 13(6)(b)

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

- C72** S. 438B modified (with effect in accordance with regs. 21A(5), 21B(3) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), regs. 21A, 21B (as inserted (1.1.2002) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2001 (S.I. 2001/3975), regs. 1, 6) (and as amended by: S.I. 2003/23, regs. 1, 7; S.I. 2004/822, regs. 1, 16, 17)
- C73** S. 438B modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), reg. 1(1), 15; and that modifying reg. 15 is omitted (14.8.2007 with effect in accordance with reg. 1(1)(2) of the revoking S.I.) by virtue of S.I. 2007/2134, reg. 15

#### [<sup>F270</sup>438C] Determination of policy holders' share for purposes of s.438B U.K.

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

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

where—

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

B is an amount equal to the excess of—

- (a) the amount taken into account as receipts of the company in computing those profits (apart from premiums and sums received by virtue of a claim under a reinsurance contract), over

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(b) the amounts taken into account as expenses in computing those profits.

- (3) Where there is no such excess as is mentioned in subsection (2) above, or where the profits are greater than any excess, the whole of the income or gains is treated as the shareholders' share.
- (4) Subject to that, where there are no profits none of the income or gains is treated as the shareholders' share.]

#### Textual Amendments

**F270** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, Sch. 25 para. 5

### 439 Restricted government securities. **U.K.**

- [<sup>F274</sup>(1) For the purposes of this Chapter restricted government securities shall be treated as linked solely to pension business.
- (2) In this section]“restricted government securities” means, subject to the following provisions of this section, government securities issued on the condition that, except in such circumstances as may be specified in the conditions of issue, they are to be held by insurance companies against and applied solely towards meeting pension business liabilities.
- (6) <sup>M12</sup>Subject to subsection (7) below, the following Treasury Stock, namely—
- (a) 2 per cent. Index-linked Treasury Stock 1996;
  - (b) 2 per cent. Index-linked Treasury Stock 2006;
  - (c) 2 per cent. Index-linked Treasury Stock 2011;
- are not restricted government securities for the purposes of this section.
- (7) If any of the index-linked stock referred to in subsection (6) above was on 27th March 1982 held by an insurance company against and applied solely towards meeting the liabilities of the company's pension business, then—
- (a) <sup>M13</sup>if and so long as the stock continues to be so held by that company, it shall continue to be treated as restricted government securities for the purposes of this section; and
  - (b) <sup>M14</sup>if the stock ceases to be restricted government securities otherwise than by virtue of being actually disposed of or redeemed, on the day on which it so ceases the stock shall be deemed for the purposes of corporation tax, including (subject to subsection (8) below) <sup>F275</sup>corporation tax on chargeable gains, to have been disposed of and immediately re-acquired at its market value on that date.
- (8) <sup>M15</sup>For the purposes of sections 67 and 68 of the 1979 Act (gilt-edged securities)—
- (a) in ascertaining the date on which securities were acquired, no account shall be taken of any deemed disposal and reacquisition resulting from subsection (7)(b) above; and
  - (b) so long as any index-linked stock continues, by virtue of subsection (7) (a) above, to be treated as restricted government securities for the purposes of this section, it shall be regarded as being stock of a different kind from the index-linked stock referred to in subsection (6) above which is not so treated.
- <sup>F276</sup>

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### Textual Amendments

**F274** 1990 s.41 and Sch.6 para.7 on and after 1 January 1990 subject to the commencement provisions of paras.11 and 12. Previously

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

**F275** Repealed by 1990 s.132 and Sch.19 Part IV.

**F276** Repealed by 1990 s.132 and Sch.19 Part IV.

### Marginal Citations

**M12** Source—1982 s.58(1), (3)

**M13** Source—1982 s.58(4)

**M14** Source—1982 s.58(5)

**M15** Source—1982 s.58(6)

### [<sup>F277</sup> 439A] Taxation of pure reinsurance business. **U.K.**

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

### Textual Amendments

**F277** S. 439A inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 26 (with Sch. 8 para. 55(2))

### [<sup>F278</sup> 439B] Life reinsurance business: separate charge on profits. **U.K.**

- (1) Where a company carries on life reinsurance business and the profits arising from that business are not charged to tax in accordance with the provisions applicable to Case I of Schedule D, then, subject as follows, those profits shall be treated as income within Schedule D and be chargeable to tax under Case VI of that Schedule, and for that purpose—
- (a) that business shall be treated separately, and

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- (b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (2) Subsection (1) above does not apply to so much of reinsurance business of any description excluded from that subsection by regulations made by the Board.
- Regulations under this subsection may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.
- (3) In making the computation referred to in subsection (1) above—
- (a) sections [F279 82 and 82B to 83AB] of the Finance Act 1989 shall apply with the necessary modifications <sup>F280</sup> . . . , [F281 and]
  - (b) <sup>F282</sup> . . . . .
  - (c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from life reinsurance business in any previous accounting period beginning on or after 1st January 1995.
- (4) Section 396 shall not be taken to apply to a loss incurred by a company on life reinsurance business.
- (5) Nothing in section 128 or 399(1) shall affect the operation of this section.
- (6) Gains accruing to a company which are referable [F283 (in accordance with section 432A)] to its life reinsurance business shall not be chargeable gains.
- (7) <sup>F284</sup> . . . . .]

#### Textual Amendments

- F278** 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))
- F279** Words in s. 439B(3)(a) substituted (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 1(4)(a)**
- F280** Words in s. 439B(3)(a) repealed (with effect in accordance with Sch. 33 para. 1(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 1(4)(b), **Sch. 43 Pt. 3(12)**, Note 1
- F281** Word at the end of s. 439B(3)(a) added (with effect in accordance with Sch. 31 para. 10(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 31 para. 7(2)**
- F282** S. 439B(3)(b) repealed (with effect in accordance with Sch. 31 para. 10(2) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 31 para. 7(1)(b), **Sch. 41 Pt. 5(23)**, Note
- F283** Words in s. 439B(6) inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 9(1)(b)**
- F284** S. 439B(7) repealed (with effect in accordance with Sch. 3 para. 7(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 7(1), **Sch. 8 Pt. 2(6)**, Note

#### [F285 440 Transfers of assets etc. **U.K.**

- (1) If at any time an asset (or a part of an asset) held by an insurance company ceases to be within one of the categories set out in subsection (4) below and comes within another of those categories, the company shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) for a consideration equal to its market value at that time.
- (2) Where—

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- <sup>F286</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 market value at that time.
- <sup>F287</sup>(2A) [ Where under subsection (1) or (2) above there is a deemed disposal and re-acquisition of any asset representing a loan relationship of a company, <sup>F288</sup>Chapter 2 of Part 4 of the Finance Act 1996 applies] as respects that asset as if the asset that is deemed to be disposed of and the asset that is deemed to be re-acquired were different assets.]
- <sup>F289</sup>(2B) [ Where under subsection (1) or (2) above there is a deemed disposal and re-acquisition of any derivative contract of a company, <sup>F290</sup>Schedule 26 to the Finance Act 2002 applies] as respects that contract as if the contract that is deemed to be disposed of and the contract that is deemed to be re-acquired were different assets.]
- (3) Where, apart from this subsection, section <sup>F291</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>F292</sup>paragraphs (a) to (e)] of subsection (4) below, that section shall not apply to the disposal or acquisition.
- <sup>F293</sup>(4) The categories referred to in subsections (1) to (3) above are—
- (a) assets linked solely to pension business;
  - (b) assets linked solely to life reinsurance business;
  - (c) assets of the overseas life assurance fund;
  - (d) assets linked solely to basic life assurance and general annuity business;
  - (e) assets of the <sup>F294</sup>long-term insurance fund] not within any of the preceding paragraphs;
  - (f) other assets.]
- (5) In this section “market value” has the same meaning as in the <sup>F295</sup>1992] Act.
- <sup>F296</sup>(6) [ In a case where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3).]

#### Textual Amendments

**F285** 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)

**F286** 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)**

**F287** 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)

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- F288** Words in s. 440(2A) substituted (with effect in accordance with s. 52(3) of the amending Act (which is amended (retrospectively) by FA 2005 (c. 7), Sch. 4 para. 50, Sch. 11 Pt. 2(7)) by [Finance Act 2004 \(c. 12\)](#), **Sch. 10 para. 43**
- F289** 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)
- F290** Words in s. 440(2B) substituted (with effect in accordance with s. 52(3) of the amending Act (which is amended (retrospectively) by FA 2005 (c. 7), Sch. 4 para. 50, Sch. 11 Pt. 2(7)) by [Finance Act 2004 \(c. 12\)](#), **Sch. 10 para. 70**
- F291** 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))
- F292** 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))
- F293** 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)
- F294** 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)**
- F295** Words in s. 440(5) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290(1), **Sch. 10 para. 14(22)(b)** (with ss. 60, 101(1), 171, 201(3))
- F296** S. 440(6) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 8 para. 28(3)** (with Sch. 8 para. 55(2))

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

- C74** 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**)
- C75** 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**)
- C76** 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**)
- C77** S. 440(1) excluded (25.7.1991) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 48, **Sch. 7 para. 6(4)**
- C78** 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**)
- C79** 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**
- C80** 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**)
- C81** 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)**
- C82** S. 440(4) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), **regs. 1, 15**



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**C83** S. 440(4)(a) modified (6.4.2005) by [The Child Trust Funds \(Insurance Companies\) Regulations 2004](#) (S.I. 2004/2680), [regs. 1, 4, 13](#); S.I. 2004/3369, [art. 2\(1\)](#)

**[<sup>F297</sup>440A Securities. U.K.]**

- (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>F298</sup>(a) so many of the securities as are identified in the company's records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of—
    - (i) pension business, or
    - (ii) life reinsurance business, or
    - (iii) basic life assurance and general annuity business,shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,]
  - (c) so many of the securities as are included in the overseas life assurance fund shall be treated for those purposes as a separate holding which is an asset of that fund,
  - (d) so many of the securities as are included in the company's [<sup>F299</sup>long-term insurance fund] but do not fall within any of the preceding paragraphs shall be treated for those purposes as a separate holding which is an asset of that fund (but not of any of the descriptions mentioned in those paragraphs, and
  - (e) any remaining securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.
- (3) Subsection (2) above also applies where the assets of an insurance company include securities of a class and apart from this section some of them would be regarded as a 1982 holding, and the rest as a [<sup>F300</sup>section 104 holding], for the purposes of corporation tax on chargeable gains.
- (4) In a case within subsection (3) above—
  - (a) the reference in any paragraph of subsection (2) above to a separate holding shall be construed, where necessary, as a reference to a separate 1982 holding and a separate [<sup>F300</sup>section 104 holding], and
  - (b) the questions whether such a construction is necessary in the case of any paragraph and, if it is, how many securities falling within the paragraph constitute each of the two holdings shall be determined in accordance with paragraph 12 of Schedule 6 to the Finance Act 1990 and the identification rules applying on any subsequent acquisitions and disposals.
- (5) Section [<sup>F301</sup>105 of the 1992 Act]] shall have effect where subsection (2) above applies as if securities regarded as included in different holdings by virtue of that subsection were securities of different kinds.

<sup>F302F303</sup>(6) In this section—

“1982 holding” has the same meaning as in section 109 of the 1992 Act;

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“<sup>F300</sup>section 104 holding” has the same meaning as in section 104(3) of that Act; and

“securities” means shares, or securities of a company, and any other assets where they are of a nature to be dealt in without identifying the particular assets disposed or acquired.]

[<sup>F302</sup>(7) In a case where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(4).]

### Textual Amendments

- F297** 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)
- F298** 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))
- F299** 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)**
- F300** 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)**
- F301** 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))
- F302** 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))
- F303** S. 440A(6) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(23)(b)** (with ss. 60, 101(1), 171, 201(3))

### Modifications etc. (not altering text)

- C84** 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**)
- C85** 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**)
- C86** 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**
- C87** 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**)
- C88** S. 440A(2)(a)(i) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 16**
- C89** S. 440A(2)(a)(i) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 14**; S.I. 2004/3369, **art. 2(1)**

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| <p><b>C90</b> See 1990 s.41 and Sch.6 para.12(2)—subs.(d) omitted for period 1 January 1990 to 19 March 1990 inclusive.</p> <p><b>C91</b> 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”.</p> <p><b>C92</b> 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”.</p> |
|---|

[<sup>F304</sup> **440B** Modifications where tax charged under Case I of Schedule D. **U.K.**]

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

[<sup>F306</sup> .....]  
<sup>F305</sup>(1A)

(2) <sup>F306</sup> .....

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

- (a) assets of the [<sup>F307</sup>long-term insurance fund], and
- (b) other assets.

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

- (”) so many of the securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of [<sup>F308</sup>long-term] business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business, and
- (b) any remaining securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph.”.

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

**Textual Amendments**

**F304** 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))

**F305** 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)**

**F306** 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

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**Changes to legislation:** *Income and Corporation Taxes Act 1988, CHAPTER I is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F307** 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\(1\)\(i\)](#)

**F308** Words in s. 440B(4) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 52\(2\)\(g\)](#)

VALID FROM 19/07/2007

**[<sup>F309</sup>440C] Modifications for change of tax basis U.K.**

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

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(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 in accordance with Case I of Schedule D,

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

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

#### Textual Amendments

**F309** S. 440C inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 8 para. 9 (with Sch. 8 Pt. 2)

VALID FROM 27/12/2007

[<sup>F310</sup> 440D Modifications in relation to BLAGAB group reinsurers **U.K.**

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

#### Textual Amendments

**F310** S. 440D inserted (27.12.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Taxation of Reinsurance Business) (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/3430), art. 3(2)

[<sup>F311</sup> 441 Overseas life assurance business. **U.K.**

(1) This section <sup>F312</sup> . . . shall apply for an accounting period of an insurance company <sup>F313</sup> . . . if during the period the company carries on overseas life assurance business.

(2) Subject to the provisions of this section <sup>F312</sup> . . . , profits arising to the company from the overseas life assurance business shall be treated as income within Schedule D, and the chargeable under Case VI of that Schedule, and for that purpose—

- (a) that business shall be treated separately, and
- (b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.

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- (3) Subsection (2) above shall not apply if the company is charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.
- (4) In making the computation referred to in subsection (2) above—
- (a) sections [<sup>F314</sup>82 and 82B to 83AB] of the Finance Act 1989 shall apply with the necessary modifications <sup>F315</sup> . . . , [<sup>F316</sup>and]  
<sup>F317</sup> [ <sup>F318</sup> . . . . . ]
- (b) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from overseas life assurance business in any previous accounting period beginning on or after 1st January 1990.
- (5) Section 396 shall not be taken to apply to a loss incurred by a company on overseas life assurance business.
- (6) Nothing in section 128 or 399(1) shall affect the operation of this section.
- (7) <sup>F319</sup> . . . . .
- (8) Gains accruing on the disposal by a company of assets of its overseas life assurance fund shall not be chargeable gains. ]]

#### Textual Amendments

- F311** Ss. 441, 441A substituted for s. 441 by [Finance Act 1990 \(c. 29\)](#), [Sch. 7 paras. 3, 10](#)
- F312** Words in s. 441(1)(2) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 12\(3\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F313** Words in s. 441(1) repealed (with effect in accordance with [Sch. 8 para. 55](#) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 30](#), [Sch. 29 Pt. 8\(5\)](#), Note 1
- F314** Words in s. 441(4)(a) substituted (with effect in accordance with [Sch. 33 para. 1\(5\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 1\(4\)\(a\)](#)
- F315** Words in s. 441(4)(a) repealed (with effect in accordance with [Sch. 33 para. 1\(5\)](#) of the repealing Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 1\(4\)\(b\)](#), [Sch. 43 Pt. 3\(12\)](#), Note 1
- F316** Word at the end of s. 441(4)(a) added (with effect in accordance with [Sch. 31 para. 10\(2\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 31 para. 7\(2\)](#)
- F317** S. 441(4)(aa) inserted (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 16\(5\)](#) (with [Sch. 8 para. 55\(2\)](#))
- F318** S. 441(4)(aa) repealed (with effect in accordance with [Sch. 31 para. 10\(2\)](#) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 31 para. 7\(1\)\(c\)](#), [Sch. 41 Pt. 5\(23\)](#), Note
- F319** S. 441(7) repealed (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2 (with [Sch. 8 para. 55\(2\)](#))

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

- C93** S. 441 modified (with effect in accordance with reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), [regs. 1\(1\)](#), 28 (as amended by [S.I. 2004/822](#), [regs. 1, 22](#))
- C94** S. 441 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [regs. 1\(1\)](#), 18; and that modifying reg. 18 is omitted (14.8.2007 with effect in accordance with reg. 1(1)(2) of the revoking S.I.) by virtue of [S.I. 2007/2134](#), [reg. 18\(a\)](#)

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**[<sup>F320</sup> 441 Section 441: distributions. U.K.]**

- (1) <sup>F321</sup> .....
- (2) <sup>F322</sup> .....
- [<sup>F323</sup> (3) <sup>F322</sup> .....**
- (4) <sup>F322</sup> .....
- (5) <sup>F322</sup> .....]
- (7) <sup>F322</sup> .....
- (8) <sup>F322</sup> .....]

**Textual Amendments**

- F320** Ss. 441, 441A substituted for s. 441 by Finance Act 1990 (c. 29), Sch. 7 paras. 3, 10
- F321** 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
- F322** 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)**
- F323** 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>F324</sup> 441B Treatment of UK land. U.K.]**

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

[ For the purposes of subsection (2) above a Schedule A business for the exploitation  
<sup>F325</sup>(2A) of any land to which this section applies shall be treated as a separate business from any other such business.]

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

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(5) In this section “land” has the same meaning as in Schedule 19AA.]

#### Textual Amendments

**F324** 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))

**F325** S. 441B(2A) inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 5 para. 41 (with Sch. 5 para. 73)

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

- (1) <sup>M16</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>F326</sup>permanent establishment] and—
- (a) that business, or part of it, together with the whole assets of the company used for the purposes of that business or part (or together with the whole of those assets other than cash), is transferred to a company not resident in the United Kingdom;
  - (b) the business or part is so transferred wholly or partly in exchange for shares, or for shares and loan stock, issued by the transferee company to the transferor company; and
  - (c) the shares so issued, either alone or taken together with any other shares in the transferee company already held by the transferor company, amount in all to not less than one quarter of the ordinary share capital of the transferee company.
- (2) In making any computation in accordance with the provisions of this Act applicable to Case I of Schedule D of the profits or losses of the transferor company for the accounting period in which the transfer occurs, there shall be disregarded any profit or loss in respect of any asset transferred which, apart from this subsection, would fall to be taken into account in making that computation.
- (3) Where by virtue of subsection (2) above any profit or loss is disregarded in making any computation <sup>F327</sup> . . . the profit or loss shall be treated for the purposes of the [<sup>F328</sup>1992 Act] as a chargeable gain or allowable loss accruing to the transferor company on the transfer.
- (4) Where at any time a company resident in the United Kingdom—
- (a) which carries on insurance business wholly outside the United Kingdom, and
  - (b) the whole or part of whose ordinary share capital is beneficially owned by one or more companies resident in the United Kingdom,
- ceases to be resident in the United Kingdom, the profits or losses of the company in respect of that business for the accounting period ending at that time shall be computed for tax purposes without regard to the whole, or, as the case may be, a corresponding part of any profit or loss in respect of any asset which, apart from this subsection, would fall to be calculated in accordance with section 100(1)(b) and taken into account in making that computation.



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### Textual Amendments

- F326** 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)
- F327** 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
- F328** Words in s. 442(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), Sch. 10 para. 14(24) (with ss. 60, 101(1), 171, 201(3))

### Modifications etc. (not altering text)

- C95** 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

- M16** Source—1977 s.45(1)—(4); 1979(C) Sch. 7

## [<sup>F329</sup> 442A] Taxation of investment return where risk reinsured. **U.K.**

- (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>F330</sup> while the risk remains reinsured by the company under] the reinsurance arrangement and shall be charged to tax under Case VI of Schedule D.
- (2) The Board may make provision by regulations as to the amount of investment return to be treated as accruing in each accounting period during which the reinsurance arrangement is in force.
- (3) The regulations may, in particular, provide that the investment return to be treated as accruing to the company in respect of a policy or contract in any accounting period shall be calculated by reference to—
  - (a) the aggregate of the sums paid by the company to the reinsurer during that accounting period and any earlier accounting periods by way of premium or otherwise;
  - (b) the aggregate of the sums paid by the reinsurer to the company during that accounting period and any earlier accounting periods by way of commission or otherwise;
  - (c) the aggregate amount of the net investment return treated as accruing to the company in any earlier accounting periods, that is to say, net of tax at such rate as may be prescribed; and
  - (d) such percentage rate of return as may be prescribed.

[ Where a transfer of the reinsurance arrangement from one insurance company (“the <sup>F331</sup>(3A) transferor”) to another (“the transferee”) is effected by novation or an insurance business transfer scheme, for the purpose of calculating the investment return to be treated as accruing to the transferee in respect of the policy or contract after the transfer, the references to the company in subsection (3)(a), (b) and (c) above include (as well as the transferee)—

- (a) the transferor, and

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- (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>F332</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

- F329** 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))
- F330** 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)**
- F331** 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)**
- F332** 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)

- C96** 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**
- C97** 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**
- C98** 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**

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**443 Life policies carrying rights not in money. U.K.**

<sup>M17</sup>Where any investments or other assets are or have been, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder on or after 6th April 1967, the policy holder's acquisition of the assets, and the disposal of them to him, shall be deemed to be for a consideration equal to the market value of the assets for the purposes of computing income in accordance with Case I or VI of Schedule D.

**Marginal Citations**

**M17** Source—1970 s.321(1)(b), (2)

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

(1) <sup>M18</sup>This section applies in relation to policies of life assurance issued before 5th August 1965 by a company carrying on life assurance business, being policies which—

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

(2) Where—

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

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

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

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

**Marginal Citations**

**M18** Source—1970 s.322

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**[<sup>F333</sup>444A] Transfers of business. U.K.**

[<sup>F334</sup>(1) Subject to subsection (7) below, this section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).]

[<sup>F335</sup>(2) Any expenses payable which (assuming the transferor had continued to carry on the business transferred after the transfer) would have fallen to be brought into account by the transferor in determining the deduction for expenses payable to be allowed under section 76 in computing profits for an accounting period following the period which ends with the day on which the transfer takes place shall, instead, be brought into account under and in accordance with that section by the transferee as expenses payable by him (and giving effect in the case of acquisition expenses, to section 86(6) to (9) of the Finance Act 1989).]

(3) Any loss which (assuming the transferor had continued to carry on the business transferred after the transfer)—

(a) would have been available under section 436(3)(c) [<sup>F336</sup>or 439B(3)(c)] to be set off against profits of the transferor for the accounting period following that which ends with the day on which transfer takes place, or

(b) where [<sup>F337</sup>the transfer relates to any overseas life assurance business or] in connection with the transfer the transferor also transfers the whole or part of any [<sup>F338</sup>such] business, would have been so available under section 441(4)(b),

shall, instead, be treated as a loss of the transferee (and available to be set off against profits of the same [<sup>F339</sup>category] of business as that in which it arose) [<sup>F340</sup>if the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to the transfer).]

[ Where subsection (3) above has effect, sections [<sup>F342</sup>343(4),] (5) and (7) to (12) and [<sup>F341</sup>(3ZA) 344 apply in relation to the business in which the loss arose construing—

(a) references to the predecessor and the successor as to (respectively) the transferor and the transferee, and

(b) references to section 343(3) as to subsection (3) of this section,

except that nothing in section 343(8) to (10) and (12) applies in relation to the transferee.]

[ Any subsection (2) excess (within the meaning of section 432F(2)) which (assuming [<sup>F343</sup>(3A) the transferor had continued to carry on the business transferred after the transfer) would have been available under section 432F(3) or (4) to reduce a subsection (3) figure (within the meaning of section 432F(1)) of the transferor in an accounting period following that which ends with the day on which transfer takes place—

(a) shall, instead, be treated as a subsection (2) excess of the transferee, and

(b) shall be taken into account in the first accounting period of the transferee ending after the date of the transfer (to reduce the subsection (3) figure or, as the case may be, to produce or increase a subsection (2) excess for that period),

in relation to the revenue account of the transferee dealing with or including the business transferred.]

(4) Where acquisition expenses are treated as [<sup>F344</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.

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- (5) Where the transfer is of part only of the transferor's [<sup>F345</sup>long-term] business, [<sup>F346</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 by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.
- (7) Subject to subsection (8) below, this section shall not apply unless the transfer is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to corporation tax.
- (8) Subsection (7) above shall not affect the operation of this section in any case where, before the transfer, the Board have, on the application of the transferee, notified the transferee that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any scheme or arrangements such as are mentioned in that subsection; and subsections (2) to (5) of section [<sup>F347</sup>138 of the 1992 Act] shall have effect in relation to this subsection as they have effect in relation to subsection (1) of that section.]

#### Textual Amendments

- F333** 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
- F334** 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)
- F335** 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)
- F336** Words in s. 444A(3)(a) inserted (with effect in accordance with Sch. 9 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 27(2) (with Sch. 8 para. 55(2))
- F337** Words in s. 444A(3) inserted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 9 para. 1(3)(a)
- F338** Word in s. 444A(3)(b) substituted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 9 para. 1(3)(b)
- F339** Word in s. 444A(3) substituted (with effect in accordance with Sch. 9 para. 19(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 19(2)
- F340** 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)
- F341** 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)
- F342** Words in s. 444A(3ZA) substituted (22.7.2004) by Finance Act 2004 (c. 12), Sch. 7 para. 1
- F343** 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))
- F344** 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)
- F345** 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)

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**F346** 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))

**F347** Words in s. 444A(8) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), Sch. 10 para. 14(25) (with ss. 60, 101(1), 171, 201(3))

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

**C99** S. 444A(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), regs. 1(1), 30 (as amended (1.12.2001) by S.I. 2001/3629, arts. 1(2)(b), 159); and that modifying reg. 30 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, reg. 23

VALID FROM 19/02/2008

**F348** ~~444A~~ **444A** **Transfers of life assurance business: Case VI losses of the transferor** **U.K.**

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

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

where—

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

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

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

#### Textual Amendments

**F348** Ss. 444AZA, 444AZB inserted (19.2.2008 with effect in accordance with art. 1(5) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 9**

VALID FROM 19/02/2008

#### <sup>F348</sup> ~~444AZB~~ **Transfers of life assurance business: Case I losses of the transferor** **U.K.**

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

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

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*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 Case I loss to which it would otherwise apply as is appropriate.
- (5) Any question arising as to the operation of subsection (4) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing.]

#### Textual Amendments

**F348** Ss. 444AZA, 444AZB inserted (19.2.2008 with effect in accordance with art. 1(5) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 9**

#### [<sup>F349</sup>444AA] **Transfers of business: deemed periodical return** **U.K.**

- (1) This section applies where an insurance business transfer scheme has effect to transfer the whole of the long-term business of one person (“the transferor”).
- (2) Where the last period covered by a periodical return of the transferor ends otherwise than immediately before the transfer, there is to be deemed for the purposes of corporation tax to be a periodical return of the transferor covering the period—
  - (a) beginning immediately after the last period ending before the transfer which is covered by an actual periodical return of the transferor, and
  - (b) ending immediately before the transfer,
 containing such entries as would have been included in an actual periodical return of the transferor covering that period (and so making that period a period of account of the transferor).
- (3) Where the last period covered by a periodical return of the transferor (whether or not by virtue of subsection (2) above) ends immediately before the transfer, there is to be deemed for the relevant purpose to be a periodical return of the transferor—
  - (a) covering the time of the transfer, and
  - (b) containing such entries as would have been included in an actual periodical return covering the time of the transfer,
 (and so making the time of the transfer a period of account of the transferor for the relevant purpose).
- (4) Where the last period covered by a periodical return of the transferor ends after the transfer, the periodical return covering that period is to be ignored for all purposes of corporation tax other than the relevant purpose.



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(5) In this section “the relevant purpose” means determining for the purposes of section 83(2B) of the Finance Act 1989 whether a transfer is brought into account as part of total expenditure.

(6) For the purposes of this section “insurance business transfer scheme” includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).

[ Where this section applies in relation to a transfer in a case in which the transferor<sup>F350</sup> (7) continues, after the transfer, to carry on insurance business which is not long-term business—

- (a) references in this section to the last period covered by a periodical return (or deemed periodical return) of the transferor shall be taken to be references to the last period covered by a periodical return (or deemed periodical return) of the transferor containing entries relating to long-term business;
- (b) subsection (4) above is to be read as if after “other than” there were inserted the purposes of sections 444BA to 444BD and.]

#### Textual Amendments

**F349** 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)

**F350** S. 444AA(7) inserted (with effect in accordance with Sch. 9 para. 6(3) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 6(2)

#### [<sup>F351</sup> 444AB] **Transfers of business: charge on transferor retaining assets** U.K.

- (1) This section applies where, immediately after an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to one or more others (“the transferee” or “the transferees”), the transferor—
  - (a) does not carry on long-term business, but
  - (b) holds assets which, immediately before the transfer, were assets of its long-term insurance fund.
- (2) The transferor shall be charged to tax under Case VI of Schedule D in respect of the taxable amount as if it had been received by the transferor during the accounting period beginning immediately after the day of the transfer.
- (3) If the transferor was charged to tax on the profits of its life assurance business under Case I of Schedule D for the accounting period [<sup>F352</sup> ending immediately before the transfer], the taxable amount is the whole of the previously untaxed amount.
- (4) Otherwise, the taxable amount is the non-BLAGAB fraction of the previously untaxed amount.
- (5) The previously untaxed amount is the lesser of—
  - [<sup>F353</sup>(a) if there are no retained liabilities, the fair value of the retained assets or, if there are, so much of the fair value of the retained assets as exceeds the amount of the retained liabilities, and]

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- (b) the amount by which the fair value of the assets of the transferor's long-term insurance fund immediately before the transfer exceeds the amount of the relevant pre-transfer liabilities.
- (6) In subsection (5) above "fair value", in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.
- [ In subsection (5) above—
- <sup>F354</sup>(6A) (a) "the retained assets" means such of the assets held by the transferor immediately after the transfer as were assets of its long-term insurance fund immediately before the transfer; and
- (b) "the retained liabilities" means such of the liabilities of the transferor immediately after the transfer as were included in column 1 of line 14, 17, 22, 31 or 38 of Form 14 in the periodical return of the transferor covering the period of account ending immediately before the transfer.]
- (7) Subject to subsection (8) below, the amount of the relevant pre-transfer liabilities is the aggregate of the amounts shown in column 1 of lines 14 and 49 of Form 14 in the periodical return of the transferor covering the period of account ending immediately before the transfer.
- (8) If the amount of the liabilities transferred exceeds the value of the assets so transferred, as brought into account for the first period of account of the transferee (or any of the transferees) ending after the transfer, the amount of the relevant pre-transfer liabilities is the amount arrived at by deducting the excess from the aggregate of the amounts shown as mentioned in subsection (7) above.
- (9) For the purposes of subsection (4) above the non-BLAGAB fraction of the previously untaxed amount is the fraction of which—
- (a) the numerator is the amount of the liabilities transferred, apart from those which are liabilities of basic life assurance and general annuity business, and
- (b) the denominator is the amount of the liabilities transferred.
- (10) References in this section to assets held by the transferor after the transfer do not include any held on trust for the transferee or any of the transferees.
- (11) For the purposes of this section "insurance business transfer scheme" includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).]

#### Textual Amendments

- F351** 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\(1\)](#)
- F352** Words in s. 444AB(3) substituted (with effect in accordance with [Sch. 9 para. 20\(7\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 20\(4\)](#)
- F353** S. 444AB(5)(a) substituted (with effect in accordance with [Sch. 7 para. 2\(4\)](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 2\(2\)](#)
- F354** S. 444AB(6) inserted (with effect in accordance with [Sch. 7 para. 2\(4\)](#) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 2\(3\)](#)

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**F355 444ABA Subsequent charge in certain cases within s.444AB U.K.**

- (1) This section applies where—
  - (a) section 444AB applies in relation to a transfer in the case of which there are retained liabilities, and
  - (b) in any accounting period of the transferor beginning after the day of the transfer there is a reduction in the amount of the retained liabilities occasioned otherwise than by the making of a payment in or towards their discharge.
- (2) The transferor shall be charged to tax under Case VI of Schedule D in respect of the taxable amount as if it had been received by the transferor in the accounting period in which the reduction occurs.
- (3) If the transferor was charged to tax on the profits of its life assurance business under Case I of Schedule D for the accounting period [<sup>F356</sup>ending immediately before the transfer], the taxable amount is the whole amount of the reduction.
- (4) Otherwise the taxable amount is the non-BLAGAB fraction of the amount of the reduction.
- (5) The non-BLAGAB fraction of the amount of the reduction is the fraction of which—
  - (a) the numerator is the amount of the liabilities transferred, apart from those which are liabilities of basic life assurance and general annuity business, and
  - (b) the denominator is the amount of the liabilities transferred.
- (6) Where in any accounting period of the transferor beginning after the transfer there is an increase in the amount of the retained liabilities, this section applies in relation to subsequent accounting periods of the transferor as if the amount of the retained liabilities were reduced by the amount of the increase.
- (7) Where an amount is shown as post-transfer reduction liabilities in the transferor's accounts for any accounting period beginning after the transfer, this section applies as if the amount of the retained liabilities at the end of that accounting period (and the beginning of the next) were increased by the amount so shown.
- (8) In subsection (7) above “post-transfer reduction liabilities” means liabilities of the transferor to make payments to relevant persons which, in accordance with the terms of the insurance business transfer scheme, have arisen in consequence of a reduction in the amount of the retained liabilities at any time after the transfer.
- (9) In subsection (8) above “relevant persons” means—
  - (a) if the transferor's life assurance business immediately before the transfer was mutual business, persons who were policy holders or annuitants, or members of the transferor, at that time, and
  - (b) in any other case, persons who were policy holders or annuitants at that time.]

**Textual Amendments**

**F355** 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)

**F356** Words in s. 444ABA(3) substituted (with effect in accordance with Sch. 9 para. 20(7) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 20(5)

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VALID FROM 16/12/2010

<sup>F357</sup> **444ABAA profit fund transferred assets U.K.**

- (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.]

**Textual Amendments**

**F357** S. 444ABAA inserted (with effect in accordance with s. 15(11) of the amending Act) by Finance (No. 3) Act 2010 (c. 33), s. 15(10)

VALID FROM 19/07/2007

<sup>F358</sup> **444ABB retained assets U.K.**

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

*Status: Point in time view as at 09/06/2006. This version of this chapter contains provisions that are not valid for this point in time.*

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

### Textual Amendments

**F358** Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 4(1); S.I. 2008/379, art. 2

VALID FROM 19/02/2008

### **F359** 444AB **Transfers of business: election for transferee to pay tax of transferor** **U.K.**

- (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>M19</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.]

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#### Textual Amendments

**F359** S. 444ABBA inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [art. 14](#)

#### Marginal Citations

**M19** 1970 c. 9

VALID FROM 19/07/2007

### [<sup>F360</sup> **444ABC** Transfer scheme transferring part of business: transferor **U.K.**

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

### FVA – BTO

where

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

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

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

#### Textual Amendments

**F360** 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](#)

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VALID FROM 19/07/2007

**[<sup>F361</sup>444ABD] Transferor's period of account including transfer** **U.K.**

- (1) Any profits representing the amount by which—
- (a) the value of the liabilities transferred by an insurance business transfer scheme, exceeds
  - (b) the value of the assets transferred by the insurance business transfer scheme shown (or treated as shown) in line 32 of the periodical return of the transferor for the period of account of the transferor including the transfer date,
- are to be taken into account as profits of that period of account.
- (2) See section 444AA for the meaning of “the transfer date” in this section.]

**Textual Amendments**

**F361** S. 444ABD inserted (with effect in accordance with Sch. 9 para. 17(4) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 5

**444AC [<sup>F362</sup>Transfers of business: excess of assets or liabilities]** **U.K.**

- (1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2) If—
- (a) the element of the transferee’s [<sup>F363</sup>line 31 figure] representing the transferor’s long-term insurance fund, exceeds
  - (b) [<sup>F364</sup>the aggregate amount] of the liabilities to policy holders and annuitants transferred to the transferee [<sup>F365</sup>and of any relevant debts],
- the excess is not to be regarded [<sup>F366</sup>as a business transfer-in] of the transferee for the purposes of section [<sup>F367</sup>83(2)(e)] of the Finance Act 1989.
- [<sup>F368</sup>(2A) Subject to subsections (2C) and (2D) below, subsection (2B) below applies if—
- (a) the aggregate amount of the liabilities to policy holders and annuitants transferred to the transferee and of any relevant debts, exceeds
  - (b) the element of the transferee’s line 31 figure representing the transferor’s long-term insurance fund.
- (2B) Where this subsection applies—
- (a) the excess is to be taken into account as a receipt of the transferee in computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits of its life assurance business for the period of account of the transferee in which the transfer takes place (“the relevant period of account”); and
  - (b) the relevant proportion of the excess is to be taken into account as a receipt of the transferee in so computing the profits of each category of its life assurance business for the relevant period of account;

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and, for this purpose, “the relevant proportion”, in relation to a category of the transferee's life assurance business, is the proportion that the liabilities of that category that are transferred bear to the total liabilities transferred.

(2C) Subsection (2B) above does not require the excess to be taken into account as a receipt of the transferee in so computing the profits of its life assurance business for the relevant period of account if—

- (a) transferred liabilities of an aggregate amount equal to the excess are not taken into account in so computing those profits for that period of account, and
- (b) the amount of the closing liabilities of that period of account is taken into account as opening liabilities in so computing those profits for the next period of account.

(2D) Subsection (2B) above does not require the relevant proportion of the excess to be taken into account as a receipt of the transferee in so computing the profits of a category of its life assurance business for the relevant period of account if—

- (a) transferred liabilities of an aggregate amount equal to the relevant proportion of the excess are not taken into account in so computing those profits for that period of account, and
- (b) the amount of the closing liabilities of that period of account is taken into account as opening liabilities in so computing those profits for the next period of account.

(2E) In subsections (2C)(a) and (2D)(a) above “transferred liabilities” means—

- (a) liabilities to policy holders or annuitants at the end of the relevant period of account that were transferred to the transferee, and
- (b) payments made to discharge, during that period of account, liabilities to policy holders or annuitants that were transferred to the transferee.]

(3) In this section and section 444AD “the element of the transferee's [<sup>F363</sup>line 31 figure] representing the transferor's long-term insurance fund” means so much of—

- (a) the amount which is brought into account by the transferee [<sup>F366</sup>as a business transfer-in] in the period of account of the transferee in which the transfer takes place, as represents
- (b) the assets transferred to the transferee.

[<sup>F369</sup>(4) In this section “relevant debts” means debts which become debts of the transferee's long-term insurance fund as a result of the transfer.

(5) But if—

- (a) the fair value, as at the date of the transfer, of the assets which become assets of the transferee's long-term insurance fund as a result of the transfer, exceeds
- (b) the element of the transferee's line 31 figure representing the transferor's long-term insurance fund,

the amount of any relevant debts for the purposes of this section is to be reduced (but not below nil) by the excess.

(6) In determining the amount of the liabilities transferred for the purposes of this section, there is to be disregarded any reduction in the transferee's liabilities resulting from reinsurance under a contract of reinsurance which is a relevant financial reinsurance contract (within the meaning of section 82C of the Finance Act 1989).

(7) But where—



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- (a) such a reduction results from reinsurance under a contract which was entered into by the transferor as cedant before the day on which the transfer takes place, and
- (b) the transferor's rights and obligations under the contract are transferred to the transferee under the transfer,
- the amount of the reduction that would (apart from this subsection) be disregarded under subsection (6) above shall be reduced (but not below nil) by the amount given by subsection (8) below or, if less, the amount given by subsection (9) below.
- (8) The amount given by this subsection is the amount by which the liabilities at the end of the closing period which fell to be taken into account in computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits of the transferor's business for that period were reduced as a result of reinsurance under the contract.
- (9) The amount given by this subsection is the amount given by paragraph (a) below reduced (but not below nil) by the amount given by paragraph (b) below—
- (a) the amount given by this paragraph is the aggregate of the relevant amounts for any accounting period, and for this purpose the relevant amount for an accounting period is the amount in sub-paragraph (i) or (ii) below or, where applicable, the aggregate of those amounts—
- (i) the amount by which the profits of the transferor's business, computed in accordance with the provisions of this Act applicable to Case I of Schedule D, were increased for that accounting period as a result of reinsurance under the contract;
- (ii) the amount by which the losses of the transferor's business, so computed, were reduced for that accounting period as a result of reinsurance under the contract; and
- (b) the amount given by this paragraph is the aggregate of the relevant amounts for any accounting period, and for this purpose the relevant amount for an accounting period is the amount in sub-paragraph (i) or (ii) below or, where applicable, the aggregate of those amounts—
- (i) the amount by which the profits of the transferor's business, so computed, were reduced for that accounting period as a result of a reduction in reinsurance under the contract;
- (ii) the amount by which the losses of the transferor's business, so computed, were increased for that accounting period as a result of a reduction in reinsurance under the contract.
- (10) In subsections (8) and (9) above—
- “the closing period” means the accounting period of the transferor ending with the day on which the transfer takes place;
- “the transferor's business” means—
- (a) the transferor's life assurance business, and
- (b) any category of its life assurance business to which the liabilities relate.
- (11) For the purposes of this section and section 444ACA—
- “fair value” has the meaning given by section 444AB(6);
- “insurance business transfer scheme” includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).]

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### Textual Amendments

- F362** S. 444AC heading substituted (with effect in accordance with Sch. 9 para. 7(6) of the amending Act) by virtue of Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 7(5)**
- F363** Words in s. 444AC(2)(3) substituted (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. 5(2)(a)**
- F364** Words in s. 444AC(2)(b) substituted (with effect in accordance with Sch. 9 para. 7(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 7(2)(a)**
- F365** Words in s. 444AC(2)(b) inserted (with effect in accordance with Sch. 9 para. 7(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 7(2)(b)**
- F366** Words in s. 444AC(2)(3) substituted (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. 5(2)(b)**
- F367** Words in s. 444AC(2) substituted (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. 5(3)**
- F368** S. 444AC(2A)-(2E) inserted (with effect in accordance with Sch. 9 para. 7(6)(7) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 7(3)**
- F369** S. 444AC(4)-(11) inserted (with effect in accordance with Sch. 9 para. 7(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 7(4)**

VALID FROM 19/07/2007

### [<sup>F370</sup> 444ACZA] **Transfer schemes transferring part of business: reduction in income of transferee U.K.**

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

### Textual Amendments

- F370** Ss. 444AC, 444ACZA substituted for s. 444AC (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 6(1)**; S.I. 2008/379, **art. 2**

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**F371 444AC Transfers of business: transferor shares are assets of transferee's long-term insurance fund etc U.K.**

(1) This section applies where an insurance business transfer scheme (see section 444AC(11)) has effect to transfer long-term business from one company (“the transferor”) to another (“the transferee”).

(2) If—

- (a) immediately before the transfer, the assets of the long-term insurance fund of the transferee comprise or include relevant shares or an interest in such shares, and
- (b) the fair value (see section 444AC(11)) of the relevant shares, or of that interest, is reduced (whether or not to nil) as a result of the transfer,

an amount equal to that reduction in fair value is to be taken into account under section 83(2) of the Finance Act 1989 as a receipt of the transferee of the period of account of the transferee in which the transfer takes place.

(3) But if—

- (a) the assets transferred to the transferee under the transfer comprise or include assets (“the relevant assets”) which, immediately before the transfer,—
  - (i) were assets of the transferor, but
  - (ii) were not assets of the transferor's long-term insurance fund, and
- (b) in respect of the transfer of the relevant assets, an amount is—
  - (i) brought into account by the transferee as other income of the transferee of the period of account of the transferee in which the transfer takes place, and
  - (ii) taken into account in computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits of the transferee's life assurance business and any category of its life assurance business to which the amount is referable,

the amount taken into account under section 83(2) of the Finance Act 1989 by virtue of subsection (2) above shall be reduced (but not below nil) by an amount equal to the amount referred to in paragraph (b) above.

(4) In subsection (2) above “relevant shares” means—

- (a) some or all of the shares in the transferor, or
- (b) some or all of the shares in a company (whether or not an insurance company) which owns, directly or indirectly,—
  - (i) some or all of the shares in the transferor, or
  - (ii) an interest in some or all of those shares.

(5) In subsection (4) above “shares”, in relation to a company, includes any interests in the company possessed by members of the company.]

#### Textual Amendments

**F371** 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)

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

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

Paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.
- (4) The amount referred to in subsection (2) above is the amount by which—
  - <sup>F372</sup>(a) the fair value of such of the assets of the long-term insurance fund of the transferee immediately after the transfer as were assets of the transferor’s long-term insurance fund immediately before the transfer, is greater than]
  - (b) the element of the transferee’s <sup>F373</sup>[line 31 figure] representing the transferor’s long-term insurance fund.
- (5) In subsection (4) above “fair value”, in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.

#### **Textual Amendments**

**F372** S. 444AD(4)(a) substituted (with effect in accordance with Sch. 7 para. 4(2) of the amending Act) by Finance Act 2004 (c. 12), Sch. 7 para. 4(1)

**F373** Words in s. 444AD(4)(b) substituted (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. 6(2)

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

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

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VALID FROM 19/07/2007

#### **444AE** Transfer schemes: anti-avoidance rule **U.K.**

- (1) This section applies where—
  - (a) as a result of the whole or any part of transfer scheme arrangements involving the transfer of long-term business from one person (“the transferor”) to another (“the transferee”) a Case I advantage is obtained by the transferor or the transferee (or by both), and
  - (b) the sole or main purpose, or one of the main purposes, of the whole or any part of the transfer scheme arrangements is the obtaining of that Case I advantage.
- (2) In subsection (1) above “transfer scheme arrangements” means an insurance business transfer scheme (“the relevant transfer scheme”) together with any relevant associated operations.
- (3) If a Case I advantage is obtained by the transferor (see subsection (1) of section 444AEB), the amount of the transferor's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferor for the period of account of the transferor covering the transfer date.
- (4) If a Case I advantage is obtained by the transferee (see subsection (1) of section 444AEC), the amount of the transferee's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferee for the first period of account of the transferee ending after the transfer date.
- (5) In this section and sections 444AEB and 444AEC “relevant associated operations”, in relation to the relevant transfer scheme, means—
  - (a) any other insurance business transfer scheme,
  - (b) any contract of reinsurance,
  - (c) any reconstruction or amalgamation involving the transferor, a dependant of the transferor which is an insurance undertaking or the transferee, or
  - (d) any surplus-increasing transfer of assets,which is effected in connection with the relevant transfer scheme.
- (6) In subsection (5) above—

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

“surplus-increasing transfer of assets” means a transfer of assets of the transferor's long-term insurance fund to the transferee which is not brought into account for any period of account of the transferee but increases the amount of total surplus shown in line 39 of Form 58 in any periodical return of the transferee.
- (7) See section 444AA for the meaning of “the transfer date” in this section.

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VALID FROM 19/07/2007

#### **444AEB**Case I advantage: transferor **U.K.**

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

VALID FROM 19/07/2007

#### **444AEC**Case I advantage: transferee **U.K.**

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

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- (b) the amount by which Case I losses for each such period of account are greater than they would be but for the transfer scheme arrangements or part.
- (3) This section applies to a period of account if it is—
- (a) the first period of account of the transferee ending after the transfer date or after the effecting of the first of any relevant associated operations (if that occurs before the transfer date),
  - (b) the second period of account of the transferee ending after the transfer date or after the effecting of the last of any relevant associated operations (if that occurs after the transfer date), or
  - (c) any intervening period of account.
- (4) See section 444AA for the meaning of “the transfer date”, section 444AEA for the meaning of “relevant associated operations” and section 444AEB for the meaning of “Case I profits” and “Case I losses”, in this section.

VALID FROM 19/02/2008

<sup>F374</sup> **444AECB** of transfer scheme arrangements: anti-avoidance rule **U.K.**

- (1) This section applies where—
- (a) as a result of any part of transfer scheme arrangements involving the transfer of long-term business from one person (“the transferor”) to another (“the transferee”) a Case I advantage is obtained by the transferor or the transferee (or by both), and
  - (b) the sole or main purpose, or one of the main purposes, of that part of the transfer scheme arrangements is the obtaining of that Case I advantage.
- (2) In subsection (1) above “transfer scheme arrangements” has the same meaning as in section 444AEA.
- (3) If a Case I advantage is obtained by the transferor (see subsection (1) of section 444AECB), the amount of the transferor's Case I advantage (see subsection (3) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferor—
- (a) to the extent that the advantage is obtained by the transferor in the period of account covering the transfer date or any earlier period of account—
    - (i) for the period of account of the transferor ending (or treated as ending) immediately before the transfer date, or
    - (ii) where there is no such period, for the period of account of the transferor including the transfer date, and
  - (b) to the extent that the advantage is obtained by the transferor in any later period of account of the transferor in which any relevant associated operations are effected, for that later period of account.
- (4) If a Case I advantage is obtained by the transferee (see subsection (1) of section 444AECB), the amount of the transferee's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of 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.

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(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

**F374** Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 22**

VALID FROM 19/02/2008

### **F374** ~~444AECB~~ **444AECB** of transfer scheme arrangements: Case I advantage transferor **U.K.**

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



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### Textual Amendments

**F374** Ss. 444AECA-444AEECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 22**

VALID FROM 19/02/2008

### [<sup>F374</sup> 444AEECC] of transfer scheme arrangements: Case I advantage transferee **U.K.**

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

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### Textual Amendments

**F374** Ss. 444A-ECA-444A-ECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 22**

VALID FROM 19/07/2007

### 444A-E Clearance: no avoidance or group advantage **U.K.**

- (1) Section 444A-EA does not apply in relation to the transferor or the transferee if, on an application under this section, the Commissioners for Her Majesty's Revenue and Customs (“the HMRC Commissioners”) have given a notice under subsection (2) below.
- (2) A notice under this subsection is a notice stating that the HMRC Commissioners are satisfied—
  - (a) that the obtaining of a Case I advantage by the applicant is not the sole or main purpose of the whole or any part of the transfer scheme arrangements, or
  - (b) that the transferor and the transferee are members of the same group of companies and that there is no advantage to the group arising from any Case I advantage obtained by the transferor or by the transferee.
- (3) For the purposes of this section there is no advantage to a group arising from any Case I advantage obtained by the transferor or by the transferee if—
  - (a) as a result of transfer scheme arrangements, there is an increase in the liability to corporation tax of one or more companies which are members of the group of companies, and
  - (b) the amount (or aggregate amount) of that increase is not less than the reduction in the liability to corporation tax of the transferor or the transferee (or both) arising from the obtaining of the Case I advantage.
- (4) An application under this section must be in writing and contain particulars of the transfer scheme arrangements.
- (5) The HMRC Commissioners may by notice require the applicant to provide further particulars in order to enable them to determine the application.
- (6) A requirement may be imposed under subsection (5) above within 30 days of the receipt of the application or of any further particulars required under that subsection.
- (7) If a notice under subsection (5) above is not complied with within 30 days or such longer period as the HMRC Commissioners may allow, they need not proceed further on the application.
- (8) The HMRC Commissioners must give notice of their decision on an application under this section to the applicant within 30 days of receiving the application or, if they give a notice under subsection (5) above, within 30 days of that notice being complied with.
- (9) If the HMRC Commissioners—

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

VALID FROM 19/07/2006

### *f<sup>F375</sup> Surpluses of mutual and former mutual businesses*

#### **Textual Amendments**

**F375** Ss. 444AF-444AL and preceding cross-heading inserted (with effect in accordance with Sch. 11 para. 5(2)-(14) of the amending Act) by Finance Act 2006 (c. 25), Sch. 11 para. 5(1)

#### **444AF Demutualisation surplus: life assurance business** **U.K.**

- (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;

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

For this purpose—

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

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,

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

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

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

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

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

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

- (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.

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

- (1) For the purposes of section 444AF—
  - (a) there is a reduction in the amount of the company's unappropriated surplus over the relevant period if CUS is less than  $(OUS + TSI - TSO)$ ;
  - (b) the amount of that reduction is the amount by which CUS is less than  $(OUS + TSI - TSO)$ .
- (2) In this section—

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

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

TSI is the total amount of any transfer surpluses accruing to the company during the relevant period (see subsections (3) to (7)),

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

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

- (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.

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(3) In this section “the gross transfer to non-technical account” means the amount shown in line 13 of Form 58 for the fund.

(4) But if—

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

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

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

## SA – TAP

where—

SA is—

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

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

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

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

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

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

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

### 444AK Mutual surplus: Case VI categories of life assurance business U.K.

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

- (a) the company carries on life assurance business as mutual business, and
- (b) the company carries on one or more categories of life assurance business chargeable to tax under Case VI of Schedule D.



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

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company to begin on or after 1st January 2003 and to end on or after 9th April 2003.

#### **444AL Interpretation of sections 444AF to 444AK U.K.**

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

*[<sup>F376</sup> Provisions applying in relation to overseas life insurance companies]*

#### **Textual Amendments**

**F376** S. 444B and cross heading inserted (27.7.1993) by 1993 c.34, s. 97(1)

#### **<sup>F377</sup>444BM Modification of Act in relation to overseas life insurance companies. U.K.**

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

#### **Textual Amendments**

**F377** S. 444B and cross heading inserted (27.7.1993) by 1993 c. 34, s. 97(1)

*[<sup>F378</sup> Equalisation reserves*

#### **Textual Amendments**

**F378** 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. U.K.**

- (1) Subject to the following provisions of this section and to sections 444BB to 444BD, the rules in subsection (2) below shall apply in making any computation, for the purposes of Case I or V of Schedule D, of the profits or losses for any accounting period of an insurance company whose business has at any time been or included business

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in respect of which it was required, by virtue of [<sup>F379</sup>equalisation reserve rules], to maintain an equalisation reserve.

- (2) Those rules are—
- (a) that amounts which, in accordance with [<sup>F379</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
  - (c) that it must be assumed that all such transfers as are required by [<sup>F379</sup>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 [<sup>F379</sup>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 [<sup>F379</sup>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 [<sup>F379</sup>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—

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- (a) any amount representing one or more unrelieved transfers is carried forward to an accounting period in accordance with subsection (4) above, and
- (b) by virtue of subsection (5) above the rule in subsection (2)(b) above does not apply to an amount representing the whole or any part of any transfer out of an equalisation reserve in respect of the company's business for that period, the amount mentioned in paragraph (a) above shall not be carried forward under subsection (4) above to the next accounting period except to the extent (if any) that it exceeds the amount mentioned in paragraph (b) above.
- (7) To the extent that any actual or assumed transfer in accordance with [F379 equalisation 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 [F379 equalisation 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 [F379 equalisation 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 [F379 equalisation 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 [F380 the rules].
- [F381(11) In this section, and in sections 444BB to 444BD, “equalisation reserves rules” means the rules in [F382 chapter 7.5 of the Integrated Prudential Sourcebook].]

#### Textual Amendments

**F379** 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\(1\)](#)

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**F380** 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\(3\)](#)

**F381** 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\(4\)](#)

**F382** Words in s. 444BA(11) substituted (with effect in accordance with [Sch. 9 para. 9\(3\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 9\(2\)](#)

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

**C100** S. 444BA modified (23.12.1996 with effect in accordance with reg. 1 of the modifying S.I.) by [The Insurance Companies \(Reserves\) \(Tax\) Regulations 1996 \(S.I. 1996/2991\)](#), [regs. 4-12](#)

**444BB Modification of s. 444BA for mutual or overseas business and for non-resident companies. [U.K.](#)**

- (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>[F383]</sup>equalisation reserve rules], is required to make transfers into or out of an equalisation reserve in respect of any business carried on by that company for any period is carrying on, for the whole or any part of that period—
  - (a) any business the income and gains of which fall to be disregarded in making a computation of the company's profits in accordance with the rules applicable to Case I of Schedule D, or
  - (b) any business by reference to which double taxation relief is afforded in respect of any income or gains.
- (3) Section 444BA shall have effect (subject to any regulations under subsection (1) above) in the case of an equalisation reserve maintained by an insurance company which—
  - (a) is not resident in the United Kingdom, and
  - (b) carries on business <sup>[F384]</sup>in the United Kingdom through a 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.

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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

**F383** 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\(1\)](#)

**F384** 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. **U.K.**

- (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 [F385]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>M20</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

**F385** 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

**M20** 1985 c. 6.

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

- (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>F386</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>F386</sup>equalisation reserve rules], either—
    - <sup>F387</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>F386</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>F386</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>F388</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>F389</sup> . . .

<sup>F389</sup> . . . . .

#### Textual Amendments

- F386** 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\(5\)](#)
- F387** 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\(7\)](#)
- F388** 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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**F389** 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. U.K.**

F390 .....

**Textual Amendments**

**F390** 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. U.K.**

F391 .....

**Textual Amendments**

**F391** 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. U.K.**

F392 .....]

**Textual Amendments**

**F392** 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*

**F393 445 ..... U.K.**

**Textual Amendments**

**F393** 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. U.K.**

F394 (1) .....

F395 (2) .....

F395 (3) .....

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F396(4) .....

**Textual Amendments**

**F394** 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

**F395** 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

**F396** S. 446(4) repealed by **Finance Act 1990** (c. 29, SIF 63:1), s. 132, **Sch. 19 Pt. IV**.

**447** U.K.

F397(1) .....

F397(2) .....

F398(3) .....

F397(4) .....

**Textual Amendments**

**F397** 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

**F398** 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

F399 **448** ..... U.K.

**Textual Amendments**

**F399** 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

F400 **449** ..... U.K.

**Textual Amendments**

**F400** 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*

F401 **450** ..... U.K.

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**Textual Amendments**

**F401** 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>F402</sup>**451** ..... **U.K.**

**Textual Amendments**

**F402** 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>F403</sup>**452** ..... **U.K.**

**Textual Amendments**

**F403** 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>F404</sup>**453** ..... **U.K.**

**Textual Amendments**

**F404** 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>F405</sup>**454** ..... **U.K.**

**Textual Amendments**

**F405** 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>F406</sup>**455** ..... **U.K.**

**Textual Amendments**

**F406** 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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<sup>F407</sup> 456 ..... U.K.

#### Textual Amendments

**F407** 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>F408</sup> 457 ..... U.K.

#### Textual Amendments

**F408** 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. U.K.

- (1) <sup>M21</sup>Where any person carries on capital redemption business in conjunction with business of any other class, the capital redemption business shall, for the purposes of the Corporation Tax Acts (including the provisions about corporation tax on chargeable gains) and the Income Tax Acts, be treated as a separate business from any other class of business carried on by that person [<sup>F409</sup>and where section 76 applies by virtue of subsection (5A) of that section, it shall apply separately to capital redemption business].
- (2) In ascertaining whether and to what extent any person has incurred a loss on his capital redemption business for the purposes of section 380 or sections 393 and [<sup>F410</sup>393A(1)]—
  - (a) any profits derived from investments held in connection with the capital redemption business (including franked investment income of <sup>F411</sup>. . . a company resident in the United Kingdom) shall be treated as part of the profits of that business, and
  - (b) in determining whether any, and if so what, relief can be given under section 385(4) in the case of capital redemption business, the loss which may be carried forward under subsection (1) of that section shall be similarly computed.
- <sup>F412</sup>(3) In this section “capital redemption business” means any business in so far as it—
  - <sup>F413</sup>(a) consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts of insurance under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period; and
  - (b) is not life assurance business.]]
- (4) This section shall not apply to any capital redemption business in so far as it consists of carrying out contracts of insurance effected before 1st January 1938.

*Status: Point in time view as at 09/06/2006. This version of this chapter contains provisions that are not valid for this point in time.*

*Changes to legislation: Income and Corporation Taxes Act 1988, CHAPTER I is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F409** Words in s. 458(1) inserted (with effect in accordance with Sch. 33 para. 4 of the amending Act) by Finance Act 1996 (c. 8), Sch. 33 para. 2; S.I. 1998/3173, art. 2
- F410** Words in s. 458(2) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)-(5), Sch. 15 para. 16
- F411** Words in s. 548(2) repealed (with effect in accordance with Sch. 6 para. 7(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58). Sch. 6 para. 7(1), Sch. 8 Pt. 2(11), Note
- F412** S. 458(3) substituted (with effect in accordance with s. 168(6) of the amending Act) by Finance Act 1996 (c. 8), s. 168(1); S.I. 1998/3173, art. 2
- F413** S. 458(3)(a)(b) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 31

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

- C101** S. 458 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)
- C102** S. 458 modified (23.3.1999 with effect in accordance with reg. 1 of the modifying S.I.) by The Insurance Companies (Capital Redemption Business) (Modification of the Corporation Tax Acts) Regulations 1999 (S.I. 1999/498), regs. 1, 3, 7

#### Marginal Citations

- M21** Source—1970 s.324

### [<sup>F414</sup>458A Capital redemption business: power to apply life assurance provisions. U.K.]

- (1) The Treasury may by regulations provide for the life assurance provisions of the Corporation Tax Acts to have effect in relation to companies carrying on capital redemption business as if capital redemption business were, or were a category of, life assurance business.
- (2) Regulations under this section may provide that the provisions applied by the regulations are to have effect as respects capital redemption business with such modifications and exceptions as may be provided for in the regulations.
- (3) Regulations under this section may—
  - (a) make different provision for different cases;
  - (b) include such incidental, supplemental, consequential and transitional provision (including provision modifying provisions of the Corporation Tax Acts other than the life assurance provisions) as the Treasury consider appropriate; and
  - (c) include retrospective provision.
- (4) In this section references to the life assurance provisions of the Corporation Tax Acts are references to the following—
  - (a) the provisions of this Chapter so far as they relate to life assurance business or companies carrying on such business; and
  - (b) any other provisions of the Corporation Tax Acts making separate provision by reference to whether or not the business of a company is or includes life assurance business or any category of insurance business that includes life assurance business.
- (5) In this section “capital redemption business” has the same meaning as in section 458.]

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**Textual Amendments**

**F414** S. 458A inserted (29.4.1996) by Finance Act 1996 (c. 8), s. 168(3)

**Status:**

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**Changes to legislation:**

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