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# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XII

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

#### CHAPTER I

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

*[<sup>F1</sup>Miscellaneous provisions relating to life assurance business]*

#### Textual Amendments

- F1** Cross-heading before s. 434 inserted (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 51\(4\)](#) (with [Sch. 8 para. 55\(2\)](#))

#### **434 Franked investment income etc.**

<sup>F2</sup>(1) Nothing in section 208 shall prevent franked investment income or foreign income dividends from being taken into account—

- (a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
- (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.]

(2) <sup>F3</sup>.....

<sup>F4</sup><sup>F5</sup>(3) The policy holders' share of the franked investment income from investments held in connection with a company's life assurance business shall not be used under Chapter V of Part VI to frank distributions made by the company; but it may be the subject of

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For the purpose of ascertaining whether any surplus or what amount of surplus franked investment income falls to be carried forward under section 241(3), relief under section 242 shall be treated as given against the policy holders' share before other franked investment income.]

- (3A) The policy holders' [<sup>F6</sup>share] of the franked investment income from investments held in connection with a company's 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>F7</sup>(3B) The policy holders' share of foreign income dividends received in respect of investments held in connection with a company's life assurance business shall be left out of account in determining, under subsection (7) of section 13, the foreign income dividends forming part of the company's profits for the purposes of that section.
- (3C) The policy holders' share of any income or chargeable gain arising in respect of investments held in connection with a company's life assurance business shall be left out of account in ascertaining any foreign source profit of the company for the purposes of Chapter VA of Part VI.
- (3D) The policy holders' share of foreign income dividends received in respect of investments held in connection with a company's life assurance business shall be left out of account in ascertaining, for the purposes of sections 246F(1) and (3) and Schedule 13, the amount of the foreign income dividends received by the company.]
- (4) <sup>M1</sup>*Subject to subsection (5) below, the specified part shall be, in the case of any unrelieved income, the same fraction of it as the fraction which, on a computation of the profits of the company in respect of its life assurance business in accordance with the provisions applicable to Case I of Schedule D (whether or not the company is in fact charged to tax under that Case for the relevant accounting period or periods), would be connoted by the words in section 433 "such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants".*  
<sup>F8</sup>
- (5) *If the income exceeds the profits as computed in accordance with the provisions applicable to Case I of Schedule D other than section 433, the specified part shall be that fraction of the income so far as not exceeding the profits, together with the amount of the excess.*  
<sup>F9</sup>
- (6) <sup>M2</sup>For the purposes of section 239 the profits charged to corporation tax for any accounting period (as defined in subsection (6) of that section) shall be reduced by deducting [<sup>F10</sup>the policy holders' share of the relevant profits].
- [<sup>F11</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>F12</sup> . . .
- [ "the policy holders' share" of any foreign income dividends is so much of the  
<sup>F13</sup>(aa) income they represent as is not the shareholders' share within the meaning of that section,

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~~(add) the policyholders' share of any income (other than franked investment~~

income) is so much of that income as is not the shareholders' share within the meaning of that section,

- (ac) “the policy holders’ share” of any chargeable gain is so much of that gain as is equal to the amount that, if the gain were income, would not be the shareholders’ share within the meaning of that section, and]
- (b) “the policy holders’ share of the relevant profits” has the same meaning as in section 88 of that Act.]

(7) <sup>F3</sup>.....

(8) <sup>M3</sup>Where subsection (3) or (6) above would deny to a company any relief to which it would have been entitled if it had been charged to tax in respect of its life assurance business under Case I of Schedule D, corresponding relief shall be afforded to the company by repayment of, or set-off against, corporation tax or by payment of tax credit comprised in franked investment income from investments held in connection with that business.

#### Textual Amendments

- F2** 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))
- F3** 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)**
- F4** S. 434(3)(3A) substituted for s. 434(3) by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 3(1)**
- F5** S. 434(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. 19(3)** (with Sch. 8 para. 55(2))
- F6** 1990 s.45(5).Previously  
“fraction”.
- F7** S. 434(3B)-(3D) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 5(4)**
- F8** Repealed by 1989 ss.84and 187and Sch.8 para.3(2)and Sch.17 Part IVwith respect to accounting periods beginning on or after 1January 1990.
- F9** Repealed by 1989 ss.84and 187and Sch.8 para.3(2)and Sch.17 Part IVwith respect to accounting periods beginning on or after 1January 1990.
- F10** 1990 s.45(6).Previously  
“therefrom [the policyholders' fraction thereof (1989 s.84and Sch.8 para.3(3),and subject to s.84(6),has effect with respect to accounting periods beginning on or after 1January 1990 (including the 1990component period).Previously  
“such fraction thereof as is equal to the fraction of the profits of the company in respect of its life assurance business which under section 433 is excluded from the computation of those profits or would be so excluded if the profits were computed in accordance with the provisions applicable to Case I of Schedule D.”.]”.
- F11** 1990 s.45(7).
- F12** 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)**
- F13** S. 434(6A)(aa)-(ac) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para 5(5)**

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

- C3** S. 434 amended (27.7.1993) by 1993 c. 34, **s. 78(6)(11)**
- C4** S. 434(2) restricted (*retrospectively*) by Finance (No. 2) Act 1992 (c. 48), **s. 65(2)(a)(5)(6)**

#### Marginal Citations

- M1** Source—1970 s.310(6)

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<b>M2</b>	Source—1972 Sch.18(2)(A) 1987 (No.2) (1)(b)
<b>M3</b>	Source—1972 Sch.18 2(5)

### <sup>F14</sup><sup>F15</sup> **43CA Computation of losses and limitation on relief.**

- (1) In ascertaining whether or to what extent a company has incurred a loss on its life assurance business profits derived from investments held for the purposes of that business (including franked investment income of, and foreign income dividends arising to, a company resident in the United Kingdom) shall be treated as part of the profits of that business.
- (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, any loss resulting from the computation shall be reduced (but not below nil) by the aggregate of—
  - (a) any losses for that period under section 436, 441 or 439B, and
  - (b) the amount of interest and annuities treated as charges on income in computing for the period otherwise than in accordance with the provisions of this Act applicable to Case I of Schedule D the profits or losses of the company's life assurance business.
- (3) In the case of a company carrying on life assurance business, no relief shall be allowable under—
  - (a) Chapter II (loss relief) or Chapter IV (group relief) of Part X, or
  - (b) Chapter II of Part II of the Finance Act 1993 so far as it has effect in relation to losses treated as non-trading losses for the purposes of section 160 of the Finance Act 1994,
 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 88 of the Finance Act 1989.]]

#### Textual Amendments

**F14** S. 434A inserted by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 4**

**F15** 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))

VALID FROM 21/07/2009

### <sup>F16</sup> **434AZB Reduced loss relief for additions to non-profit funds**

- (1) Where this section applies in the case of a company carrying on life assurance business, relief allowable under section 393A or Chapter 4 of Part 10 in respect of losses incurred by the company in the life assurance business in an accounting period is reduced in accordance with section 434AZB.
- (2) This section applies in the case of a company where—

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

#### Textual Amendments

- F16** 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>F16</sup>434AZB]ditions to non-profit funds: amount of loss reduction

- (1) The amount of the relief allowable as mentioned in section 434AZA(1) is reduced by whichever of the following is the least—
  - (a) the amount of the loss,
  - (b) the amount specified in subsection (2), and
  - (c) the amount specified in subsection (4).

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

#### Textual Amendments

- F16** 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>F16</sup> ~~434AZC~~ Sections 434AZA and 434AZB: supplementary

- (1) For the purposes of sections 434AZA and 434AZB, a non-profit fund required to support a with-profits fund is to be treated as not being a non-profit fund.
- (2) Sections 434AZA and 434AZB apply to a non-profit part of a with-profits fund as if references to something shown in the Form 14 or Form 58 of the non-profit fund in a periodical return were to what would be so shown if there were a Form 14 or Form 58 of the non-profit part of the with-profits fund in the periodical return.
- (3) In sections 434AZA and 434AZB—

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“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and “structural assets” has the same meaning as in section 83XA of the Finance Act 1989 (see subsection (3) of that section and any regulations made under it.)]

#### Textual Amendments

**F16** 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>F17</sup>434B Treatment of interest and annuities.

- (1) Where the profits or losses arising to an insurance company from its life assurance business, or any class of life assurance business, fall to be computed for any purpose in accordance with the provisions of this Act applicable to Case I of Schedule D, section 337(2)(b) shall not prevent the deduction of any interest or annuity payable by the company under a liability of its long term business so far as referable to its life assurance business or any class of that business.
- (2) Nothing in subsection (1) above or in section 338(2) shall be construed as preventing any such interest or annuity as is mentioned in subsection (1) above, so far as referable to the company’s basic life assurance and general annuity business, from being treated as a charge on income for the purposes of the computation of the profits or losses of that business otherwise than in accordance with Case I of Schedule D.]

#### Textual Amendments

**F17** 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))

#### [<sup>F18</sup>434C Interest on repayment of advance corporation tax.

Section 826(1) applies in a case where a repayment falls to be made of advance corporation tax paid by a company carrying on life assurance business in respect of distributions made by it.

In relation to such a case the material date for the purposes of that section is that specified in subsection (2A) of that section.]

#### Textual Amendments

**F18** 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))

#### [<sup>F19</sup>434D Capital allowances: management assets.

- (1) This section has effect with respect to the allowances and charges to be made under the 1990 Act in respect of “management assets”, that is, assets provided for use or used for the management of life assurance business carried on by a company.

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- (2) ~~No allowances or charges shall be made under that Act in respect of expenditure on management assets except under Part II (machinery and plant).~~
- (3) Where the company is charged to tax under section 441 in respect of the profits of its overseas life assurance business for an accounting period—
- (a) any allowance falling to be made under Part II of the 1990 Act in respect of expenditure on the provision outside the United Kingdom of machinery or plant for use for the management of that business shall be given effect by treating it as an expense of the business for that period; and
  - (b) any charge in respect of such expenditure falling to be so made shall be given effect by treating it as a receipt of the business for that period;
- and sections 73, 144 and 145 of the 1990 Act do not apply.
- (4) Allowances and charges falling to be made under Part II of the 1990 Act in respect of expenditure in respect of management assets not falling within subsection (3) above shall be apportioned between the different classes of life assurance business carried on by the company.
- The amount referable to any class of life assurance business shall be the relevant fraction of the amount of the allowance or charge, that is, the fraction of which—
- (a) the numerator is the mean of the opening and closing liabilities of the class of life assurance concerned, and
  - (b) the denominator is the mean of the opening and closing liabilities of all the classes of life assurance business carried on by the company.
- (5) Where the company is charged to tax under section 436, 439B or 441 in respect of the profits of its pension business, life reinsurance business or overseas life assurance business for an accounting period—
- (a) any allowance falling to be made under Part II of the 1990 Act in respect of expenditure on the provision of machinery or plant for use for the management of that business shall be given effect by treating the relevant proportion of the allowance as an expense of that business for the purpose of calculating the Case VI profit for that period; and
  - (b) any charge in respect of such expenditure falling to be so made shall be given effect by treating the relevant proportion of the charge as a receipt of that business for that purpose.
- (6) Where a company carries on basic life assurance and general annuity business and the profits arising from that business do not fall to be charged to tax in accordance with the provisions applicable to Case I of Schedule D—
- (a) allowances falling to be given under Part II of the 1990 Act in respect of expenditure on management assets shall be treated as additional expenses of management within section 76; and
  - (b) any charge falling to be made under that Part in respect of such assets shall be chargeable to tax under Case VI of Schedule D.
- (7) For the purposes of this section the purposes of the management of a business shall be taken to be those purposes expenditure on which would be treated as expenses of management within section 76.
- (8) Expenditure to which this section applies shall not be taken into account otherwise than in accordance with this section.



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*This shall not be construed as preventing any allowance under Part V of the 1990 Act which falls to be given by virtue of this section from being taken into account—*

- (a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
- (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.]

#### Textual Amendments

**F19** 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))

#### [<sup>F19</sup> 434E Capital allowances: investment assets.

- (1) In this section “investment asset” means an asset held by a company for the purposes of its life assurance business otherwise than for the management of that business.
- (2) The letting by a company of an investment asset shall be treated for the purposes of section 61 of the 1990 Act (machinery and plant on lease) as a letting otherwise than in the course of a trade.
- (3) Any allowance under Part V of the 1990 Act (agricultural buildings, &c.) in respect of an investment asset shall be made by way of discharge or repayment of tax and shall be available primarily against agricultural income and income which is the subject of a balancing charge.

Effect shall be given to any balancing charge under that Part in respect of an investment asset by treating the amount on which the charge is to be made as agricultural income.

- (4) Any allowance under the 1990 Act in respect of an investment asset shall be treated as referable to the category or categories of business to which income arising from the asset is or would be referable and shall be apportioned in accordance with section 432A in the same way as such income.
- (5) No allowance under the 1990 Act in respect of an investment asset shall be taken into account—
  - (a) in computing the profits of any class of life assurance business under section 436, 439B or 441, or
  - (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.
- (6) Where any allowance under the 1990 Act in respect of an investment asset falls to be taken into account (having regard to subsection (5) above), only such allowances as are referable to the company’s basic life assurance and general annuity business shall be given effect under section 145(1) of that Act, and then only against income referable to that business; and section 145(3) shall not apply.]

#### Textual Amendments

**F19** 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))

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**F20 435 Taxation of gains reserved for policy holders and annuitants** (See also section 435A and section 435B for details)

**Textual Amendments**

**F20 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 [F21 Pension business]: separate charge on profits.**

- (1) <sup>M4</sup>Subject to the provisions of this section, profits arising to an insurance company from <sup>F22</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>F23</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>M5</sup>In making the computation referred to in subsection (1) above—
  - (a) <sup>F24</sup>[sections 82 and 83 of the Finance Act 1989] shall apply with the necessary modifications and in particular with the omission of all references to policy holders (other than holders of policies referable to pension business) <sup>F25</sup> and of the words “tax or” in section 82(1)(a);
  - <sup>F26</sup>(aa) section 83(3) of that Act shall not apply;
  - (b) *no deduction shall be allowed in respect of any expenses of management deductible under section 76;* <sup>F27</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>F28</sup> . . . in any previous accounting period or year of assessment;
  - (d) where the computation in question is of profits arising to an insurance company from pension business—
    - <sup>F29</sup>(i) group income so far as referable to pension business shall be deducted from the receipts to be taken into account,]
    - <sup>F30</sup> . . . . . and
  - (e) distributions which are not qualifying distributions shall not be taken into account where the computation in question is of the profits arising to an insurance company or overseas life insurance company from <sup>F31</sup> . . . pension business.
- (4) <sup>M6</sup>Section 396 shall not be taken to apply to a loss incurred by a company on its <sup>F32</sup> . . . pension business.
- (5) <sup>M7</sup>Nothing in section 128 or 399(1) shall affect the operation of this section.

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### Textual Amendments

- F21** 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))
- F22** 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
- F23** 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
- F24** 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”.
- F25** 1990 s.43(2). Subject to 1989 s.84(6) this amendment has effect with respect to accounting periods beginning on or after 1 January 1990.
- F26** 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))
- F27** 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).
- F28** 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
- F29** 1990 s.41 and Sch.6 para.5 on and after 1 January 1990 subject to the commencement provisions of paras.11 and 12. Previously “(i) group income shall be not be taken into account as part of those profits, and”.
- F30** Words in s. 436(3)(d) 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
- F31** Words in s. 436(3)(e) 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)(b), 18, Sch. 19 Pt. V, Note 3
- F32** 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)

- C5** See also 1989 s.43—certain Sch.D computations involving emoluments.

### Marginal Citations

- M4** Source—1970 s.312(1); 1970(F) Sch.5 Part III 11(3)
- M5** Source—1970 s.312(2), 314(5); 1970(F) Sch.5 Part III 11(6)(a)(b); 1972 Sch.18 5(1)(a)
- M6** Source—1970 s.312(3); 1970(F) Sch.5 Part III 11(3)
- M7** Source—1985 s.72(7)

VALID FROM 19/07/2007

### [<sup>F33</sup>436A] Gross roll-up business: separate charge on profits

- (1) Profits arising to an insurance company from gross roll-up business—
  - (a) are to be treated as income within Schedule D, and
  - (b) are chargeable under Case VI of that Schedule.
- (2) For that purpose—
  - (a) the gross roll-up business is to be treated separately, and
  - (b) the profits from it are to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.

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- (3) In making that computation, sections 82 and 82B to <sup>F34</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

- F33** 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](#))
- F34** 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)

- C6** S. 436A modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [reg. 13A](#) (as inserted (14.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2007 \(S.I. 2007/2134\)](#), [regs. 1\(1\), 14](#))

VALID FROM 19/07/2007

#### <sup>F33</sup> 436B Gains referable to gross roll-up business not to be chargeable gains

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

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### Textual Amendments

**F33** Ss. 436A, 436B inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 25 (with Sch. 7 Pt. 2)

## 437 General annuity business.

<sup>F35</sup>(1A) In the case of a company carrying on basic life assurance and general annuity business, the new annuities paid in any accounting period by the company shall be regarded as charges on income only to the extent that they do not exceed the income limit for that accounting period.

(1B) Subsection (1A) 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 life assurance business.

(1C) For the purposes of this section—

- (a) “new annuity” means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company’s basic life assurance and general annuity business;
- (b) “the income limit” for an accounting period of an insurance company is the difference between—
  - (i) the total amount of the new annuities paid by the company in that accounting period; and
  - (ii) the total of the capital elements contained in the new annuities so paid; and
- (c) the capital element contained in an annuity shall be determined in accordance with Chapter V of Part XIV, but for this purpose—
  - (i) it is immaterial whether or not an annuitant claims any relief to which he is entitled under that Chapter; and
  - (ii) where, by virtue of subsection (2) of section 657, section 656 does not apply to an annuity, the annuity shall be treated as containing the capital element that it would have contained apart from that subsection.

(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 liability must 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.]

- F36 (2) .....
- F37 (3) .....
- F38 (4) .....
- F39 (5) .....
- (6) F40 .....

**Textual Amendments**

- F35** S. 437(1A)-(1F) substituted (for accounting periods beginning on or after 1.1.1992) for s. 437(1) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 5, 18
- F36** 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
- F37** 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
- F38** 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
- F39** 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
- F40** 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)**

- C7** 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)

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VALID FROM 19/03/1997

**[<sup>F41</sup>437A Meaning of “steep-reduction annuity” etc.**

- (1) For the purposes of section 437 an annuity is a steep-reduction annuity if—
  - (a) 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;
  - (b) the annuitant is entitled in respect of the annuity to payments of different amounts at different times; and
  - (c) 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—
  - (a) 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
  - (b) 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—
  - (a) 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
  - (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,

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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

- F41** S. 437A inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), s. 67(3)

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

- (1) <sup>M8</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>F42</sup>long term business fund] as is referable to pension business.
  - (2) <sup>M9</sup>The exemption from tax conferred by subsection (1) above shall not exclude any sums from being taken into account as receipts in computing profits or losses for any purpose of the Corporation Tax Acts.
  - (3) Subject to subsection (6) below, the exclusion by section 208 from the charge to corporation tax of franked investment income shall not prevent such income being taken into account [<sup>F43</sup>—
    - (a)] as part of the profits in computing under section 436 income from pension business]<sup>F44</sup>, or
    - (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.
- [ Subject to subsection (6B) below, the exclusion by section 208 from the charge to
- <sup>F45</sup>(3AA) corporation tax of foreign income dividends shall not prevent such dividends being taken into account
- [ as part of the profits in computing under section 436 income from pension
  - <sup>F46</sup>(a)]] business]<sup>F47</sup>, or
  - (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.]
- (4) <sup>M10</sup>If in the case of any company the income referred to in subsection (1) above includes a distribution in respect of which the company is entitled to a tax credit, the



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~~company may, subject to subsections (5) and (6) below, claim to have the amount of that credit paid to it.~~

- (5) If the company is resident in the United Kingdom (so that the distribution and the tax credit in question constitute franked investment income of that company), no franked investment income comprising any tax credit which is paid under subsection (4) above shall, subject to subsection (6) below, be used under Chapter V of Part VI to frank the company's distributions.
- (6) <sup>M11</sup>If for any accounting period there is, apart from this subsection, a profit arising to an insurance company from pension business and computed under section 436, and the company so elects as respects all or any part of its [<sup>F48</sup>relevant] franked investment income arising in that period, <sup>F49</sup> . . . subsections (3) to (5) above shall not apply to the franked investment income to which the election relates.
- [<sup>F50</sup>(6A) In subsection (6) above “relevant franked investment income” means the shareholders' share of franked investment income within subsection (1) above, and for this purpose “shareholders' share” has the same meaning as for the purposes of section 89 of the Finance Act 1989.]
- [<sup>F51</sup>(6B) If for any accounting period there is, apart from this subsection, a profit arising to an insurance company from pension business and computed under section 436, and the company so elects as respects all or any part of the relevant foreign income dividends arising to it in that period, subsection (3AA) above shall not apply to the foreign income dividends to which the election relates.
- (6C) In subsection (6B) above “relevant foreign income dividends” means the shareholders' share of foreign income dividends within subsection (1) above; and for this purpose “the shareholders' share” of any foreign income dividends is so much of the income they represent as is the shareholders' share within the meaning of section 89 of the Finance Act 1989.
- (6D) If in the same accounting period both relevant franked investment income and relevant foreign income dividends arise to the company—
- only one election may be made under subsections (6) and (6B) above;
  - the election may be made as regards both relevant franked investment income and relevant foreign income dividends (subject to paragraph (c) below);
  - the election may not be made as regards relevant foreign income dividends unless the election is made as regards all the company's relevant franked investment income arising in the period.
- (6E) Where an election is made under one or both of subsections (6) and (6B) above, the elected amount must not exceed the amount of the profit which (apart from the election) arises to the company for the accounting period from pension business and is computed under section 436; and the elected amount is—
- the amount of franked investment income to which the election relates (where the election is made under subsection (6) alone);
  - the amount of the foreign income dividends to which the election relates (where the election is made under subsection (6B) alone);
  - the aggregate amount of the franked investment income and the foreign income dividends to which the election relates (where the election is made under subsections (6) and (6B)).]

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(7) An election under ~~section 438(3)(a)~~ shall be made by notice given to the inspector not later than two years after the end of the accounting period to which the election relates or within such longer period as the Board may by notice allow.

(8) <sup>M12</sup>Nothing in sections [<sup>F53</sup>431B(2)(c)] or 643(2) of this Act or section [<sup>F54</sup>271(1)(h) of the 1992 Act] shall be construed as affording relief in respect of any sums to be brought into account under this section.

[<sup>F55</sup>(9) 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(2).]

### Textual Amendments

- F42** Words in s. 438(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. 4(2)** (with Sch. 8 para. 55(2))
- F43** Words in s. 438(3) renumbered as s. 438(3)(a) (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by virtue of Finance Act 1995 (c. 4), **Sch. 8 para. 29** (with Sch. 8 para. 55(2))
- F44** S. 438(3)(b) and preceding word inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 29** (with Sch. 8 para. 55(2))
- F45** S. 438(3AA) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(2)**
- F46** Words in s. 438(3AA) renumbered as s. 438(3AA)(a) (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by virtue of Finance Act 1995 (c. 4), **Sch. 8 para. 29** (with Sch. 8 para. 55(2))
- F47** S. 438(3AA)(b) and preceding word inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 29** (with Sch. 8 para. 55(2))
- F48** 1990 s.45(9).
- F49** Words in s. 438(6) repealed (3.5.1994) by Finance Act 1994 (c. 9), Sch. 16 para. 6(3), **Sch. 26 Pt. 5(16)**
- F50** 1990 s.45(9).
- F51** S. 438(6B)-(6E) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(4)**
- F52** Words in s. 438(7) substituted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(5)**
- F53** Words in s. 438(8) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 4(3)** (with Sch. 8 para. 55(2))
- F54** Words in s. 438(8) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290(1), **Sch. 10 para. 14(21)** (with ss. 60, 101(1), 171, 201(3))
- F55** 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))

### Modifications etc. (not altering text)

- C8** S. 438 modified (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 18 para. 1(5)**
- C9** S. 438 amended (27.7.1993) by 1993 c. 34, **s. 78(6)(11)**
- C10** S. 438(5) amended (27.7.1993) by 1993 c. 34, **s. 78(7)**

### Marginal Citations

- M8** Source—1970 s.314(1); 1970(F) Sch.5 Part III 11(3), (6)(c)
- M9** Source—1970 s.314(2)
- M10** Source—1972 Sch.18 4(1), (2)
- M11** Source—1970 s.314(4); 1970(F) Sch.5 Part III 11(3); 1972 Sch.18 4(2)
- M12** Source—1987 (No.2) s.39(3)

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**[438A** <sup>F56</sup> ~~Pension business payments on account of tax credits and deducted tax.~~

Schedule 19AB shall have effect.]

#### Textual Amendments

**F56** S. 438A inserted (2.10.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 49(1); S.I. 1992/1746, art.2

VALID FROM 06/04/2001

#### <sup>F57</sup> **438B Income or gains arising from property investment LLP**

- (1) Where an asset held by an insurance company as an asset of its long term business 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), and
  - (b) shall not be treated as part of the BLAGAB profits for the purposes of section 88A of that Act (lower corporation tax rate on certain profits);but the whole of the income or gains to which that subsection applies shall be chargeable to tax at the rate provided by section 88 of that Act.
- (6) So far as income is brought into account as mentioned in section 83(2) of the Finance Act 1989, sections 432B to 432F (apportionment of receipts brought into account) have effect as if subsection (1) above did not apply.]

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### Textual Amendments

**F57** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, Sch. 25 para. 5

VALID FROM 06/04/2001

### [<sup>F57</sup>438CDetermination of policy holders' share for purposes of s.438B

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

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

where—

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

B is an amount equal to the excess of—

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

### Textual Amendments

**F57** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, Sch. 25 para. 5

### 439 Restricted government securities.

- [<sup>F58</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

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*by insurance companies against and applied solely towards meeting pension business liabilities.*

- (6)<sup>M13</sup> Subject to subsection (7) below, the following Treasury Stock, namely—
- (a) 2 per cent. Index-linked Treasury Stock 1996;
  - (b) 2 per cent. Index-linked Treasury Stock 2006;
  - (c) 2 per cent. Index-linked Treasury Stock 2011;
- are not restricted government securities for the purposes of this section.
- (7) If any of the index-linked stock referred to in subsection (6) above was on 27th March 1982 held by an insurance company against and applied solely towards meeting the liabilities of the company's pension business, then—
- (a)<sup>M14</sup> if and so long as the stock continues to be so held by that company, it shall continue to be treated as restricted government securities for the purposes of this section; and
  - (b)<sup>M15</sup> if the stock ceases to be restricted government securities otherwise than by virtue of being actually disposed of or redeemed, on the day on which it so ceases the stock shall be deemed for the purposes of corporation tax, including (subject to subsection (8) below)<sup>F59</sup> corporation tax on chargeable gains, to have been disposed of and immediately re-acquired at its market value on that date.
- (8)<sup>M16</sup> For the purposes of sections 67 and 68 of the 1979 Act (gilt-edged securities)—
- (a) in ascertaining the date on which securities were acquired, no account shall be taken of any deemed disposal and reacquisition resulting from subsection (7)(b) above; and
  - (b) so long as any index-linked stock continues, by virtue of subsection (7) (a) above, to be treated as restricted government securities for the purposes of this section, it shall be regarded as being stock of a different kind from the index-linked stock referred to in subsection (6) above which is not so treated.

<sup>F60</sup>

### Textual Amendments

**F58** 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;”

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**F59** *Repealed by 1990 s.132 and Sch.19 Part IV. Repealed with annotations. (See end of Document for details)*

**F60** *Repealed by 1990 s.132 and Sch.19 Part IV.*

#### Marginal Citations

**M13** Source—1982 s.58(1), (3)

**M14** Source—1982 s.58(4)

**M15** Source—1982 s.58(5)

**M16** Source—1982 s.58(6)

### [<sup>F61</sup> 439A Taxation of pure reinsurance business.

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

#### Textual Amendments

**F61** 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>F62</sup> 439B Life reinsurance business: separate charge on profits.

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

Regulations under this subsection may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.
- (3) In making the computation referred to in subsection (1) above—
  - (a) sections 82(1), (2) and (4) and 83 of the Finance Act 1989 shall apply with the necessary modifications and in particular with the omission of the words “tax or” in section 82(1)(a),
  - (b) section 83(3) of that Act shall not apply, and
  - (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.

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(6) ~~Gains accruing to a company which are referable to its life reinsurance business shall not be chargeable gains.~~

(7) In ascertaining whether or to what extent a company has incurred a loss on its life reinsurance business, franked investment income and foreign income dividends shall be taken into account (notwithstanding anything in section 208) as part of the profits of that business.]

#### Textual Amendments

**F62** 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))

#### [<sup>F63</sup>440 Transfers of assets etc.

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

(2) Where—

- (a) an asset is acquired by a company as part of the transfer to it of the whole or part of the business of an insurance company (“the transfer”) in accordance with a scheme sanctioned by a court under [<sup>F64</sup>Part I of Schedule 2C to the Insurance Companies Act 1982], 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.

(3) Where, apart from this subsection, section [<sup>F65</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>F66</sup>paragraphs (a) to (e)] of subsection (4) below, that section shall not apply to the disposal or acquisition.

[<sup>F67</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 long term business 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>F68</sup>1992] Act.

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<sup>F69</sup> [ In a case where the profits of a company's life assurance business are charged to tax (6) in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3).]]

#### Textual Amendments

- F63** 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)
- F64** Words in s. 440(2)(a) substituted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 9 para. 1(1)(2)(b)**
- F65** 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))
- F66** 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))
- F67** 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)
- F68** 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))
- F69** 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)

- C11** 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**)
- C12** S. 440(1) excluded (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, **Sch. 7 para. 6(4)**
- C13** 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**)

#### <sup>F70</sup> 440A Securities.

- (1) Subsection (2) below applies where the assets of an insurance company include securities of a class all of which would apart from this section be regarded for the purposes of corporation tax on chargeable gains as one holding.
- (2) Where this subsection applies—
  - <sup>F71</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,]



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*(2) 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 long term business 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 new 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 new 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 [F72 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.

[F73F74] (6) In this section—

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

“new 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.]

[F73] (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

**F70** 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)

**F71** 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))

**F72** 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))

**F73** 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))

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**F74** *S. 440A(6) substituted (01.12.1992 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)**

- C14** *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**)*
- C15** *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**)*
- C16** *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***
- C17** *See 1990 s.41 and Sch.6 para.12(2)—subs.(d) omitted for period 1 January 1990 to 19 March 1990 inclusive.*
- C18** *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”.*
- C19** *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”.*

**[<sup>F75</sup>440B Modifications where tax charged under Case I of Schedule D.**

- (1) The following provisions apply where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D.
- (2) Section 438 applies as if in subsections (6), (6B) and (6E) for the reference to any profit arising to the company and computed under section 436 there were substituted a reference to the profit that would arise on a computation under section 436 if the profits of the company’s life assurance business were not charged to tax under Case I of Schedule D.
- (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 long term business 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

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*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

**F75** 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))

VALID FROM 19/07/2007

### [<sup>F76</sup> 440C Modifications for change of tax basis

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

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- (5) The loss is to be treated for the purposes of the operation of section 436A in relation to the subsequent accounting period as if it were a loss arising from its gross roll-up business in the accounting period in which it arose.
- (6) Subsections (7) and (8) make provision for a case where—
- (a) the profits of the life assurance business of an insurance company for an accounting period are charged to tax under the I minus E basis,
  - (b) the profits of that business for its next accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), and
  - (c) that prevents the giving of relief in accordance with section 86(8) of the Finance Act 1989 (acquisition expenses relieved in fractions under section 76).
- (7) Any relief which would have been so given in—
- (a) the next accounting period, or
  - (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

- F76** 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>F77</sup> 440D Modifications in relation to BLAGAB group reinsurers

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

#### Textual Amendments

- F77** 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\(2\)](#)

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**441 Overseas life assurance business** *repealed with annotations. (See end of Document for details)*

- (1) This section and section 441A shall apply for an accounting period of an insurance company<sup>F79</sup> . . . if during the period the company carries on overseas life assurance business.
- (2) Subject to the provisions of this section and section 441A, profits arising to the company from the overseas life assurance business shall be treated as income within Schedule D, and the chargeable under Case VI of that Schedule, and for that purpose—
  - (a) that business shall be treated separately, and
  - (b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) Subsection (2) above shall not apply if the company is charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.
- (4) In making the computation referred to in subsection (2) above—
  - (a) sections 82(1), (2) and (4) and 83 of the Finance Act 1989 shall apply with the necessary modifications and in particular with the omission of the words “tax or” in section 82(1)(a), and
  - <sup>F80</sup> [ section 83(3) of that Act shall not apply, ]
  - (aa) (b) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from overseas life assurance business in any previous accounting period beginning on or after 1st January 1990.
- (5) Section 396 shall not be taken to apply to a loss incurred by a company on overseas life assurance business.
- (6) Nothing in section 128 or 399(1) shall affect the operation of this section.
- (7) <sup>F81</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

**F78** Ss. 441, 441A substituted for s. 441 by [Finance Act 1990 \(c. 29\)](#), [Sch. 7 paras. 3, 10](#)

**F79** 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

**F80** 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\(2\)](#))

**F81** 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\(2\)](#))

#### 441A <sup>F82</sup>Section 441: distributions.

- (1) Section 208 shall not apply to a distribution in respect of any asset of an insurance company’s overseas life assurance fund.
- (2) Subject to subsection (3) below, an insurance company shall not be entitled under section 231 to a tax credit in respect of such a distribution.

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*Changes to legislation: Income and Corporation Taxes Act 1988, Cross Heading: Miscellaneous provisions relating to life assurance business is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been*

<sup>F83</sup> (3) A company shall be entitled to such a tax credit (and to the extent that) regulations made by the Board so provide.

- (4) Regulations under subsection (3) above may, in particular, provide for the entitlement of a company to a tax credit, and the amount to which the company is entitled, to be determined by reference to—
- (a) the residence of any description of policy holders or annuitants prescribed by the regulations, or
  - (b) the location of any branch or agency at or through which the policy or contract for any business is effected.
- (5) Subsections (2) and (3) of section 431E apply in relation to regulations under subsection (3) above as they apply in relation to regulations under subsection (1) of that section but as if any issue which falls to be decided for the purposes of the regulations under subsection (3) above were an issue such as is mentioned in subsection (2)(a) of that section.]
- (7) Where a company is entitled to an amount of tax credit by virtue of this section the company may claim to have that amount paid to it.
- (8) No franked investment income shall be used under Chapter V of Part VI of this Act to frank a company's distributions if the tax credit (or any part of the tax credit) comprised in it is payable to the company under subsection (7) above.

#### Textual Amendments

**F82** Ss. 441, 441A substituted for s. 441 by [Finance Act 1990 \(c. 29\)](#), Sch. 7 paras. 3, 10

**F83** 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\(2\)](#))

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

**C20** S. 441A(8) amended (27.7.1993) by [1993 c. 34, s. 78\(7\)](#)

#### <sup>F84</sup> 441B Treatment of UK land.

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

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- (b) whether or not the income to which subsection (2) above relates is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.

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

#### Textual Amendments

**F84** 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))

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

- (1)<sup>M17</sup>Subsections (2) and (3) below apply where a company resident in the United Kingdom carries on insurance business outside the United Kingdom through a branch or agency 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 otherwise than for the purposes of section 76(2) the profit or loss shall be treated for the purposes of the [F85 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

**F85** 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)

**C21** S. 442(3) excluded by Income and Corporation Taxes Act 1970 (c. 10), s. 269C(8) (as inserted (retrospectively) by Finance (No. 2) Act 1992 (c. 48), s.48)

#### Marginal Citations

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

### [<sup>F86</sup> 442A Taxation of investment return where risk reinsured.

- (1) Where an insurance company reinsures any risk in respect of a policy or contract attributable to its basic life assurance and general annuity business, the investment return on the policy or contract shall be treated as accruing to the company over the period of 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.
- (4) The regulations shall provide that the amount of investment return to be treated as accruing to the company 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.



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*(5) Regulations under this section are referenced with annotations. (See end of Document for details)*

- (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

**F86** 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))

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

- C22** 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
- C23** 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

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

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

#### Marginal Citations

**M18** Source—1970 s.321(1)(b), (2)

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

- (1) <sup>M19</sup>This section applies in relation to policies of life assurance issued before 5th August 1965 by a company carrying on life assurance business, being policies which—
  - (a) provide for benefits consisting to any extent of investments of a specified description or of a sum of money to be determined by reference to the value of such investments, but
  - (b) do not provide for the deduction from those benefits of any amount by reference to tax chargeable in respect of chargeable gains.
- (2) Where—

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*(a) applied to the investments of the company in life assurance funds, so far as referable to those policies, consist wholly or mainly of investments of the description so specified, and*

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

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

- (3) The amount to be retained under subsection (2) above shall, subject to subsection (4) below, be computed by reference to the rate of corporation tax for the time being in force or, if no rate of corporation tax has yet been fixed for the financial year, the rate last in force.
- (4) In so far as the chargeable gain represents or would represent a gain belonging or allocated to, or reserved for, policy holders, the amount to be retained shall be computed by reference to a rate of tax not exceeding 37.5 per cent.

#### Marginal Citations

M19 Source—1970 s.322

#### [<sup>F87</sup>444A Transfers of business.

- (1) Subject to the following provisions of this section, this section applies where there is a transfer of the whole or part of the long term business of an insurance company (“the transferor”) to another company (“the transferee”) in accordance with a scheme sanctioned by a court under [<sup>F88</sup>Part I of Schedule 2C to the Insurance Companies Act 1982].
- (2) Any expenses of management which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been deductible by the transferor under sections 75 and 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 treated as expenses of management of the transferee (and deductible in accordance with those sections, as modified in the case of acquisition expenses by section 86(6) to (9) of the Finance Act 1989 and in the case of expenses to which subsection (6) or (7) of section 87 of that Act applies by that subsection).
- (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>F89</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

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*June 2024. There are changes that may be brought into force at a future date. Changes that have been*

*made appear in the text of this section and are shown in red.*

(b) where 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>F91</sup>such] business, would have been so available under section 441(4)(b), shall, instead, be treated as a loss of the transferee (and available to be set off against profits of the same class of business as that in which it arose).

[ Any subsection (2) excess (within the meaning of section 432F(2)) which (assuming <sup>F92</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 expenses of management of the transferee by virtue of subsection (2) above, the amount deductible for the first accounting period of the transferee ending after the transfer takes place shall be calculated as if that accounting period began with the day after the transfer.
- (5) Where the transfer is of part only of the transferor's long term business, [<sup>F93</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>F94</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

**F87** 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

**F88** Words in s. 444A(1) substituted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 9 para. 1(1)(2)(b)

**F89** 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))

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- F90** Words in s. 444A(1) substituted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 9 para. 1(3)(a)**
- F91** 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)**
- F92** 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))
- F93** 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))
- F94** 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)

- C24** S. 444A(1) 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), **reg. 4** (as amended (19.3.1997) by The Friendly Societies (Taxation of Transfers of Business) (Amendment) Regulations 1997 (S.I. 1997/472), **regs. 1, 3**)
- C25** S. 444A(1) 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** (as inserted (19.3.1997) by The Friendly Societies (Taxation of Transfers of Business) (Amendment) Regulations 1997 (S.I. 1997/472), **regs. 1, 4**)
- C26** S. 444A(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 30** (as amended (1.12.2001) by S.I. 2001/3629, **arts. 1(2)(b), 159**); and that modifying reg. 30 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, **reg. 23**

VALID FROM 19/02/2008

#### <sup>F95</sup> 444A Transfers of life assurance business: Case VI losses of the transferor

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

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- (3) For the purposes of subsection (2) above “GRBP”, in relation to a period of account, is—

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

where—

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

*GRBTL* is the mean of the opening and closing liabilities of the transferred gross roll-up business for the period of account, and

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

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

**F95** 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>F95</sup> **444AZB** Transfers of life assurance business: Case I losses of the transferor

- (1) This section applies where—
- an insurance business transfer scheme has effect to transfer life assurance business from one person (“the transferor”) to another (“the transferee”),
  - assuming the transferor had continued to carry on the business transferred after the transfer, the amount of any profits would have been charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3),
  - the profits in respect of the business transferred for the first period of account of the transferee ending after the date on which the transfer takes effect are charged to tax under the I minus E basis, and
  - the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to a transfer).

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- (2) The relevant fraction of any loss which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to be set off against profits of that business (a “Case I loss”) shall instead be treated as a loss of the transferee (a “Case VI loss”) available to be set off against the amount of such profits chargeable under section 436A for a period of account as relate to the business transferred (that amount being determined in accordance with section 343(9) and (10), where applicable).
- (3) For the purposes of subsection (2) above “the relevant fraction”, in relation to a period of account, is—

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

where—

*GRBTL* is the mean of the opening and closing liabilities of the transferred gross roll-up business for the period of account, and

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

- (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

- F95** 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 10/07/2003

#### [<sup>F96</sup> 444A] **Transfers of business: deemed periodical return**

- (1) This section applies where an insurance business transfer scheme has effect to transfer the whole of the long-term business of one person (“the transferor”).
- (2) Where the last period covered by a periodical return of the transferor ends otherwise than immediately before the transfer, there is to be deemed for the purposes of corporation tax to be a periodical return of the transferor covering the period—
- (a) beginning immediately after the last period ending before the transfer which is covered by an actual periodical return of the transferor, and
  - (b) ending immediately before the transfer,

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containing such entries as would have been included in an actual periodical return of the transferor covering that period (and so making that period a period of account of the transferor).

(3) Where the last period covered by a periodical return of the transferor (whether or not by virtue of subsection (2) above) ends immediately before the transfer, there is to be deemed for the relevant purpose to be a periodical return of the transferor—

- (a) covering the time of the transfer, and
- (b) containing such entries as would have been included in an actual periodical return covering the time of the transfer,

(and so making the time of the transfer a period of account of the transferor for the relevant purpose).

(4) Where the last period covered by a periodical return of the transferor ends after the transfer, the periodical return covering that period is to be ignored for all purposes of corporation tax other than the relevant purpose.

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

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

### Textual Amendments

**F96** 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\(1\)](#)

VALID FROM 10/07/2003

### **[<sup>F97</sup>444A] Transfers of business: charge on transferor retaining assets**

(1) This section applies where, immediately after an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to one or more others (“the transferee” or “the transferees”), the transferor—

- (a) does not carry on long-term business, but
- (b) holds assets which, immediately before the transfer, were assets of its long-term insurance fund.

(2) The transferor shall be charged to tax under Case VI of Schedule D in respect of the taxable amount as if it had been received by the transferor during the accounting period beginning immediately after the day of the transfer.

(3) If the transferor was charged to tax on the profits of its life assurance business under Case I of Schedule D for the accounting period ending with the day of the transfer, the taxable amount is the whole of the previously untaxed amount.

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- (4) Otherwise, the taxable amount is the non-BLAGAB fraction of the previously untaxed amount.
- (5) The previously untaxed amount is the lesser of—
  - (a) the fair value of 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 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.
- (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

**F97** 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)

VALID FROM 22/07/2004

#### <sup>F98</sup> 444AB Subsequent charge in certain cases within s.444AB

- (1) This section applies where—



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

**F98** 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)

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VALID FROM 16/12/2010

**[<sup>F99</sup>444A~~BA~~AA] Profit fund transferred assets**

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

$$FVA - (ABTO + TL)$$

where—

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

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

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

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

**Textual Amendments**

**F99** S. 444A~~BA~~AA 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>F100</sup>444A~~BA~~BB] Retained assets**

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

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

### Textual Amendments

**F100** Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 4(1); S.I. 2008/379, art. 2

VALID FROM 19/02/2008

### **[<sup>F101</sup>444AB] Transfers of business: election for transferee to pay tax of transferor**

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

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### Textual Amendments

**F101** S. 444ABBA inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [art. 14](#)

### Marginal Citations

**M20** 1970 c. 9

VALID FROM 19/07/2007

### [<sup>F102</sup> 444ABC] **Transfer scheme transferring part of business: transferor**

- (1) This section applies where an insurance business transfer scheme has effect to transfer part (but not the whole or substantially the whole) of the long-term business of a person (“the transferor”) to another person (“the transferee”) and the condition in subsection (2) below is met.
- (2) That condition is that any of the assets of the transferor's long-term insurance fund which are transferred from the transferor to the transferee by the insurance business transfer scheme are not, immediately after their transfer—
  - (a) if the transferee is an insurance company, assets of the transferee's long-term insurance fund, or
  - (b) if the transferee is not an insurance company, assets of a with-profits fund of the transferee, (“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

**F102** 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>F103</sup> 444ABD] Transferor's period of account including transfer**

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

#### **Textual Amendments**

**F103** 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

VALID FROM 10/07/2003

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

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

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VALID FROM 19/07/2007

**[<sup>F104</sup> 444ACZA Transfer schemes transferring part of business: reduction in income of transferee**

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

**Textual Amendments**

**F104** 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](#)

VALID FROM 20/07/2005

**[<sup>F105</sup> 444ACZA Transfers of business: transferor shares are assets of transferee's long-term insurance fund etc**

- (1) This section applies where an insurance business transfer scheme (see section 444AC(11)) has effect to transfer long-term business from one company (“the transferor”) to another (“the transferee”).
- (2) If—
  - (a) immediately before the transfer, the assets of the long-term insurance fund of the transferee comprise or include relevant shares or an interest in such shares, and
  - (b) the fair value (see section 444AC(11)) of the relevant shares, or of that interest, is reduced (whether or not to nil) as a result of the transfer,
 an amount equal to that reduction in fair value is to be taken into account under section 83(2) of the Finance Act 1989 as a receipt of the transferee of the period of account of the transferee in which the transfer takes place.

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- (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

**F105** 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)

VALID FROM 10/07/2003

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

- (1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2) If the transferor and the transferee jointly elect, section 83(2B) of the Finance Act 1989 does not apply to the transferor by reason of the transfer as respects so much of the value of the assets to which it would otherwise so apply as does not exceed the amount specified in subsection (4) below.
- (3) An election under subsection (2) above—
  - (a) is irrevocable, and

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(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—
- (a) the fair value of the assets of the long-term insurance fund of the transferee immediately after the transfer, is greater than
  - (b) the element of the transferee's line 15 figure representing the transferor's long-term insurance fund.
- (5) In subsection (4) above "fair value", in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.

VALID FROM 10/07/2003

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

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

VALID FROM 19/07/2007

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

- (1) This section applies where—
- (a) as a result of the whole or any part of transfer scheme arrangements involving the transfer of long-term business from one person ("the transferor") to another ("the transferee") a Case I advantage is obtained by the transferor or the transferee (or by both), and
  - (b) the sole or main purpose, or one of the main purposes, of the whole or any part of the transfer scheme arrangements is the obtaining of that Case I advantage.



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- (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.

VALID FROM 19/07/2007

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

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

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

VALID FROM 19/07/2007

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

- (1) A Case I advantage is obtained by the transferee if—
- (a) Case I profits of its life assurance business for a period of account to which this section applies are less than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements, or
  - (b) Case I losses of its life assurance business for such a period of account are greater than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements.
- (2) If a Case I advantage is obtained by the transferee, the amount of the Case I advantage is—
- (a) the amount by which Case I profits for each period of account to which this section applies are less than they would be but for the transfer scheme arrangements or part, or
  - (b) the amount by which Case I losses for each such period of account are greater than they would be but for the transfer scheme arrangements or part.
- (3) This section applies to a period of account if it is—
- (a) the first period of account of the transferee ending after the transfer date or after the effecting of the first of any relevant associated operations (if that occurs before the transfer date),
  - (b) the second period of account of the transferee ending after the transfer date or after the effecting of the last of any relevant associated operations (if that occurs after the transfer date), or
  - (c) any intervening period of account.

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- (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>F106</sup> 444AECB] of transfer scheme arrangements: anti-avoidance rule**

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

**Textual Amendments**

**F106** Ss. 444AECB-444AECB inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 22**

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VALID FROM 19/02/2008

**[<sup>F106</sup> 444AECB of transfer scheme arrangements: Case I advantage transferor**

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

**Textual Amendments**

**F106** 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**

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VALID FROM 19/02/2008

**[<sup>F106</sup> 444AECB of transfer scheme arrangements: Case I advantage transferee**

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

**Textual Amendments**

**F106** Ss. 444AECA-444AECB inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **art. 22**

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VALID FROM 19/07/2007

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

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

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- (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.

**Status:**

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**Changes to legislation:**

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