



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

[^{F1} Equalisation reserves

[^{F1} 444BA] Equalisation reserves for general business.

- (1) Subject to the following provisions of this section and to sections 444BB to 444BD, the rules in subsection (2) below shall apply in making any computation, for the purposes of [^{F2}section 35 of CTA 2009 (charge on trade profits)], of the profits or losses for any accounting period of an insurance company whose business has at any time been or included business in respect of which it was required, by virtue of [^{F3}equalisation reserve rules], to maintain an equalisation reserve.
- (2) Those rules are—
 - (a) that amounts which, in accordance with [^{F3}equalisation reserve rules], are transferred into the equalisation reserve in respect of the company's business for the accounting period in question are to be deductible;
 - (b) that amounts which, in accordance with any such regulations, are transferred out of the reserve in respect of the company's business for that period are to be treated as receipts of that business; and
 - (c) that it must be assumed that all such transfers as are required by [^{F3}equalisation reserve rules] to be made into or out of the reserve in respect of the company's business for any period are made as required.

Status: Point in time view as at 21/10/2009. This version of this provision has been superseded.

Changes to legislation: *Income and Corporation Taxes Act 1988, Section 444BA is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) Where an insurance company having any business in respect of which it is required, by virtue of [F³equalisation reserve rules], to maintain an equalisation reserve ceases to trade—
- (a) any balance which exists in the reserve at that time for the purposes of the Tax Acts shall be deemed to have been transferred out of the reserve immediately before the company ceases to trade; and
 - (b) that transfer out shall be deemed to be a transfer in respect of the company's business for the accounting period in which the company so ceases and to have been required by [F³equalisation reserve rules].
- (4) Where—
- (a) an amount is transferred into an equalisation reserve in respect of the business of an insurance company for any accounting period,
 - (b) the rule in subsection (2)(a) above would apply to the transfer of that amount but for this subsection,
 - (c) that company by notice in writing to an officer of the Board makes an election in relation to that amount for the purposes of this subsection, and
 - (d) the notice of the election is given not more than two years after the end of that period,
- the rule mentioned in subsection (2)(a) above shall not apply to that transfer of that amount and, instead, the amount transferred (the “unrelieved transfer”) shall be carried forward for the purposes of subsection (5) below to the next accounting period and (subject to subsection (6) below) from accounting period to accounting period.
- (5) Where—
- (a) in accordance with [F³equalisation reserve rules], a transfer is made out of an equalisation reserve in respect of an insurance company's business for any accounting period,
 - (b) the rule in subsection (2)(b) above would apply to the transfer but for this subsection, and
 - (c) the accounting period is one to which any amount representing one or more unrelieved transfers has been carried forward under subsection (4) above,
- that rule mentioned in subsection (2)(b) above shall not apply to that transfer except to the extent (if any) that the amount of the transfer exceeds the aggregate of the amounts representing unrelieved transfers carried forward to that period.
- (6) Where in the case of any company—
- (a) any amount representing one or more unrelieved transfers is carried forward to an accounting period in accordance with subsection (4) above, and
 - (b) by virtue of subsection (5) above the rule in subsection (2)(b) above does not apply to an amount representing the whole or any part of any transfer out of an equalisation reserve in respect of the company's business for that period,
- the amount mentioned in paragraph (a) above shall not be carried forward under subsection (4) above to the next accounting period except to the extent (if any) that it exceeds the amount mentioned in paragraph (b) above.
- (7) To the extent that any actual or assumed transfer in accordance with [F³equalisation reserve rules] of any amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes—
- (a) the rule in subsection (2)(a) above shall not apply to that transfer; and

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- (b) the making of that transfer shall be disregarded in determining, for the purposes of the Tax Acts, whether and to what extent there is subsequently any requirement to make a transfer into or out of the reserve in accordance with [F3equalisation reserve rules];

and this subsection applies irrespective of whether the insurance company in question is a party to the arrangements.

- (8) For the purposes of this section the transfer of an amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes to the extent that the arrangements to which it is attributable are arrangements—

- (a) the sole or main purpose of which is, or
 (b) the sole or main benefit accruing from which might (but for subsection (7) above) be expected to be,

the reduction by virtue of this section of any liability to tax.

- (9) Where—

- (a) any transfer made into or out of an equalisation reserve maintained by an insurance company is made in accordance with [F3equalisation reserve rules] in respect of business carried on by that company over a period (“the equalisation period”), and

- (b) parts of the equalisation period are in different accounting periods,
 the amount transferred shall be apportioned for the purposes of this section between the different accounting periods in the proportions that correspond to the number of days in the equalisation period that are included in each of those accounting periods.

- (10) The Treasury may by regulations provide in relation to any accounting periods ending on or after 1st April 1996 for specified transitional provisions contained in [F3equalisation reserve rules] to be disregarded for the purposes of the Tax Acts in determining how much is required, on any occasion, to be transferred into or out of any equalisation reserve in accordance with [F4the rules].]

- [F5(11) In this section, and in sections 444BB to 444BD, “equalisation reserves rules” means the rules in [F6chapter 1.4 of the Insurance Prudential Sourcebook].]

Textual Amendments

- F1** Ss. 444BA-444BD and preceding cross-heading inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), s. 166, [Sch. 32 para. 1](#)
- F2** Words in s. 444BA(1) substituted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), [Sch. 1 para. 155](#) (with [Sch. 2 Pts. 1, 2](#))
- F3** Words in ss. 444BA-444BD substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(1\)](#)
- F4** Words in s. 444BA(10) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(3\)](#)
- F5** S. 444BA(11) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(4\)](#)
- F6** Words in s. 444BA(11) substituted (29.10.2008 with effect in accordance with art. 1 of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2008 \(S.I. 2008/2673\)](#), [art. 2](#)

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Modifications etc. (not altering text)

- C1** S. 444BA modified (23.12.1996 with effect in accordance with reg. 1 of the modifying S.I.) by [The Insurance Companies \(Reserves\) \(Tax\) Regulations 1996 \(S.I. 1996/2991\)](#), **regs. 4-12**
- C2** S. 444BA: power to apply (with modifications) conferred (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **s. 47**
- C3** S. 444BA applied (with modifications) (1.9.2009 with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Lloyd's Underwriters \(Equalisation Reserves\) \(Tax\) Regulations 2009 \(S.I. 2009/2039\)](#), **regs. 1(1), 2-5**

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