



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VI

COMPANIES, OIL, INSURANCE ETC.

CHAPTER III

INSURANCE

204 Policies of insurance.

- (1) The rights of the insurer under any policy of insurance shall not constitute an asset on the disposal of which a gain may accrue, whether the risks insured relate to property or not; and the rights of the insured under any policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets shall constitute an asset on the disposal of which a gain may accrue only to the extent that those rights relate to assets on the disposal of which a gain may accrue or might have accrued.
- (2) Notwithstanding subsection (1) above, sums received under a policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets are for the purposes of this Act, and in particular for the purposes of section 22, sums derived from the assets.
- (3) 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 the purposes of this Act, for a consideration equal to the market value of the assets.
- (4) In subsections (1) and (2) above "policy of insurance" does not include a policy of assurance on human life^{F1}...

Status: Point in time view as at 20/07/2005.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Chapter III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F1 Words in s. 204(4) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)

205 Disallowance of insurance premiums as expenses.

Without prejudice to the provisions of section 39, there shall be excluded from the sums allowable as a deduction in the computation of the gain accruing on the disposal of an asset any premiums or other payments made under a policy of insurance of the risk of any kind of damage or injury to, or loss or depreciation of, the asset.

F²206

Textual Amendments

F2 S. 206 repealed (27.7.1993, the repeal of subsections (2)-(5) having effect for the year 1994-95 and subsequent years of assessment, the repeal of subsection (1) having effect for the year 1992-93 and subsequent years of assessment, as mentioned in Notes 4, 5) by [1993 c. 34, s. 213](#), [Sch. 23 Pt. III Table\(12\) Notes 4, 5](#); S. 206 further amended (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by [1993 c. 34, ss. 183\(7\), 184\(3\)](#)

F³207

Textual Amendments

F3 S. 207 repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years as mentioned in Note 2) by [1993 c. 34, s. 213](#), [Sch. 23 Pt. III Table\(12\) Note 2](#)

F⁴208

Textual Amendments

F4 S. 208 repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years as mentioned in Sch. 23, Pt. III Table (12) Note 2) by [1993 c. 34, s. 213](#), [Sch. 23 Pt. III Table\(12\) Note 2](#)

F⁵209

Textual Amendments

F5 S. 209 repealed (27.7.1993, the repeal of subsections (1)(2)(6) having effect for the year 1994-95 and subsequent years of assessment, the repeal of subsections (3)-(5) having effect for the year 1992-3 and subsequent years of assessment, as mentioned in Notes 4, 5) by [1993 c. 34, s. 213](#), [Sch. 23 Pt.](#)

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III Table(12) Notes 4, 5; s. 209 further amended (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment as mentioned in s. 184(3)) by 1993 c. 34, ss. 183(8)(a)(b), 184(3)

[^{F6}210 Life assurance and deferred annuities.

- (1) This section has effect in relation to any policy of insurance or contract for a deferred annuity on the life of any person.
- (2) A gain accruing on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity is not a chargeable gain unless subsection (3) below applies.
- (3) This subsection applies if—
 - (a) (in the case of a disposal of the rights) the rights or any interest in the rights, or
 - (b) (in the case of a disposal of an interest in the rights) the rights, the interest or any interest from which the interest directly or indirectly derives (in whole or in part),have or has at any time been acquired by any person for actual consideration (as opposed to consideration deemed to be given by any enactment relating to the taxation of chargeable gains).
- (4) For the purposes of subsection (3) above —
 - (a) (in the case of a policy of insurance) amounts paid under the policy by way of premiums, and
 - (b) (in the case of a contract for a deferred annuity) amounts paid under the contract, whether by way of premiums or as lump sum consideration,do not constitute actual consideration.
- (5) And for those purposes actual consideration for—
 - (a) a disposal which is made by one spouse to the other or is an approved post-marriage disposal, or
 - (b) a disposal to which section 171(1) applies,is to be treated as not constituting actual consideration.
- (6) For the purposes of subsection (5)(a) above a disposal is an approved post-marriage disposal if—
 - (a) it is made in consequence of the dissolution or annulment of a marriage by one person who was a party to the marriage to the other,
 - (b) it is made with the approval, agreement or authority of a court (or other person or body) having jurisdiction under the law of any country or territory or pursuant to an order of such a court (or other person or body), and
 - (c) the rights disposed of were, or the interest disposed of was, held by the person by whom the disposal is made immediately before the marriage was dissolved or annulled.
- (7) Subsection (8) below applies for the purposes of tax on chargeable gains where—
 - (a) (if that subsection did not apply) a loss would accrue on a disposal of, or of an interest in, the rights conferred by the policy of insurance or contract for a deferred annuity, but
 - (b) if sections 37 and 39 were disregarded, there would accrue on the disposal a loss of a smaller amount, a gain or neither a loss nor a gain.

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- (8) If (disregarding those sections) a loss of a smaller amount would accrue, that smaller amount is to be taken to be the amount of the loss accruing on the disposal; and in any other case, neither a loss nor a gain is to be taken to accrue on the disposal.
- (9) But subsection (8) above does not affect the treatment for the purposes of tax on chargeable gains of the person who acquired rights, or an interest in rights, on the disposal.
- (10) The occasion of—
- (a) the receipt of the sum or sums assured by the policy of insurance,
 - (b) the transfer of investments or other assets to the owner of the policy of insurance in accordance with the policy, or
 - (c) the surrender of the policy of insurance,
- is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the policy of insurance.
- (11) The occasion of—
- (a) the receipt of the first instalment of the annuity under the contract for a deferred annuity, or
 - (b) the surrender of the rights conferred by the contract for a deferred annuity,
- is for the purposes of tax on chargeable gains an occasion of a disposal of the rights (or of all of the interests in the rights) conferred by the contract for a deferred annuity.
- (12) Where there is a disposal on the occasion of the receipt of the first instalment of the annuity under the contract for a deferred annuity—
- (a) in the case of a disposal of the rights conferred by the contract, the consideration for the disposal is the aggregate of the amount or value of the first instalment and the market value at the time of the disposal of the right to receive the further instalments of the annuity, and
 - (b) in the case of a disposal of an interest in the rights, the consideration for the disposal is such proportion of that aggregate as is just and reasonable;
- and no gain accruing on any subsequent disposal of, or of any interest in, the rights is a chargeable gain (even if subsection (3) above applies).
- (13) In this section “interest”, in relation to rights conferred by a policy of insurance or contract for a deferred annuity, means an interest as a co-owner of the rights (whether the rights are owned jointly or in common and whether or not the interests of the co-owners are equal).]

Textual Amendments

- F6** S. 210 substituted (with effect in accordance with s. 157(2) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 157\(1\)](#)

[^{F7}210A Ring-fencing of losses

- (1) Section 8(1) has effect in relation to insurance companies subject to the provisions of this section.

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- (2) Non-BLAGAB allowable losses accruing to an insurance company are not allowable as a deduction from the policy holders' share of the BLAGAB chargeable gains accruing to the company.
- (3) BLAGAB allowable losses accruing to an insurance company are allowable as a deduction from non-BLAGAB chargeable gains accruing to the company as permitted by the following provisions of this section (and not otherwise).
- (4) They are allowable as a deduction from only so much of non-BLAGAB chargeable gains accruing to the company in an accounting period as exceeds the aggregate of—
 - (a) non-BLAGAB allowable losses accruing to the company in the accounting period, and
 - (b) non-BLAGAB allowable losses previously accruing to the company which have not been allowed as a deduction from chargeable gains accruing in any previous accounting period.
- (5) And they are allowable as a deduction from non-BLAGAB chargeable gains accruing to the company in an accounting period only to the extent that they do not exceed the permitted amount for the accounting period.
- (6) The permitted amount for the first accounting period of an insurance company in relation to which this section has effect is the aggregate of—
 - (a) the amount by which shareholders' share for that accounting period of BLAGAB allowable losses accruing to the company in the accounting period exceeds the shareholders' share of BLAGAB chargeable gains so accruing, and
 - (b) the shareholder's share for the immediately preceding accounting period of BLAGAB allowable losses previously accruing to the company which have not been allowed as a deduction from chargeable gains accruing in that immediately preceding accounting period or any earlier accounting period.
- (7) The permitted amount for any subsequent accounting period of the company is arrived at by—
 - (a) deducting from the permitted amount for the immediately preceding accounting period the amount of any BLAGAB allowable losses allowed as a deduction from non-BLAGAB chargeable gains accruing to the company in the immediately preceding accounting period, and
 - (b) adjusting the result in accordance with subsection (8) or (9) below.
- (8) If the BLAGAB chargeable gains accruing to the company in the subsequent accounting period exceed the BLAGAB allowable losses so accruing, the amount arrived at under subsection (7)(a) above is reduced by a fraction of which—
 - (a) the denominator is the BLAGAB allowable losses accruing to the company in any previous accounting period which have not been allowed as a deduction from chargeable gains accruing to the company in any previous accounting period, and
 - (b) the numerator is so many of those allowable losses as are allowed as a deduction from BLAGAB chargeable gains accruing to the company in the accounting period.
- (9) If the BLAGAB allowable losses accruing to the company in the subsequent accounting period exceed the BLAGAB chargeable gains so accruing, the amount

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arrived at under subsection (7)(a) above is increased by the shareholders' share of the amount by which those allowable losses exceed those chargeable gains.

(10) For the purposes of this section the policy holders' share of chargeable gains or allowable losses accruing to an insurance company in an accounting period—

- (a) if the policy holders' share of the relevant profits for the accounting period exceeds the BLAGAB profits of the company for the period (within the meaning of section 89(1B) of the Finance Act 1989), is the whole amount of the chargeable gains or allowable losses, and
- (b) otherwise, is the same proportion of that whole amount as the policy holders' share of the relevant profits [^{F8}for the accounting period bears to those BLAGAB profits].

(11) In arriving at the policy holders' share of chargeable gains accruing to an insurance company under subsection (10) above there is to be ignored—

- (a) any deduction under section 202(9) (mineral leases: capital losses),
- (b) any reduction under section 213(3) (spreading of losses from deemed disposal of holdings of unit trust etc), and
- (c) any amount carried back under paragraph 4(3) of Schedule 11 to the Finance Act 1996 (non-trading deficit on loan relationships).

(12) For the purposes of this section the shareholders' share of chargeable gains or allowable losses in relation to an accounting period of an insurance company is the proportion of the whole which is not represented by the policy holders' share of them in relation to the accounting period.

(13) In this section—

“BLAGAB allowable losses”, in relation to an insurance company, means allowable losses referable [^{F9}(in accordance with section 432A of the Taxes Act)] to the company's basic life assurance and general annuity business,

“BLAGAB chargeable gains”, in relation to an insurance company, means chargeable gains referable [^{F9}(in accordance with section 432A of the Taxes Act)] to the company's basic life assurance and general annuity business,

“non-BLAGAB allowable losses”, in relation to an insurance company, means allowable losses of the company which are not BLAGAB allowable losses,

“non-BLAGAB chargeable gains”, in relation to an insurance company, means chargeable gains of the company which are not BLAGAB chargeable gains, and

“the relevant profits” and “the policy holders' share of the relevant profits” have the same meaning as they have for the purposes of subsection (1) of section 88 of the Finance Act 1989 by virtue of subsection (3) of that section and section 89 of that Act.]

Textual Amendments

F7 S. 210A inserted (with effect in accordance with Sch. 33 para. 14(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 14\(1\)](#)

F8 Words in s. 210A(10)(b) substituted (with effect in accordance with Sch. 7 para. 6(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 6\(1\)](#)

F9 Words in s. 210A(13) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(3\)\(a\)](#)

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[^{F10}210B Disposal and acquisition of section 440A securities

- (1) Subsections (2) to (4) below apply in a case where, within a period of 10 days, an insurance company disposes of a number of section 440A securities and (whether subsequently or previously) acquires a number of section 440A securities if—
 - (a) the securities disposed of decrease the size of a chargeable section 440A holding,
 - (b) the securities acquired increase the size of the same chargeable section 440A holding, and
 - (c) (apart from this section) an allowable loss would accrue on the disposal.
- (2) The securities disposed of shall be identified with the securities acquired.
- (3) The securities disposed of shall be identified with securities acquired before the disposal rather than securities acquired after the disposal and—
 - (a) in the case of securities acquired before the disposal, with those acquired later rather than those acquired earlier, and
 - (b) in the case of securities acquired after the disposal, with those acquired earlier rather than those acquired later.
- (4) Where securities acquired could be identified with securities disposed of either at an earlier or at a later date, they shall be identified with the former rather than the latter; and the identification of securities acquired with securities disposed of on any occasion shall preclude their identification with securities comprised in a later disposal.
- (5) Subsections (2) to (4) above have effect subject to section 105(1).
- (6) Subsections (2) to (4) above do not apply to—
 - (a) securities which are section 212 assets within the meaning of section 214(1) (rights under authorised unit trusts and interests in offshore funds), or
 - (b) securities deemed by section 440 of the Taxes Act to be disposed of and immediately re-acquired by virtue of paragraph 3 of Schedule 19AA to the Taxes Act (assets becoming or ceasing to be assets of overseas life assurance fund).
- (7) Subsections (2) to (4) above do not apply if—
 - (a) the securities disposed of are linked assets appropriated to a BLAGAB internal linked fund,
 - (b) the securities acquired are, on acquisition, appropriated to that or another internal linked fund, and
 - (c) the disposal and acquisition are made with a view to adjusting the value of the assets of that fund, or of those funds, in order to match its or their liabilities.
- (8) In this section—

“BLAGAB internal linked fund” means an internal linked fund all the assets appropriated to which are linked solely to basic life assurance and general annuity business,

“chargeable section 440A holding” means a holding which is a separate holding by virtue of subsection (2)(a)(iii) or (d) of section 440A of the Taxes Act (and subsections (3) and (4) of that section),

“internal linked fund” has the same meaning as in section 432ZA of the Taxes Act, and

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“section 440A securities” means securities within the meaning of section 440A of the Taxes Act.]

Textual Amendments

F10 S. 210B inserted (with effect in accordance with Sch. 33 para. 15(2)(3) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 15(1)**

Modifications etc. (not altering text)

C1 S. 210B modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), **reg. 43A** (as inserted (8.4.2004) by [S.I. 2004/822](#), **regs. 1, 36**)

211 Transfers of business.

[^{F11}(1) This section applies where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”).

^{F12}(1A)]

(2) ^{F13} . . . , where this section applies section 139 shall not be prevented from having effect in relation to any asset included in the transfer by reason that—

(a) the transfer is not part of a scheme of reconstruction [^{F14}within the meaning of that section]^{F15} . . . , [^{F16}or]

^{F17}(b)

(c) the asset is within subsection (2) of that section;

and where section 139 applies by virtue of paragraph (a) above the references in subsection (5) of that section to the reconstruction ^{F15} . . . shall be construed as references to the transfer.

[^{F18}(2A) Where section 139 has effect in relation to an asset by virtue of subsection (2) above, the reference in subsection (1A) of that section to section 10(3) shall be construed as a reference to section 11(2)(b), (c), (d) or (e) of the Taxes Act.]

^{F19}(3)

Textual Amendments

F11 S. 211(1)(1A) substituted (with effect in accordance with art. 66(2) of the amending S.I.) for s. 211(1) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), 66(1)

F12 S. 211(1A) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 43 Pt. 3(12)**

F13 Words in s. 211(2) repealed (with effect in accordance with Sch. 29 paras. 5(4), 30(5), Sch. 40 Pt. II(12) Note 10 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 30(2)(a)**, **Sch. 40 Pt. II(12)** (with [Sch. 29 para. 46\(5\)](#))

F14 Words in s. 211(2)(a) inserted (with effect in accordance with Sch. 9 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), **Sch. 9 para. 5(11)**

F15 Words in s. 211(2) repealed (with effect in accordance with Sch. 11 paras. 7, 8 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), **Sch. 40 Pt. 3(2)**

F16 Word in s. 211(2)(a) inserted (with effect in accordance with Sch. 29 paras. 5(4), 30(5) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 29 para. 30(2)(b)** (with [Sch. 29 para. 46\(5\)](#))

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- F17** S. 211(2)(b) repealed (with effect in accordance with Sch. 29 paras. 5(4), 30(5), Sch. 40 Pt. II(12) Note 10 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 30\(2\)\(c\)](#), [Sch. 40 Pt. II\(12\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F18** S. 211(2A) inserted (with effect in accordance with Sch. 29 paras. 5(4), 30(5) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 30\(3\)](#) (with [Sch. 29 para. 46\(5\)](#))
- F19** S. 211(3) repealed (with effect in accordance with Sch. 29 paras. 5(4), 30(5), Sch. 40 Pt. II(12) Note 10 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 29 para. 30\(4\)](#), [Sch. 40 Pt. II\(12\)](#) (with [Sch. 29 para. 46\(5\)](#))

Modifications etc. (not altering text)

- C2** S. 211(1) modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Friendly Societies \(Taxation of Transfers of Business\) Regulations 1995 \(S.I. 1995/171\)](#), regs. 1, [4\(1\)\(2\)\(e\)](#)

[^{F20}**211ZA** **Transfers of business: transfer of unused losses**

- (1) This section applies where—
- (a) an insurance business transfer scheme has effect to transfer business consisting of or including basic life assurance and general annuity business from one person (“the transferor”) to another (“the transferee”) or more than one others (“the transferees”), and
 - (b) the transferor has relevant unused losses.
- (2) For the purposes of subsection (1)(b) above the transferor has relevant unused losses if—
- (a) BLAGAB allowable losses accrue to the transferor in the accounting period ending with the day of the transfer or have so accrued in any earlier accounting period, and
 - (b) they are not deducted from chargeable gains accruing to the transferor in that accounting period and have not been deducted from chargeable gains so accruing in any previous accounting period.
- (3) Subject as follows—
- (a) for the purposes of ascertaining the transferor’s total profits for any accounting period after that in which the transfer takes place, the relevant unused losses are deemed not to have accrued to the transferor, but
 - (b) (instead) they are treated as accruing to the transferee (in accordance with subsection (4) below).
- (4) The losses treated as accruing to the transferee under subsection (3)(b) above shall be deemed to be BLAGAB allowable losses accruing to the transferee in the accounting period of the transferee in which the transfer takes place.
- (5) But those losses are not allowable as a deduction from chargeable gains accruing before the transfer takes place.
- (6) For the purposes of section 210A (ring-fencing of losses), the shareholders' share of those losses is to be taken to be the same proportion as would be the shareholders' share of them if they had remained losses of the transferor.
- (7) If only part of the transferor’s basic life assurance and general annuity business is transferred, subsection (3) above applies as if the references to the relevant unused losses were to such part of the relevant unused losses as is appropriate.

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- (8) If the transfer is to more than one others, subsection (3)(b) above applies as if the reference to the relevant unused losses being treated as accruing to the transferee were to such part of the relevant unused losses as is appropriate being treated as accruing to each of the transferees.
- (9) Any question arising as to the operation of subsection (7) or (8) 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 (or the one of the transferees concerned) shall be entitled to appear and be heard or to make representations in writing.
- (10) In this section “BLAGAB allowable losses” means allowable losses referable [^{F21}(in accordance with section 432A of the Taxes Act)] to the transferor’s basic life assurance and general annuity business.]

Textual Amendments

- F20** S. 211ZA inserted (with effect in accordance with Sch. 33 para. 21(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 21\(1\)](#)
- F21** Words in s. 211ZA(10) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(3\)\(b\)](#)

Modifications etc. (not altering text)

- C3** S. 211ZA modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), [reg. 44A](#) (as inserted (8.4.2004) by [S.I. 2004/822](#), [regs. 1, 38](#))

[^{F22}211A Gains of insurance company from venture capital investment partnership

Schedule 7AD to this Act has effect with respect to the gains of an insurance company from a venture capital investment partnership.]

Textual Amendments

- F22** S. 211A inserted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#), [s. 85\(1\)](#)

212 Annual deemed disposal of holdings of unit trusts etc.

- (1) Where at the end of an accounting period the assets of an insurance company’s [^{F23}long-term insurance] fund include—
- (a) rights under an authorised unit trust, or
 - (b) relevant interests in an offshore fund,

then, subject to the following provisions of this section and to section 213, the company shall be deemed for the purposes of corporation tax on capital gains to have disposed of and immediately reacquired each of the assets concerned at its market value at that time.

- ^{F24}(2) Subsection (1) above shall not apply to assets linked solely to pension business [^{F24}, child trust fund business] [^{F25}, individual savings account business] [^{F26} or life reinsurance business] or to assets of the overseas life assurance fund, ^{F27} . . .

- [^{F28}(2A) Subsection (1) above shall not apply to assets falling by virtue of paragraph 4 of Schedule 10 to the Finance Act 1996 (company holdings in unit trusts) to be treated for

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the accounting period in question as representing rights under a creditor relationship of the company.]

^{F29}(3)

^{F29}(4)

(5) For the purposes of this section an interest is a “relevant interest in an offshore fund” if—

(a) it is a material interest in an offshore fund for the purposes of Chapter V of Part XVII of the Taxes Act, or

^{F30}(b) it would be such an interest if either or both of the assumptions mentioned in subsection (6A) below were made.]

^{F29}(6)

^{F31}(6A) The assumptions referred to in subsection (5)(b) above are—

(a) that the companies, unit trust schemes and arrangements referred to in ^{F32}paragraphs (a) to (c) of subsection (1) of section 756A] of the Taxes Act are not limited to those which are also collective investment schemes;

(b) that the shares and interests excluded by subsections (6) and (8) of ^{F33}section 759 of that Act] are limited to shares or interests in trading companies.]

(7) In this section “trading company” means a company—

(a) whose business consists of the carrying on of insurance business, or the carrying on of any other trade which does not consist to any extent of dealing in commodities, currency, securities, debts or other assets of a financial nature, or

(b) whose business consists wholly or mainly of the holding of shares or securities of trading companies which are its 90 per cent. subsidiaries;

^{F34}

^{F35}(7A) 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 subsection (1) above has effect subject to section 440B(5) of the Taxes Act.]

^{F36}(8)

Textual Amendments

- F23** Words in s. 212(1) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), **73(1)(a)**
- F24** Words in s. 212(2) inserted (6.4.2005) by [The Child Trust Funds \(Insurance Companies\) Regulations 2004 \(S.I. 2004/2680\)](#), regs. 1, **19**
- F25** Words in s. 212(2) inserted (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), regs. 1, **23**
- F26** Words in s. 212(2) inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 8 para. 9(2)** (with [Sch. 8 para. 55\(2\)](#))
- F27** Words in s. 212(2) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by [1993 c. 34, ss. 91\(2\)\(b\), 213](#), **Sch. 23 Pt. III** Table(8) Note
- F28** S. 212(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 14 para. 63** (with [Sch. 15](#))

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- F29** S. 212(3)(4)(6) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, ss. 91(2)(b), 213, **Sch. 23 Pt. III** Table(8) Note
- F30** S. 212(5)(b) substituted (with effect in accordance with s. 134(10) of the amending Act) by **Finance Act 1995 (c. 4), s. 134(6)**
- F31** S. 212(6A) inserted (with effect in accordance with s. 134(10) of the amending Act) by **Finance Act 1995 (c. 4), s. 134(7)**
- F32** Words in s. 212(6A)(a) substituted (with effect in accordance with s. 145(2) of the amending Act) by **Finance Act 2004 (c. 12), Sch. 26 para. 11(a)** (with **Sch. 26 para. 17**)
- F33** Words in s. 212(6A)(b) substituted (with effect in accordance with s. 145(2) of the amending Act) by **Finance Act 2004 (c. 12), Sch. 26 para. 11(b)** (with **Sch. 26 para. 17**)
- F34** Words in s. 212(7) repealed (10.7.2003) by **Finance Act 2003 (c. 14), Sch. 43 Pt. 3(12)**
- F35** S. 212(7A) 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(5)** (with **Sch. 8 para. 55(2)**)
- F36** S. 212(8) repealed (27.7.1993 with effect as mentioned in s. 91(1)) by 1993 c. 34, ss. 91(1), 213, **Sch. 23 Pt. III** Table(8) Note

Modifications etc. (not altering text)

- C4** S. 212 modified (31.7.1992) by **S.I. 1992/1655, arts. 1, 21**
S. 212 amended (27.7.1993) by 1993 c. 34, **s. 91(1)**
S. 212 excluded (27.7.1993) by 1993 c. 34, **s. 91(1)**
- C5** S. 212 modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), reg. 21 (as substituted (10.8.1995) by **S.I. 1995/1916, regs. 1, 11**)
- C6** S. 212 modified (with effect in accordance with s. 105(1) of the amending Act) by **Finance Act 1996 (c. 8), s. 105, Sch. 15 para. 15(2)**
- C7** S. 212 modified (with effect in accordance with reg. 1(2) of the amending S.I.) by **The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), regs. 1(1), 45** (as amended (8.4.2004) by **S.I. 2004/822, regs. 1, 39**)
- C8** S. 212(1) excluded by 1988 c. 1, s. 440B(5) (as 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)**))

213 Spreading of gains and losses under section 212.

- (1) Any chargeable gains or allowable losses which would otherwise accrue on disposals deemed by virtue of section 212 to have been made at the end of a company's accounting period shall be treated as not accruing to it, but instead—
- there shall be ascertained the difference (“the net amount”) between the aggregate of those gains and the aggregate of those losses, and
 - one-seventh of the net amount shall be treated as a chargeable gain or, where it represents an excess of losses over gains, as an allowable loss accruing to the company at the end of the accounting period, and
 - a further one-seventh shall be treated as a chargeable gain or, as the case may be, as an allowable loss accruing at the end of each succeeding accounting period until the whole amount has been accounted for.

^{F37}(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

- are referable ^{F38}(in accordance with section 432A of the Taxes Act)] to basic life assurance and general annuity business; or
- would (apart from that subsection) be taken into account in computing the profits of any business treated as a separate business under section 458 of the Taxes Act;

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and that subsection shall apply separately in relation to the gains and losses falling within paragraph (a) above and those falling within paragraph (b) above for the purpose of determining what chargeable gains or allowable losses so referable are to be treated as accruing under that subsection and what chargeable gains or allowable losses to be so taken into account are to be treated as so accruing.]

(2) For any accounting period of less than one year, the fraction of one-seventh referred to in subsection (1)(c) above shall be proportionately reduced; and where this subsection has had effect in relation to any accounting period before the last for which subsection (1)(c) above applies, the fraction treated as accruing at the end of that last accounting period shall also be adjusted appropriately.

(3) [^{F39}Subject to [^{F40}subsection (8H)] below,] Where—

- (a) the net amount for an accounting period of an insurance company represents an excess of gains over losses,
- (b) the net amount for [^{F41}either of the next 2] accounting periods (after taking account of any reductions made by virtue of this [^{F42}section]) represents an excess of losses over gains,
- (c) there is (after taking account of any such reductions) no net amount for [^{F43}the intervening accounting period (if there is one)],

[^{F44}(ca) [^{F45}the intervening accounting period (if there is one) is not] an accounting period in which the company joined a group of companies, and]

- (d) within 2 years after the end of the later accounting period the company makes a claim for the purpose in respect of the whole or part of the net amount for that period,

the net amounts for both the earlier and the later period shall be reduced by the amount in respect of which the claim is made.

^{F46}(3A)

^{F47}(3B)

(4) Subject to subsection (5) below, where a company ceases to carry on [^{F48}long-term] business before the end of the last of the accounting periods for which subsection (1) (c) above would apply in relation to a net amount, the fraction of that amount that is treated as accruing at the end of the accounting period ending with the cessation shall be such as to secure that the whole of the net amount has been accounted for.

[^{F49}(4A) The following provisions apply where an insurance business transfer scheme has effect to transfer business which consists of the effecting or carrying out of contracts of long-term insurance from one person (“the transferor”) to another (“the transferee”).

(5) Subject to subsections (5A) to (7) below, any chargeable gain or allowable loss which (assuming that the transferor had continued to carry on the business transferred) would have accrued to the transferor by virtue of subsection (1) above after the transfer shall instead be deemed to accrue to the transferee.]

[^{F50}(5A) Subsection (5) above shall not apply where the transferee is resident outside the United Kingdom unless the business to which the transfer relates is carried on by the transferee, for a period beginning with the time when the transfer takes effect, through a [^{F51}permanent establishment] in the United Kingdom.]

(6) Where subsection (5) above has effect, the amount of the gain or loss accruing at the end of the first accounting period of the transferee ending after the day when the

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transfer takes place shall be calculated as if that accounting period began with the day after the transfer.

- (7) Where the transfer is of part only of the transferor's [^{F52}long-term] business, subsection (5) above shall apply only to such part of any amount to which it would otherwise apply as is appropriate.
- (8) Any question arising as to the operation of subsection (7) 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.

[^{F53}(8A) Subsection (8B) below applies where—

- (a) immediately before the transfer the transferee did not carry on business consisting of the effecting or carrying out of contracts of long-term insurance,
- (b) the transferor and the transferee are, at the time of the transfer, members of the same group,
- (c) the net amount for the accounting period of the transferor ending with the day of the transfer, or for the immediately preceding accounting period of the transferor, ("the relevant pre-transfer period of the transferor") represents an excess of gains over losses,
- (d) the net amount for the accounting period of the transferee in which the transfer takes place, or for the immediately following accounting period of the transferee, ("the relevant post-transfer period of the transferee") represents an excess of losses over gains (after taking account of any reductions made by virtue of this section), and
- (e) within 2 years after the end of the relevant post-transfer period of the transferee, the transferor and the transferee make a joint election in respect of the whole or part of the net amount for that period by notice to an officer of the Board.

(8B) Subject to subsections (8C) to (8E) and (8H) below, the net amounts for both the relevant pre-transfer period of the transferor and the relevant post-transfer period of the transferee shall be reduced by the amount in respect of which the election is made.

(8C) Subsection (8B) above does not apply if—

- (a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and
- (b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer.

(8D) If—

- (a) the relevant post-transfer period of the transferee is the accounting period immediately following that in which the transfer takes place, and
- (b) the relevant pre-transfer period of the transferor is the accounting period ending with the day of the transfer,

subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferee in which the transfer takes place.

(8E) If—

- (a) the relevant post-transfer period of the transferee is the accounting period in which the transfer takes place, and

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- (b) the relevant pre-transfer period of the transferor is the accounting period immediately preceding that ending with the day of the transfer,
- subsection (8B) above applies only if the conditions in subsection (8F) below are satisfied in relation to the accounting period of the transferor ending with the day of the transfer.
- (8F) The conditions referred to in subsections (8D) and (8E) above are that—
- (a) there is (after taking account of any reductions made by virtue of this section) no net amount for the accounting period, and
 - (b) the company whose accounting period it is did not join a group of companies in the accounting period.
- (8G) A copy of the notice containing an election under subsection (8A)(e) above must accompany the tax return for the relevant post-transfer period of the transferee; and 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.
- (8H) Subsections (3) and (8A) and (8B) above have effect where the company, or the transferee, in question joins a group of companies in the accounting period for which the net amount represents an excess of losses over gains as if a claim or election could not be made in respect of that net amount except to the extent (if any) that the net amount is an amount which, assuming there to be gains accruing to the company or transferee immediately after the beginning of that period, would fall to be treated under paragraph 4 of Schedule 7AA as a qualifying loss in relation to those gains.
- (8I) References in this section to a company joining a group of companies are to be construed in accordance with paragraph 1 of Schedule 7AA as if those references were contained in that Schedule; and in subsection (8A)(b) above “group” has the same meaning as in that Schedule.]

^{F54}(9)

[^{F55}(10) If the transfer is one to which section 444AA(1) of the Taxes Act applies, the references in this section to the accounting period of the transferor ending with the day of the transfer are references to the accounting period ending immediately before the transfer.]

Textual Amendments

- F37** S. 213(1A) inserted (27.7.1993) by 1993 c. 37, s. 91(4)
- F38** Words in s. 213(1A)(a) inserted (22.7.2004) by Finance Act 2004 (c. 12), Sch. 7 para. 9(3)(c)
- F39** Words in s. 213(3) inserted (with effect in accordance with s. 137(6) of the amending Act) by Finance Act 1998 (c. 36), s. 137(3)(a)
- F40** Words in s. 213(3) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(a)
- F41** Words in s. 213(3)(b) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(b)
- F42** Word in s. 213(3)(b) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(b)
- F43** Words in s. 213(3)(c) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 16(2)(c)
- F44** S. 213(3)(ca) substituted for word at end of s. 213(3)(c) (with effect in accordance with s. 137(6) of the amending Act) by Finance Act 1998 (c. 36), s. 137(3)(b)

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- F45** Words in s. 213(3)(ca) substituted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 16\(2\)\(d\)](#)
- F46** S. 213(3A) repealed (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 16\(3\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F47** S. 213(3B) repealed (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 16\(3\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F48** Word in s. 213(4) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), [73\(2\)\(a\)](#)
- F49** S. 213(4A)(5) substituted for s. 213(5) (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 16\(4\)](#)
- F50** S. 213(5A) inserted (with effect in accordance with s. 53(2) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 9 para. 4](#)
- F51** Words in s. 213(5A) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 153\(1\)\(b\)](#)
- F52** Word in s. 213(7) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), arts. 1(2)(a), [73\(2\)\(a\)](#)
- F53** S. 213(8A)-(8I) inserted (with effect in accordance with Sch. 33 para. 16(6) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 16\(5\)](#)
- F54** S. 213(9) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by [1993 c. 34](#), s. 213, [Sch. 23 Pt. III](#) Table(8) Note
- F55** S. 213(10) inserted (with effect in accordance with Sch. 9 para. 20(8) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 20\(6\)](#)

Modifications etc. (not altering text)

- C9** S. 213 modified (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 105, [Sch. 15 para. 15\(2\)](#)
- C10** S. 213 modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), regs. 1(1), 46, 47 (as amended (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2001/3629](#), arts. 1(2)(b), 162)
- C11** S. 213(1A) modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1992 \(S.I. 1992/1655\)](#), reg. 21A (as inserted (10.8.1995) by [S.I. 1995/1916](#), [regs. 1, 12](#))
- C12** S. 213 modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Insurance Companies \(Capital Redemption Business\) \(Modification of the Corporation Tax Acts\) Regulations 1999 \(S.I. 1999/498\)](#), [regs. 1, 11\(2\)](#)
- C13** S. 213(5) modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Friendly Societies \(Taxation of Transfers of Business\) Regulations 1995 \(S.I. 1995/171\)](#), [regs. 1, 4\(1\)\(2\)\(e\)](#)

214 Transitional provisions.

(1) In this section—

- (a) “section 212 assets” means rights under authorised unit trusts and relevant interests in offshore funds which are assets of a company’s long term business fund;
- (b) “linked section 212 assets” means section 212 assets which are linked assets;
- (c) “relevant linked liabilities”, in relation to a company, means such of the liabilities of its basic life assurance and general annuity business as are liabilities in respect of benefits under pre-commencement policies or contracts, being benefits to be determined by reference to the value of linked assets;
- (d) “pre-commencement policies or contracts” means—

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- (i) policies issued in respect of insurances made before 1st April 1990,
and
 - (ii) annuity contracts made before that date,
but excluding policies or annuity contracts varied on or after that date so
as to increase the benefits secured or to extend the term of the insurance or
annuity (any exercise of rights conferred by a policy or annuity contract being
regarded for this purpose as a variation);
 - (e) “basic life assurance and general annuity business” means life assurance
business, other than pension business and overseas life assurance business.
- (2) The assets which are to be regarded for the purposes of this section as linked solely to
an insurance company’s basic life assurance and general annuity business at any time
before the first accounting period of the company which begins on or after 1st January
1992 are all the assets which at that time—
- (a) are or were linked solely to the company’s basic life assurance business or
general annuity business, or
 - (b) although not falling within paragraph (a) above, would be, or would have
been, regarded as linked solely to the company’s basic life assurance business,
were its general annuity business treated as forming, or having at all times
formed, part of its basic life assurance business and as not being a separate
category of business.
- ^{F56}(3)
- ^{F56}(4)
- ^{F56}(5)
- (6) Subject to subsection (7) below, subsection (9) below applies where—
- (a) after the end of 1989 [^{F57} and before the time when it is first deemed under
section 212 to have made a disposal of any assets] an insurance company
exchanges section 212 assets (“the old assets”) for other assets (“the new
assets”) to be held as assets of the long term business fund,
 - (b) the new assets are not section 212 assets but are assets on the disposal of which
any gains accruing would be chargeable gains,
 - (c) both the old assets and the new assets are linked solely to basic life assurance
and general annuity business, or both are neither linked solely to basic life
assurance and general annuity business or pension business nor assets of the
overseas life assurance fund, and
 - (d) the company makes a claim for the purpose within 2 years after the end of the
accounting period in which the exchange occurs.
- (7) Subsection (6) above shall have effect in relation to old assets only to the extent
that their amount, when added to the amount of any assets to which subsection (9)
below has already applied and which are assets of the same class, does not exceed the
aggregate of—
- (a) the amount of the assets of the same class included in the long term business
fund at the beginning of 1990, other than assets linked solely to pension
business and assets of the overseas life assurance fund, and
 - (b) 110 per cent. of the amount of the assets of that class which represents any
subsequent increases in the company’s relevant linked liabilities in respect of
benefits to be determined by reference to the value of assets of that class.

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- (8) The reference in subsection (7)(b) above to a subsequent increase in liabilities is a reference to any amount by which the liabilities at the end of an accounting period ending after 31st December 1989 exceed those at the beginning of the period (or at the end of 1989 if that is later); and for the purposes of that provision the amount of assets which represents an increase in liabilities is the excess of—
- (a) the amount of assets whose value at the later time is equivalent to the liabilities at that time, over
 - (b) the amount of assets whose value at the earlier time is equivalent to the liabilities at that time.
- (9) Where this subsection applies, the insurance company (but not any other party to the exchange) shall be treated for the purposes of corporation tax on capital gains as if the exchange had not involved a disposal of the old assets or an acquisition of the new, but as if the old and the new assets were the same assets acquired as the old assets were acquired.
- (10) References in subsections (6) to (9) above to the exchange of assets include references to the case where the consideration obtained for the disposal of assets (otherwise than by way of an exchange within subsection (6)) is applied in acquiring other assets within 6 months after the disposal; and for the purposes of those subsections the time when an exchange occurs shall be taken to be the time when the old assets are disposed of.
- (11) Where at any time after the end of 1989 there is a transfer of long term business of an insurance company (“the transferor”) to another company (“the transferee”) in accordance with a scheme sanctioned by a court under [^{F58}Part I of Schedule 2C to the Insurance Companies Act 1982]—
- (a) if the transfer is of the whole of the long term business of the transferor, subsections (1) to (10) above shall have effect in relation to the assets of the transferee as if that business had at all material times been carried on by him;
 - (b) if the transfer is of part of the long term business of the transferor, those subsections shall have effect in relation to assets of the transferor and the transferee to such extent as is appropriate;
- and any question arising as to the operation of paragraph (b) 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

- F56** S. 214(3)-(5) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 37, ss. 91(5), 213, **Sch. 23 Pt. III** Table(8) Note
- F57** Words in s. 214(6)(a) inserted (27.7.1993) by 1993 c. 34, s. 91(6)
- F58** Words in s. 214(11) 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)(d)**

Modifications etc. (not altering text)

- C14** S. 214 modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), reg. 21B (as inserted (10.8.1995) by S.I. 1995/1916, regs. 1, 12)
- C15** S. 214(1) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), regs. 1(1), 48

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- C16** S. 214 modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Insurance Companies \(Capital Redemption Business\) \(Modification of the Corporation Tax Acts\) Regulations 1999 \(S.I. 1999/498\)](#), regs. 1, **12(2)**
- C17** S. 214(11) modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Friendly Societies \(Taxation of Transfers of Business\) Regulations 1995 \(S.I. 1995/171\)](#), regs. 1, **4(1)(2)(e)**

^{F59}**214A Further transitional provisions.**

- (1) This section applies where within two years after the end of an accounting period beginning on or after 1st January 1993 (“the relevant period”)—
- (a) an insurance company makes a claim for the purposes of this section in relation to that period; and
 - (b) that period is one of the company’s first eight accounting periods after the end of 1992.
- (2) Where this section applies, section 213 shall have effect as if—
- (a) the amount of the chargeable gains which—
 - (i) apart from that section and this section, would be treated as accruing on disposals deemed by virtue of section 212 to have been made at the end of the relevant period, and
 - (ii) satisfy the condition specified in paragraph (a) of section 213(1A), were reduced by the protected proportion of that amount; and
 - (b) an amount equal to the appropriate part of that reduction were (subject to section 213) a chargeable gain satisfying that condition and accruing at the end of each of the accounting periods in which the reduction is to be taken into account.
- (3) For the purposes of subsection (2) above the protected proportion, in relation to the relevant period, of the amount mentioned in paragraph (a) of that subsection shall be an amount equal to the amount calculated in accordance with the following formula—

$$(A+B\times CD)\times EF\times G8$$

- (4) In subsection (3) above—

A is so much of the amount mentioned in subsection (2)(a) above as represents chargeable gains on section 212 assets which at the end of the relevant period were linked solely to the basic life assurance and general annuity business of the company in question;

B is so much of the amount so mentioned as represents chargeable gains on linked section 212 assets which at the end of that period were partially linked to that business;

C is the amount of such of the closing liabilities at the end of that period of the company’s basic life assurance and general annuity business as were liabilities in respect of benefits to be determined by reference to the value of linked section 212 assets which were then partially linked to that business;

D is the amount of all the closing liabilities of the company at the end of that period which were long term business liabilities in respect of benefits to be so determined;

E is the amount of such of the closing liabilities of the company on the relevant date as were relevant linked liabilities in respect of benefits determined by reference to linked section 212 assets;

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F is the amount of all the closing liabilities on the relevant date of the company's basic life assurance and general annuity business which were liabilities in respect of such benefits; and

G is the number of accounting periods in the first nine accounting periods of the company after the end of 1992 which remain after the end of the relevant period or, as the case may be, which would so remain apart from any cessation of the carrying on of any business of the company;

and for the purposes of this subsection the relevant date is, subject to subsection (7) below, the time of the first disposal which is deemed to have been made by the company in question under section 212.

- (5) For the purposes of this section and subject to subsection (6) below—
- (a) a reduction made under subsection (2) above in relation to the accounting period of any company shall be taken into account in every succeeding accounting period of that company which is included in the first nine accounting periods of that company after the end of 1992; and
 - (b) in relation to any accounting period in which a reduction is to be taken into account, the appropriate part of the reduction is—
 - (i) if that is the only accounting period in which it falls to be taken into account, the whole of the reduction; and
 - (ii) in any other case, the amount of the reduction divided by the number of the accounting periods after the period in which the reduction is made in which the reduction falls to be taken into account or, as the case may be, would so fall apart from any cessation of the carrying on of any business of the company.
- (6) Subject to subsection (7) below, where a company ceases to carry on long term business before the end of the first nine accounting periods after the end of 1992, the appropriate part of any reduction in relation to the accounting period ending with the cessation shall be such as to secure that the whole of the reduction has been taken into account under subsection (2)(b) above.
- (7) ^{F60}Subject to subsections (7A) and (8) below] Where at any time on or after 1st January 1993 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 ^{F61}Part I of Schedule 2C to the Insurance Companies Act 1982], this section shall have effect so that—
- (a) the relevant date for the purposes of subsection (4) above shall be determined in relation to any disposal deemed to have been made after the transfer—
 - (i) by the transferee, or
 - (ii) in a case where the transfer is of part of the transferor's long term business, by the transferee or the transferor,
 as if there had been no deemed disposals under section 212 before the transfer; and
 - (b) any reduction which (on the assumption that the transferor had continued to carry on the transferred business) would have fallen to be taken into account under subsection (2)(b) above shall be taken into account instead in relation to the transferee.

^{F62}[Paragraph (b) of subsection (7) above shall not apply where the transferee is resident (7A) outside the United Kingdom unless the business to which the transfer relates is carried

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- on by the transferee, for a period beginning with the time when the transfer takes effect, through a branch or agency in the United Kingdom.]
- (8) Where the transfer is of part only of the transferor's long term business, subsection (7) (b) above shall apply only to such part of any reduction to which it would otherwise apply as is appropriate.
- (9) Any question arising as to the operation of subsection (8) 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.
- (10) This section shall have effect in relation to any cases in which there is such a transfer as is mentioned in subsection (7) above as if the accounting periods to be taken into account in any calculation for the purposes of this section of the number of accounting periods of the transferee after the end of 1992, and the only accounting periods in relation to which any reduction is to be taken into account under paragraph (b) of that subsection, were—
- (a) the accounting periods of the transferor which began on or after 1st January 1993 and ended on or before the day of the transfer (including any which, by reference to a transfer in relation to which the transferor is a transferee, are taken into account in accordance with this subsection as accounting periods of the transferor); and
- (b) the accounting periods of the transferee ending after the day of the transfer, and this section shall have effect in relation to such a reduction as if the first accounting period of the transferee to end after the day of the transfer began with the day after the transfer.
- (11) For the purposes of this section assets shall be taken to be partially linked to a company's basic life assurance and general annuity business if they are not linked solely to that business and are neither—
- (a) linked solely to [^{F63}any pension business]^{F64}, individual savings account business] or life reinsurance business of that company or to] long term business of that company other than life assurance business; nor
- (b) assets of the company's overseas life assurance fund;
- and subsection (1) of section 214 shall apply for the purposes of this section as it applies for the purposes of that section.
- (12) Subject to subsection (10) above, the references in this section, in relation to any company, to the first eight accounting periods of a company after the end of 1992 are references to the first accounting period of that company to begin on or after 1st January 1993 and to the succeeding seven accounting periods of that company, and references to the first nine accounting periods of a company after the end of 1992 shall be construed accordingly.]

Textual Amendments

F59 S. 214A inserted (27.7.1993) by 1993 c. 34, s. 91(5)

F60 Words in s. 214A(7) inserted (with effect in accordance with s. 53(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 9 para. 5

F61 Words in s. 214A(7) 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)(d)

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- F62** S. 214A(7A) inserted (with effect in accordance with s. 53(2) of the amending Act) by [Finance Act 1995 \(c. 4\), Sch. 9 para. 5](#)
- F63** Words in s. 214A(11)(a) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by [Finance Act 1995 \(c. 4\), Sch. 8 para. 9\(3\)](#) (with [Sch. 8 para. 55\(2\)](#))
- F64** Words in s. 214A(11)(a) inserted (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\), regs. 1, 23](#)

Modifications etc. (not altering text)

- C18** S. 214A modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1992 \(S.I. 1992/1655\), reg. 21C](#) (as inserted (10.8.1995) by [S.I. 1995/1916, regs. 1, 12](#))
- C19** S. 214A(4) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\), regs. 1\(1\), 49\(1\)\(2\)](#)
- C20** S. 214A(7) modified (with effect in accordance with reg. 1 of the amending S.I.) by [The Friendly Societies \(Taxation of Transfers of Business\) Regulations 1995 \(S.I. 1995/171\), regs. 1, 4\(1\)\(2\)\(e\)](#)
- C21** S. 214A(11) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\), regs. 1\(1\), 49\(1\)\(3\)](#)

[214B ^{F65}**Modification of Act in relation to overseas life insurance companies.**

Schedule 7B (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect.]

Textual Amendments

- F65** S. 214B inserted (27.7.1993) by [1993 c. 34, s.102\(1\)](#)

[^{F66}214B Interpretation

Expressions used in this Chapter and in Chapter 1 of Part 12 of the Taxes Act have the same meaning in this Chapter as in that Chapter.]

Textual Amendments

- F66** S. 214BA inserted (10.7.2003) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 32](#)

Status:

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Changes to legislation:

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