



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART VI

COMPANIES, OIL, INSURANCE ETC.

### CHAPTER III

INSURANCE

#### [<sup>F1</sup>204 Policies of insurance and non-deferred annuities

- (1) A gain accruing on a disposal of, or of an interest in, the rights conferred by a non-life policy of insurance is not a chargeable gain (but see subsection (2)).
- (2) If a disposal is of, or of an interest in, the rights conferred by a non-life policy of insurance of the risk of—
  - (a) any kind of damage to assets, or
  - (b) the loss or depreciation of assets,the exemption under subsection (1) does not apply so far as those rights relate to chargeable assets.
- (3) For this purpose “chargeable assets” means assets on the disposal of which a chargeable gain—
  - (a) may accrue, or
  - (b) might have accrued.
- (4) Nothing in subsections (1) and (2) prevents sums received under a non-life policy of insurance of the risk of—
  - (a) any kind of damage to assets, or
  - (b) the loss or depreciation of assets,from being sums derived from the assets for the purposes of this Act (and, in particular, for the purposes of section 22).

*Status: Point in time view as at 29/11/2007.*

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- (5) A gain accruing on a disposal of, or of an interest in, the rights conferred by a contract for an annuity is not a chargeable gain if the annuity is—
- (a) a non-deferred annuity, or
  - (b) an annuity granted (or deemed to be granted) under the Government Annuities Act 1929.
- (6) If any investments or other assets are, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder—
- (a) the policy holder's acquisition of the assets, and
  - (b) the disposal of the assets to the policy holder,
- are to be taken for the purposes of this Act to be for a consideration equal to the market value of the assets.
- (7) In this section “interest”, in relation to any rights, means an interest as a co-owner of the rights.
- (8) It does not matter—
- (a) whether the rights are owned jointly or in common, or
  - (b) whether or not the interests of the co-owners are equal.
- (9) In this section a “non-deferred annuity” means an annuity—
- (a) which is not granted under a contract for a deferred annuity, and
  - (b) which is granted in the ordinary course of a business of granting annuities on the life of any person,
- and it does not matter whether the annuity includes instalments of capital.
- (10) In this section a “non-life policy of insurance” means—
- (a) a contract made in the course of a capital redemption business, [<sup>F2</sup>within the meaning of Chapter 1 of Part 12] of the Taxes Act, and
  - (b) any <sup>F3</sup>... policy of insurance which is not a policy of insurance on the life of any person.]

#### Textual Amendments

- F1** S. 204 substituted (with effect in accordance with s. 73(4) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 73\(2\)](#)
- F2** Words in s. 204(10) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 61\(a\)](#) (with [Sch. 7 Pt. 2](#))
- F3** Word in s. 204(10) repealed (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 7 para. 61\(b\), Sch. 27 Pt. 2\(7\)](#) (with [Sch. 7 Pt. 2](#))

## 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.

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**F<sup>4</sup>206** .....

**Textual Amendments**

**F4** 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)**

**F<sup>5</sup>207** .....

**Textual Amendments**

**F5** 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

**F<sup>6</sup>208** .....

**Textual Amendments**

**F6** 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

**F<sup>7</sup>209** .....

**Textual Amendments**

**F7** 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. 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)**

**[<sup>F8</sup>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

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- (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 [<sup>F9</sup>or civil partner] to the other or is an approved post-marriage disposal [<sup>F10</sup>or an approved post-civil partnership 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 [<sup>F11</sup>or an approved post-civil partnership disposal] if—
- (a) it is made in consequence of the dissolution or annulment of a marriage [<sup>F12</sup>or civil partnership] by one person who was a party to the marriage [<sup>F12</sup>or civil partnership] 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 [<sup>F13</sup>or civil partnership] 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.
- (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

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- (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

- F8** S. 210 substituted (with effect in accordance with s. 157(2) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 157\(1\)](#)
- F9** Words in s. 210(5)(a) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [116\(2\)\(a\)](#)
- F10** Words in s. 210(5)(a) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [116\(2\)\(b\)](#)
- F11** Words in s. 210(6) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [116\(3\)\(a\)](#)
- F12** Words in s. 210(6)(a) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [116\(3\)\(b\)](#)
- F13** Words in s. 210(6)(c) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [116\(3\)\(c\)](#)

#### [<sup>F14</sup>210A Ring-fencing of losses

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

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- (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 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—

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- (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 [<sup>F15</sup>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 [<sup>F16</sup>(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 [<sup>F16</sup>(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

- F14** 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\(1\)](#)
- F15** 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\(1\)](#)
- F16** Words in s. 210A(13) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(3\)\(a\)](#)

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

- C1** S. 210A modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [reg. 34A](#) (as inserted by S.I. 2007/2134, regs. 1(1)(2), 27)

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**[<sup>F17</sup>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 [<sup>F18</sup>assets within section 212(1).]<sup>F19</sup>...
  - <sup>F19</sup>(b) .....
- (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 [<sup>F20</sup>(2)(a)(i)] or (d) of section 440A of the Taxes Act (and subsections (3) and (4) of that section),
  - <sup>F21</sup> ....., and
  - “section 440A securities” means securities within the meaning of section 440A of the Taxes Act.]



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#### Textual Amendments

- F17** 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\(1\)](#)
- F18** Words in s. 210B(6)(a) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 5\(2\)](#)
- F19** S. 210B(6)(b) and preceding word repealed (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 62\(a\)](#), [Sch. 27 Pt. 2\(7\)](#) (with [Sch. 7 Pt. 2](#))
- F20** Word in s. 210B(8) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 62\(b\)](#) (with [Sch. 7 Pt. 2](#))
- F21** Words in s. 210B(8) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 9\(2\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

- C2** S. 210B 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 2005 \(S.I. 2005/2014\)](#), [regs. 1\(1\)](#), [35](#)

### [<sup>F22</sup>210C] **Losses on disposal of authorised investment fund assets to connected manager**

(1) Section 18(3) does not apply in relation to a loss accruing on the disposal by an insurance company of authorised investment fund assets to the manager of the authorised investment fund.

(2) In this section—

“authorised investment fund assets” means assets of the company's long-term insurance fund consisting of rights under an authorised unit trust or shares in an open-ended investment company,

“the manager of the authorised investment fund” means—

(a) in the case of an authorised unit trust, the person who is the manager of the unit trust scheme for the purposes of Chapter 3 of Part 17 of the Financial Services and Markets Act 2000, and

(b) in the case of an open-ended investment company, a director or other person having responsibility for the management of its scheme property, and

“open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of the Financial Services and Markets Act 2000 applies.]

#### Textual Amendments

- F22** S. 210C inserted (with effect in accordance with Sch. 10 para. 17(4) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 3](#)

### 211 Transfers of business.

[<sup>F23</sup>(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”).

<sup>F24</sup>(1A) . . . . . ]

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[<sup>F25</sup>(2) Where this section applies the transferor and the transferee are treated for the purposes of corporation tax on chargeable gains as if any assets included in the transfer which—

- (a) immediately before they are acquired by the transferee, were assets of the transferor's long-term insurance fund, and
- (b) immediately after they are so acquired are assets of the transferee's long-term insurance fund,

were acquired for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the transferor on the disposal.

[<sup>F26</sup>(2A) The reference in subsection (2) above to assets included in the transfer does not include structural assets within the meaning of section 83XA of the Finance Act 1989.]

(3) Subsection (2) above is subject to section 212.]

<sup>F27</sup>(3) .....

#### Textual Amendments

**F23** 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)

**F24** S. 211(1A) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)

**F25** S. 211(2)(3) substituted for s. 211(2)(2A) (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 14\(2\)](#)

**F26** S. 211(2A) inserted (with effect in accordance with Sch. 10 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 2\(4\)](#)

**F27** 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)

**C3** 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\(1\)\(2\)\(e\)](#)

[<sup>F28</sup>**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.

*Status: Point in time view as at 29/11/2007.*

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- (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.
- (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 [<sup>F29</sup>(in accordance with section 432A of the Taxes Act)] to the transferor’s basic life assurance and general annuity business.]

#### Textual Amendments

**F28** 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\(1\)](#)

**F29** 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)

**C4** S. 211ZA modified (with effect in accordance with reg. 1(2) of the affecting S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [regs. 1\(1\)](#), [36](#)

### [<sup>F30</sup> 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.]

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**Textual Amendments**

**F30** 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 [<sup>F31</sup>long-term insurance] fund include—
- (a) rights under an authorised unit trust, or
  - (b) relevant interests in an offshore fund [<sup>F32</sup>, or
  - (c) shares in a company to which Part 4 of the Finance Act 2006 applies (Real Estate Investment Trusts),]

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.

<sup>F33</sup>(2) Subsection (1) above shall not apply to assets linked solely to [<sup>F34</sup>gross roll-up business].

<sup>F35</sup>(2A) .....

<sup>F36</sup>(3) .....

<sup>F36</sup>(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
- [<sup>F37</sup>(b) it would be such an interest if either or both of the assumptions mentioned in subsection (6A) below were made.]

<sup>F36</sup>(6) .....

[<sup>F38</sup>(6A) The assumptions referred to in subsection (5)(b) above are—

- (a) that the companies, unit trust schemes and arrangements referred to in [<sup>F39</sup>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 [<sup>F40</sup>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;

<sup>F41</sup> .....

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F<sup>42</sup>(7A) .....

F<sup>43</sup>(8) .....

#### Textual Amendments

- F31** 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)**
- F32** S. 212(1)(c) and preceding word inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. **137**
- F33** 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**
- F34** Words in s. 212(2) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 7 para. 63** (with [Sch. 7 Pt. 2](#))
- F35** S. 212(2A) repealed (with effect in accordance with [Sch. 10 para. 17\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 10 para. 5(3)(a)**, **Sch. 27 Pt. 2(10)**
- F36** 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
- F37** 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)**
- F38** 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)**
- F39** 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](#))
- F40** 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](#))
- F41** Words in s. 212(7) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 43 Pt. 3(12)**
- F42** S. 212(7A) repealed (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 8 para. 18**, **Sch. 27 Pt. 2(8)** (with [Sch. 8 Pt. 2](#))
- F43** 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)

- C5** 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)**
- 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 2005 \(S.I. 2005/2014\)](#), regs. 1(1), 37 (as amended by [S.I. 2007/2134](#), regs. 1(1)(2), 28)
- C8** S. 212 modified (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Insurance Companies \(Tax Exempt Business\) Regulations 2007 \(S.I. 2007/2145\)](#), regs. 1(1), **13**
- C9** 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—

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- (a) there shall be ascertained the difference (“the net amount”) between the aggregate of those gains and the aggregate of those losses, and
- (b) 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
- (c) 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.

[<sup>F44</sup>(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

- (a) are referable [<sup>F45</sup>(in accordance with section 432A of the Taxes Act)] to basic life assurance and general annuity business [<sup>F46</sup>... ]

(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) [<sup>F47</sup>Subject to [<sup>F48</sup>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 [<sup>F49</sup>either of the next 2] accounting periods (after taking account of any reductions made by virtue of this [<sup>F50</sup>section]) represents an excess of losses over gains,
- (c) there is (after taking account of any such reductions) no net amount for [<sup>F51</sup>the intervening accounting period (if there is one)],

[<sup>F52</sup>(ca) [<sup>F53</sup>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.

[<sup>F54</sup>(3A) .....

[<sup>F55</sup>(3B) .....

(4) Subject to subsection (5) below, where a company ceases to carry on [<sup>F56</sup>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.

[<sup>F57</sup>(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.]

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<sup>F58</sup>(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 <sup>F59</sup>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 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 <sup>F60</sup>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.

<sup>F61</sup>(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,

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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
- (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) [<sup>F62</sup>that the net amount would still arise even if losses accruing after the date on which the company or transferee joined the group of companies were disregarded].

(8I) References in this section to a company joining a group of companies are to be construed in accordance with [<sup>F63</sup>section 184C as if those references were contained in that section; and in subsection (8A)(b) above “group” has the same meaning as in that section].]

<sup>F64</sup>(9) . . . . .

[<sup>F65</sup>(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 [<sup>F66</sup>before the relevant transfer date (within the meaning of that section)].]

#### Textual Amendments

**F44** S. 213(1A) inserted (27.7.1993) by 1993 c. 37, s. 91(4)

**F45** Words in s. 213(1A)(a) inserted (22.7.2004) by Finance Act 2004 (c. 12), Sch. 7 para. 9(3)(c)

**F46** Words in s. 213(1A) repealed (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 64, Sch. 27 Pt. 2(7) (with Sch. 7 Pt. 2)

**F47** 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)

**F48** 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)



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- F49** 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\(2\)\(b\)](#)
- F50** 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\(2\)\(b\)](#)
- F51** 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\(2\)\(c\)](#)
- F52** 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\(3\)\(b\)](#)
- F53** 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\(2\)\(d\)](#)
- F54** 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\(12\)](#)
- F55** 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\(12\)](#)
- F56** 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\(2\)\(a\)](#)
- F57** 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\(4\)](#)
- F58** 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](#)
- F59** 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\(1\)\(b\)](#)
- F60** 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\(2\)\(a\)](#)
- F61** 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\(5\)](#)
- F62** Words in s. 213(8H) substituted (with effect in accordance with s. 70(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 70\(5\)\(a\)](#) (with s. 70(10)-(11))
- F63** Words in s. 213(8I) substituted (with effect in accordance with s. 70(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 70\(5\)\(b\)](#) (with s. 70(10)-(11))
- F64** 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
- F65** 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\(6\)](#)
- F66** Words in s. 213(10) substituted (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 3\(4\)](#)

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

- C10** 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\(2\)](#)
- C11** 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\(2\)](#)
- C12** S. 213(1A) 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 2005 \(S.I. 2005/2014\)](#), regs. 1(1), [38](#)
- 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\(1\)\(2\)\(e\)](#)

**F67 214 Transitional provisions.**

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*Status: Point in time view as at 29/11/2007.*

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#### Textual Amendments

**F67** S. 214 repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 5\(3\)\(b\)](#), **Sch. 27 Pt. 2(10)**

#### <sup>F68</sup>**214A Further transitional provisions.**

.....

#### Textual Amendments

**F68** S. 214A repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 5\(3\)\(c\)](#), **Sch. 27 Pt. 2(10)**

#### <sup>F69</sup>**214B Modification of Act in relation to overseas life insurance companies.**

.....

#### Textual Amendments

**F69** S. 214B repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), [reg. 1](#), **Sch. Pt. 1**

#### <sup>F70</sup>**214BA Interpretation**

.....

#### Textual Amendments

**F70** S. 214BA repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(5\)\(a\)](#), **Sch. 27 Pt. 2(10)**

**Status:**

Point in time view as at 29/11/2007.

**Changes to legislation:**

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