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SCHEDULES

SCHEDULE 9

Section 40

INSURANCE COMPANIES: TRANSFERS ETC

Definition of “insurance business transfer scheme”

- 1 ^{F1}(1)
- (2) In consequence of sub-paragraph (1), omit—
- (a) the definition of “insurance business transfer scheme” in section 12(7B) of ICTA,
 - (b) section 444AB(11) of that Act (as originally enacted),
 - (c) in section 444AC(11) of that Act (as originally enacted), the definition of “insurance business transfer scheme”,
 - (d) section 460(10B) of that Act,
 - (e) the definition of “insurance business transfer scheme” in paragraph 12(9) of Schedule 9 to FA 1996,
 - (f) section 560(5)(b) of CAA 2001,
 - ^{F2}(g)
 - ^{F2}(h)
- ^{F3}(3)
- (4) In section 66 of FA 2002 (election to continue postponement of mark to market)—
- (a) in subsection (4)(a), for “a transfer” substitute “ an insurance business transfer ”,
 - (b) in subsection (5), omit the definition of “transfer scheme”, and
 - (c) omit subsections (6) and (7).
- ^{F4}(5)

Textual Amendments

- F1** Sch. 9 para. 1(1) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(p)(iii)
- F2** Sch. 9 para. 1(2)(g)(h) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)
- F3** Sch. 9 para. 1(3) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(p)(iii)
- F4** Sch. 9 para. 1(5) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

Transfer schemes: expenses, losses etc

- 2 (1) Section 444A of ICTA (transfers of business: expenses, losses and section 432F(2) excesses) is amended as follows.

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- (2) In subsection (1), omit “Subject to subsection (7) below.”.
- (3) Omit—
 - (a) subsection (7) (section not to apply if transfer is not for bona fide commercial reasons or forms part of avoidance scheme), and
 - (b) subsection (8) (clearance procedure as to non-application of subsection (7)).

Transfer schemes: deemed periodical returns

- 3 F5(1)
- F6(2)
- F7(3)

- (4) In section 213(10) of TCGA 1992, for “before the transfer” substitute “ before the relevant transfer date (within the meaning of that section) ”.

Textual Amendments

F5 Sch. 9 para. 3(1) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(p)(iii)

F6 Sch. 9 para. 3(2) repealed (with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), art. 1(1), Sch. Pt. 1

F7 Sch. 9 para. 3(3) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(p)(iii)

Transfer schemes: taxing the transferor

- F8 4

Textual Amendments

F8 Sch. 9 paras. 4-8 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(p)(iii)

Transferor's period of account including transfer

- F8 5

Textual Amendments

F8 Sch. 9 paras. 4-8 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(p)(iii)

Transfer schemes: taxing the transferee

- F8 6

Textual Amendments

F8 Sch. 9 paras. 4-8 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 247(p)(iii)

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Repeal of section 444AD

F87

Textual Amendments

F8 Sch. 9 paras. 4-8 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(p\)\(iii\)](#)

Transfer schemes: anti-avoidance

F88

Textual Amendments

F8 Sch. 9 paras. 4-8 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(p\)\(iii\)](#)

Repeal of FA s.82C

9 In FA 1989, omit section 82C (relevant financial reinsurance contracts).

Commencement Information

II Sch. 9 para. 9 has effect as specified by [Finance Act 2007 \(Schedule 9\) Order 2008 \(S.I. 2008/379\)](#), [art. 2](#)

Transfers: receipts to be taken into account

F910

Textual Amendments

F9 Sch. 9 para. 10 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(p\)\(iii\)](#)

Transfers and demutualisations: losses where assets added to long-term insurance fund

11 (1) FA 1989 is amended as follows.

(2) Omit—

- (a) in section 83, subsections (3) to (7) and, in subsection (8), the definitions of “add”, “demutualisation” and “total reinsurance” (which relate to losses where assets added to long-term insurance fund),
- (b) section 83AA (amounts added to long-term insurance fund in excess of loss), and
- (c) section 83AB (treatment of surplus where there is subsequent transfer from company etc).

F10(3)

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Textual Amendments

F10 Sch. 9 para. 11(3) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(p\)\(iii\)](#)

Commencement Information

I2 Sch. 9 para. 11 has effect as specified by [Finance Act 2007 \(Schedule 9\) Order 2008 \(S.I. 2008/379\)](#), [art. 2](#)

^{F11}12

Textual Amendments

F11 Sch. 9 para. 12 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(p\)\(iii\)](#)

Transfer schemes: old annuity contracts

- 13 (1) Paragraph 16 of Schedule 7 to FA 1991 (transitional relief for old general annuity contracts) is amended as follows.
- (2) In sub-paragraph (7), in the definition of “old annuity contract”, insert at the end “ (including one forming part of the business transferred to another insurance company by an insurance business transfer scheme) ”.
- (3) After that sub-paragraph insert—
- “ (8) Where—
- (a) business is transferred to an insurance company by an insurance business transfer scheme during an accounting period of the company, and
- (b) the business transferred consists of or includes old annuity contracts (“the transferred contracts”),
- the reference in the definition of R1 in sub-paragraph (2) above to the company's opening liabilities for the accounting period is, in relation to the transferred contracts, a reference to the company's liabilities in respect of the transferred contracts immediately after the transfer.”

Transfer schemes: no gain/no loss

- 14 (1) TCGA 1992 is amended as follows.
- (2) In section 211 (application of section 139), for subsections (2) and (2A) substitute—
- “ (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.

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

^{F12}(3)

Textual Amendments

F12 Sch. 9 para. 14(3) omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 70(i)**

Transfer schemes: old reinsurance business

^{F13}15

Textual Amendments

F13 Sch. 9 para. 15 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), **Sch. 16 para. 247(p)(iii)**

Power to amend transfer provisions

^{F14}16

Textual Amendments

F14 Sch. 9 para. 16 omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), **Sch. 16 para. 247(p)(iii)**

Commencement

- 17 (1) The amendments made by paragraphs 1 to 3 and 13 to 15 have effect in relation to periods of account beginning on or after 1st January 2007.
- (2) The amendments made by paragraphs 4, 6 to [^{F15}10(5),] 11 and 12 have effect in accordance with provision made by an order made by the Treasury.
- (3) But the amendments made by paragraphs 11 and 12 also have effect
- [^{F16}(a)] in relation to periods of account beginning on or after 1st January 2007 where the transfer of business or demutualisation concerned took place before 21st March 2007 [^{F17}and
- (b) in relation to periods of account ending after 30 June 2008 where the transfer of business or demutualisation concerned took place on or after 21 March 2007 and before 1 July 2008.]
- (4) The amendment made by paragraph 5 has effect in relation to transfers of business with a transfer date after 21st March 2007.
- [^{F18}(4A)] The amendment made by paragraph 9 has effect in relation to contracts entered into in a period of account beginning on or after 1 January 2008.]
- (5) The amendment made by paragraph 10(2) has effect in relation to transfers taking place on or after 6th December 2006.

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[^{F19}(6) The amendments made by paragraph 10(3) and (4) have effect in relation to assets transferred on or after 1 January 2008.]

Textual Amendments

- F15** Word in Sch. 9 para. 17(2) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), **Sch. 17 para. 38(2)**
- F16** Word in Sch. 9 para. 17(3) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), **Sch. 17 para. 38(3)(a)**
- F17** Sch. 9 para. 17(3)(b) and word inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), **Sch. 17 para. 38(3)(b)**
- F18** Sch. 9 para. 17(4A) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), **Sch. 17 para. 38(4)**
- F19** Sch. 9 para. 17(6) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), **Sch. 17 para. 38(5)**

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