

2008 No. 1923

CORPORATION TAX

The Insurance Companies (Taxation of Insurance Special Purpose Vehicles) Order 2008

<i>Made</i> - - - -	<i>22nd July 2008</i>
<i>Laid before House of Commons</i>	<i>22nd July 2008</i>
<i>Coming into force</i> - -	<i>12th August 2008</i>

The Treasury make the following Order in exercise of the powers conferred by section 431A(2A) of the Income and Corporation Taxes Act 1988(a).

Citation, commencement and effect

1.—(1) This Order may be cited as the Insurance Companies (Taxation of Insurance Special Purpose Vehicles) Order 2008 and comes into force on 12th August 2008.

(2) This Order has effect in relation to periods of account beginning on or after 1st January 2008 and ending on or after 22nd July 2008.

(3) But, subject to paragraph (4), articles 2 and 3(2) and (3) have effect only in relation to transfers of business taking place on or after 1st July 2008.

(4) Paragraph (3) does not apply to article 3(2) in relation to the new paragraphs 8C (modification of section 444ABD (transferor's period of account including transfer)) and 8E (modification of section 444AE (transfers of business: FAFTS)) inserted by that article into Schedule 19ABA to the Income and Corporation Taxes Act 1988 (modifications of life assurance provisions of the Corporation Tax Acts in relation to BLAGAB group reinsurers)(b).

Insurance special purpose vehicles

2.—(1) Amend section 444AB of the Income and Corporation Taxes Act 1988 (transfer schemes transferring whole of business: transferor)(c) as follows.

(2) In subsection (2)—

- (a) in paragraph (a) after “insurance company” insert “or an insurance special purpose vehicle”, and
- (b) in paragraph (b) after “is an insurance company” insert “, an insurance special purpose vehicle”.

(3) After subsection (7) insert—

(a) 1988 c. 1; section 431A was inserted by paragraph 2 of Schedule 6 to the Finance Act 1990 (c. 29) and substituted by paragraph 3 of Schedule 9 to the Finance (No. 2) Act 2005 (c. 22). Subsection (2A) was inserted by paragraph 19 of Schedule 17 to the Finance Act 2008 (c. 9).

(b) Schedule 19ABA was inserted by article 3 of S.I. 2007/3430.

(c) Section 444AB was inserted by paragraph 19 of Schedule 33 to the Finance Act 2003 (c. 14), substituted by paragraph 4(1) of Schedule 9 to the Finance Act 2007 (c. 11) and amended by article 11 of S.I. 2008/381.

“(8) For the purpose of paragraph (2)(a), in relation to an insurance special purpose vehicle which is not an insurance company, “long-term insurance fund” has the meaning it has in paragraph 4(5) of Schedule 19ABA.”

BLAGAB group reinsurers

3.—(1) Amend Schedule 19ABA to the Income and Corporation Taxes Act 1988 (modifications of life assurance provisions of the Corporation Tax Acts in relation to BLAGAB group reinsurers)(a) as follows.

(2) For paragraph 8 (modification of section 444AA (transfers of business: deemed periodic return)) substitute—

“**8.** In section 444AA (transfers of business: deemed periodical returns)(b) in subsection (5) for paragraphs (a) and (b) substitute—

- “(a) in respect of the amount of the relevant long-term business provisions immediately before the transfer, and
- (b) in respect of the value, immediately before the transfer, of the assets transferred.”

(3) After paragraph 8 insert—

“Modification of section 444ABA (relevant non-transferred assets)

8A. In section 444ABA (relevant non-transferred assets)(c) in subsection (1) for the definition of BTO substitute—

“BTO is the lesser of VA and APL, where—

- (a) VA is the value of the assets transferred by the insurance business transfer scheme shown (or treated as shown) in the periodical return of the transferor for the period of account of the transferor including the transfer date, and
- (b) APL is the amount of the profit or loss for the financial year shown in the balance sheet in the periodical return for the last period of account of the transferor ending before the transfer date, together with—
 - (i) in the case of IAD accounts, the amount of profit or loss shown as being brought forward in that balance sheet, and
 - (ii) in the case of IAS accounts, the amount of retained earnings shown as being brought forward in that balance sheet.”

Modification of section 444ABB (retained assets)

8B.—(1) Modify section 444ABB (retained assets)(d) as follows.

(2) In subsection (1)—

- (a) for “RL13” (in both places) substitute “RL”, and
- (b) in the definition of RL13 for “AL13” substitute “APL”.

(3) In subsection (1A) for paragraphs (a) to (c) substitute—

“(a) APL is the amount of the profit or loss for the financial year shown in the balance sheet in the periodical return for the last period of account of the transferor ending before the transfer date, together with—

(a) Schedule 19ABA was inserted by article 3 of S.I. 2007/3430.

(b) Section 444AA was inserted by paragraph 18 of Schedule 33 to the Finance Act 2003 and substituted by article 10 of S.I. 2008/381.

(c) Section 444ABA was inserted by paragraph 3 of Schedule 7 to the Finance Act 2004 (c. 12), substituted by paragraph 4 of Schedule 9 to the Finance Act 2007 and amended by article 12 of S.I. 2008/381.

(d) Section 444ABB was inserted by paragraph 4 of Schedule 9 to the Finance Act 2007 and amended by article 13 of S.I. 2008/381.

- (i) in the case of IAD accounts, the amount of profit or loss shown as brought forward in that balance sheet, and
- (ii) in the case of IAS accounts, the amount of retained earnings shown as brought forward in that balance sheet;
- (b) VE is the amount (if any) by which VA exceeds VTL where—
 - (i) VA is the value of the assets transferred by the insurance business transfer scheme shown (or treated as shown) in the periodical return of the transferor for the period of account of the transferor including the transfer date, and
 - (ii) VTL is the value of the liabilities transferred by the insurance business transfer scheme (but excluding those which arise from deposit back arrangements); and
- (c) relevant retained liabilities are any liabilities of the company’s long-term business which are owed by the company immediately after the transfer date and are shown (or treated as shown)—
 - (i) at items C3 (net of reinsurance) and G in IAD accounts, or
 - (ii) at equivalent items in the balance sheet in IAS accounts.”.

Modification of section 444ABD (transferor’s period of account including transfer)

8C.—(1) Modify section 444ABD (transferor’s period of account including transfer)(a) as follows.

(2) In subsection (1) for paragraphs (a) and (b) substitute—

- “(a) the value of the liabilities transferred by the insurance business transfer scheme (but excluding those which arise from deposit back arrangements), exceeds
- (b) the value, immediately before the transfer, of the assets transferred by the insurance business transfer scheme,”.

(3) In subsection (1E) for “amount” (in the first place) substitute “value”.

Modification of section 444AC (transfer schemes: reduction of income of transferee)

8D.—(1) Modify section 444AC (transfer schemes: reduction of income of transferee)(b) as follows.

(2) In subsection (4) for the words from “lesser of” to the end substitute—

- “the amount of the profit or loss for the financial year shown in the balance sheet in the periodical return for the last period of account of the transferor ending before the transfer date, together with—
 - (a) in the case of IAD accounts, the amount of profit or loss shown as being brought forward in that balance sheet, and
 - (b) in the case of IAS accounts, the amount of retained earnings shown as being brought forward in that balance sheet.”.

(3) Omit subsection (5).

Modification of section 444AE (transfers of business: FAFTS)

8E.—(1) In a case where the transferor or the transferee is a BLGAB group reinsurer (or both are), omit section 444AE (transfers of business: FAFTS)(c).

(a) Section 444ABD was inserted by paragraph 5 of Schedule 9 to the Finance Act 2007 and amended by article 16 of S.I. 2008/381.
 (b) Section 444AC was inserted by paragraph 20(1) of Schedule 33 to the Finance Act 2003, substituted by paragraph 6(1) of Schedule 9 to the Finance Act 2007 and amended by article 17 of S.I. 2008/381.
 (c) Section 444AE was inserted by paragraph 20(1) of Schedule 33 to the Finance Act 2003 and substituted by paragraph 2 of Schedule 17 to the Finance Act 2008.

Modification of section 444AEA (transfer schemes: anti-avoidance rule)

8F. In section 444AEA (transfer schemes: anti-avoidance rule)(a), in subsection (6), in the definition of “surplus-increasing transfer of assets”, for “increases the amount of total surplus shown in line 39 of Form 58” substitute “gives rise to an amount that increases the profits or reduces the losses shown”.”.

(4) After paragraph 20 (modification of section 83YB (meaning of “appropriate line 51” amount for purposes of section 83YA) insert—

“Modification of section 83YC to 83YF (financing-arrangement-funded transfers)

20A. Omit sections 83YC to 83YF (financing-arrangement-funded transfers)(b).”.

Claire Ward

Dave Watts

22nd July 2008

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Section 444AEA was inserted by paragraph 8 of Schedule 9 to the Finance Act 2007.

(b) Sections 83YC to 83YF of the Finance Act 1989 (c. 26) were inserted by paragraph 1(3) of Schedule 17 to the Finance Act 2008.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends various life insurance tax provisions in relation to insurance special purpose vehicles to take account of amendments to primary legislation made by the Finance Act 2007, the Finance Act 2008 and the Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381).

Article 1 provides for citation, commencement and effect. Authority for the retrospective effect of the Order is given by section 431A(2C) of the Income and Corporation Taxes Act 1988 (“ICTA”).

Article 2 amends 444AB of ICTA (transfer schemes transferring whole of business: transferor) in relation to all insurance special purpose vehicles.

Article 3 makes provisions amending Schedule 19ABA to ICTA in relation to insurance special purpose vehicles which carry on basic life assurance and general annuity business. Paragraph (2) substitutes paragraph 8 of the Schedule to modify section 444AA (transfers of business: deemed periodic return). Paragraph (3) inserts new paragraphs 8A to 8F which modify respectively sections 444ABA (relevant non-transferred assets), 444ABB (retained assets), 444ABD (transferor’s period of account including transfer), 444AC (transfer schemes: reduction of income of transferee), 444AE (transfers of business: FAFTS) and 444AEA (transfer schemes: anti-avoidance rule).

Paragraph (4) inserts a new paragraph 20A which omits sections 83YC to 83YF (financing-arrangement-funded transfers) of the Finance Act 1989.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

2008 No. 1923

CORPORATION TAX

**The Insurance Companies (Taxation of Insurance Special
Purpose Vehicles) Order 2008**

£3.00

© Crown copyright 2008

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E2852 7/2008 182852T 19585