Finance Act 2012

2012 CHAPTER 14

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 3

CORPORATION TAX: GENERAL

Insurance

29 Transfer of whole or part of the business

(1) If—

(a) an insurance company carries on a business,

(b) amounts fall to be treated as receipts of the business as a result of section 26(4) ("deemed receipts"), and

(c) under an insurance business transfer scheme there is a transfer of the whole or part of the business to another insurance company within the charge to corporation tax,

the transferor and the transferee may jointly make an election for those deemed receipts to be allocated between them in accordance with the following provisions.

(2) If the transfer is a transfer of the whole of the business or substantially the whole of the business—

(a) section 26(6) does not apply in relation to the transferor (if it would otherwise have applied),

(b) the deemed receipt which, on the assumption that there had been no transfer, would have arisen in the transfer year is apportioned between the transferor and the transferee in accordance with subsection (5), and

(c) the remaining deemed receipts (if any) which, on that assumption, would have arisen in subsequent calendar years are treated as receipts of the transferee (and not as receipts of the transferor).

(3) If the transfer is a transfer of a part of the business and subsection (2) does not apply—

(a) the appropriate portion of the deemed receipt arising in the transfer year is apportioned between the transferor and the transferee in accordance with subsection (5), and

(b) the appropriate portions of the remaining deemed receipts (if any) are treated as receipts of the transferee (and the receipts of the transferor are reduced accordingly).

(4) The appropriate portion of a deemed receipt is to be determined on a just and reasonable basis.

(5) An apportionment under subsection (2)(b) or (3)(a) is to be made in proportion to the number of days of the calendar year falling before the day of the transfer and the number of days of the calendar year falling on or after the day of transfer.

(6) A deemed receipt which is treated as a receipt of the transferee as a result of this section is treated as a receipt of the business of the transferee which consists of or includes the transferred business, and, accordingly, section 26(4) and (6) have effect in relation to the transferee—

(a) as if references to the company were references to the transferee, and

(b) as if references to the business were references to the business of the transferee which consists of or includes the transferred business.

(7) An election under this section—

(a) must be made by notice to an officer of Revenue and Customs within 28 days from the end of the day on which the transfer takes place,

(b) must be accompanied by an explanation as to the way in which the transferor and the transferee have determined any issue falling to be determined for the purposes of this section, and

(c) is irrevocable.

(8) In this section—

"the transferred business" means so much of the business as is transferred to the transferee, and

"the transfer year" means the calendar year in which the transfer takes place.

(9) If a company makes an election under this section as the transferee, this section has effect for the purposes of any subsequent elections made by the company under this section as the transferor as if references to the business were references to the activities in respect of which deemed receipts are treated as arising to it.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2012, Section 29.