



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XII

SPECIAL CLASSES OF COMPANIES AND BUSINESSES

CHAPTER I

INSURANCE COMPANIES, UNDERWRITERS AND CAPITAL REDEMPTION BUSINESS

Insurance companies: general

431 Interpretative provisions relating to insurance companies

(1) This section has effect for the interpretation of this Chapter.

(2) Unless the context otherwise requires—

“annuity business” means the business of granting annuities on human life;

“general annuity business” means any annuity business which is not pension business, and “pension business” shall be construed in accordance with subsections (3) and (4) below;

“annuity fund” means, where an annuity fund is not kept separately from the life assurance fund of an insurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts, as stated in its periodical returns;

“insurance company” means a company to which Part II of the Insurance Companies Act 1982 applies;

“life assurance business” includes annuity business;

“offshore income gain” has the same meaning as in Chapter V of Part XVII;

“overseas life insurance company” means an insurance company having its head office outside the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom; and

“periodical return”, in relation to an insurance company, means a return deposited with the Secretary of State under Part II of the Insurance Companies Act 1982.

- (3) Subject to section 439, any division to be made between general annuity business, pension business and other life assurance business shall be made on the principle of—
- (a) referring to pension business any premiums falling within subsection (4) below, together with the incomings, outgoings and liabilities referable to those premiums and the policies and contracts under which they are or have been paid;
 - (b) allocating to general annuity business all other annuity business;
- and references to “pension fund” and “general annuity fund” shall be construed accordingly, whether or not any such funds are kept separate from the insurance company’s life assurance fund.
- (4) The premiums to be referred to pension business are those payable under contracts falling within one or other of the following descriptions, that is to say—
- (a) any contract with an individual who is, or would but for an insufficiency of profits or gains be, chargeable to income tax in respect of relevant earnings (as defined in section 623(1) and (2)) from a trade, profession, vocation, office or employment carried on or held by him (being a contract approved by the Board under section 620), or any substituted contract within the meaning of section 622(3);
 - (b) any contract (including a contract of insurance) entered into for the purposes of, and made with the persons having the management of, an exempt approved scheme as defined in Chapter I of Part XIV, being a contract so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme;
 - (c) any contract made under approved personal pension arrangements within the meaning of Chapter IV of Part XIV;
 - (d) any annuity contract entered into for the purposes of—
 - (i) a scheme which is approved or is being considered for approval under Chapter I of Part XIV;
 - (ii) a statutory scheme as defined by section 612(1); or
 - (iii) a fund to which section 608 applies,
 being a contract which is approved by the Board and made with the persons having the management of the scheme or fund (or those persons and a member of or contributor to the scheme or fund) and by means of which relevant benefits as defined by section 612(1) (but no other benefits) are secured;
 - (e) any annuity contract approved by the Board which is entered into in substitution for a contract within paragraph (d) above;
 - (f) any contract with the trustees or other persons having the management of a scheme approved under section 620 or, subject to subsection (5) below, of a superannuation fund which was approved under section 208 of the 1970 Act, being a contract which—
 - (i) was entered into for the purposes only of that scheme or fund or, in the case of a fund part only of which was approved under section 208, for the purposes only of that part of that fund, and
 - (ii) (in the case of a contract entered into or varied after 1st August 1956) is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which

the contract is intended to secure the scheme or fund (or the relevant part of the fund).

- (5) Subsection (4)(c) above shall not apply to premiums payable under a contract where the fund in question was approved under section 208 of the 1970 Act unless—
- (a) immediately before 6th April 1980 premiums paid under the contract with the trustees or other persons having the management of the fund fell within section 323(4) of that Act (premiums referable to pension business); and
 - (b) the terms on which benefits are payable from the fund have not been altered since that time; and
 - (c) section 608 applies to the fund.
- (6) In subsections (3) to (5) above “premium” includes any consideration for an annuity.

432 Separation of different classes of business

- (1) Where an insurance company carries on life assurance business in conjunction with insurance business of any other class, the life assurance business shall, for the purposes of the Corporation Tax Acts, be treated as a separate business from any other class of business carried on by the company.
- (2) Where an insurance company carries on both ordinary life assurance business and industrial life assurance business, the business of each such class shall, for the purposes of the Corporation Tax Acts, be treated as though it were a separate business, and section 76 shall apply separately to each such class of business.

433 Profits reserved for policy holders and annuitants

Where the profits of an insurance company in respect of its life assurance business are, for the purposes of this Act, computed in accordance with the provisions of this Act applicable to Case I of Schedule D, such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants shall be excluded in making the computation, but if any profits so excluded as being reserved for policy holders or annuitants cease at any time to be so reserved and are not allocated to or expended on behalf of policy holders or annuitants, those profits shall be treated as profits of the company for the accounting period in which they ceased to be so reserved.

434 Franked investment income etc

- (1) Section 208 shall not prevent franked investment income of a company resident in the United Kingdom which carries on life assurance business from being taken into account as part of the profits in computing trading income in accordance with the provisions applicable to Case I of Schedule D.
- (2) In ascertaining for the purposes of section 393 or 394 whether and to what extent a company has incurred a loss on its life assurance business, any profits derived from the investments of its life assurance fund (including franked investment income of a company so resident) shall be treated as part of the profits of that business.
- (3) Any such part of the franked investment income from investments held in connection with a company’s life assurance business as is specified in subsection (4) below (“the

specified part”) shall not be used under Chapter V of Part VI to frank distributions made by the company.

- (4) Subject to subsection (5) below, the specified part shall be, in the case of any unrelieved income, the same fraction of it as the fraction which, on a computation of the profits of the company in respect of its life assurance business in accordance with the provisions applicable to Case I of Schedule D (whether or not the company is in fact charged to tax under that Case for the relevant accounting period or periods), would be connoted by the words in section 433 “such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants”.
- (5) If the income exceeds the profits as computed in accordance with the provisions applicable to Case I of Schedule D other than section 433, the specified part shall be that fraction of the income so far as not exceeding the profits, together with the amount of the excess.
- (6) For the purposes of section 239 the profits charged to corporation tax for any accounting period (as defined in subsection (6) of that section) shall be reduced by deducting therefrom such fraction thereof as is equal to the fraction of the profits of the company in respect of its life assurance business which under section 433 is excluded from the computation of those profits or would be so excluded if the profits were computed in accordance with the provisions applicable to Case I of Schedule D.
- (7) For the purposes of subsection (4) above “unrelieved income” means income which has not been excluded from charge to tax by virtue of any provision and against which no relief has been allowed by deduction or set-off.
- (8) Where subsection (3) or (6) above would deny to a company any relief to which it would have been entitled if it had been charged to tax in respect of its life assurance business under Case I of Schedule D, corresponding relief shall be afforded to the company by repayment of, or set-off against, corporation tax or by payment of tax credit comprised in franked investment income from investments held in connection with that business.

435 Taxation of gains reserved for policy holders and annuitants

- (1) This section has effect in relation to any accounting period of an insurance company carrying on life assurance business and for the purposes of this section—
 - (a) the life assurance gains are such part of the amount to be included, in accordance with section 345, in the company’s total profits as is attributable to gains from investments held in connection with the company’s life assurance business;
 - (b) the policy holders' share of the life assurance gains or of the relevant reliefs is such fraction thereof as is equal to the fraction of the profits of the company in respect of its life assurance business which, under section 433, is excluded from the computation of those profits or would be so excluded if the profits were computed in accordance with the provisions applicable to Case I of Schedule D; and
 - (c) the relevant reliefs are such of the sums to be deducted from or set off against the company’s profits as are deducted from or set off against the life assurance gains.

- (2) Corporation tax charged on so much of the policy holders' share of the life assurance gains as remains after setting against it the amounts referred to in subsection (3)(c) below shall be calculated on the basis of a rate of corporation tax of 30 per cent.
- (3) For the purposes of this section there shall be ascertained the policy holders' share and the remainder ("the residual part") of the life assurance gains and of the relevant reliefs; and—
- (a) the residual part of the relevant reliefs shall be set against the residual part of those gains; and
 - (b) if the residual part of the relevant reliefs exceeds the residual part of those gains, the excess (or so much of it as does not, together with the policy holders' share of the relevant reliefs, exceed the policy holders' share of those gains) shall be added to the policy holders' share of the relevant reliefs; and
 - (c) the policy holders' share of the relevant reliefs, with any addition made under paragraph (b) above, shall be set against the policy holders' share of the life assurance gains.

436 Annuity business and pension business: separate charge on profits

- (1) Subject to the provisions of this section, profits arising to an insurance company from general annuity business or pension business shall be treated as income within Schedule D, and be chargeable under Case VI of that Schedule, and for that purpose—
- (a) the business of each such class shall be treated separately, and
 - (b) subject to paragraph (a) above, and to subsection (3) below, the profits therefrom shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (2) Subsection (1) above shall not apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its ordinary life assurance business.
- (3) In making the computation referred to in subsection (1) above—
- (a) section 433 shall apply with the necessary modifications and in particular with the omission of all references to policy holders (other than holders of policies referable to pension business);
 - (b) no deduction shall be allowed in respect of any expenses of management deductible under section 76;
 - (c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from pension business or general annuity business in any previous accounting period or year of assessment;
 - (d) where the computation in question is of profits arising to an insurance company from pension business—
 - (i) group income shall not be taken into account as part of those profits, and
 - (ii) annuities shall be deductible notwithstanding section 337(2);and the company shall not be entitled to treat as paid out of profits or gains brought into charge to income tax any part of the annuities paid by the company which is referable to pension business; and
 - (e) distributions which are not qualifying distributions shall not be taken into account where the computation in question is of the profits arising to an

Status: This is the original version (as it was originally enacted).

insurance company or overseas life insurance company from general annuity business or pension business.

- (4) Section 396 shall not be taken to apply to a loss incurred by a company on its general annuity business or pension business.
- (5) Nothing in section 128 or 399(1) shall affect the operation of this section.

437 General annuity business

- (1) In the case of a company carrying on general annuity business, the annuities paid by the company, so far as referable to that business and so far as they do not exceed the taxed income of the part of the annuity fund so referable, shall be treated as charges on income.
- (2) In computing under section 436 the profits arising to an insurance company from general annuity business—
- (a) taxed income, group income and income attributable to offshore income gains shall not be taken into account as part of those profits; and
 - (b) of the annuities paid by the company and referable to general annuity business—
 - (i) those which under subsection (1) above are treated as charges on income shall not be deductible, and
 - (ii) those which are not so treated shall (notwithstanding section 337(2)) be deductible.
- (3) In subsections (1) and (2) above “taxed income” means income charged to corporation tax otherwise than under section 436, and franked investment income.
- (4) Subject to subsection (5) below, franked investment income which is taken into account under subsection (2) above to enable annuities referable to general annuity business to be treated as charges on income shall not be used under Chapter V of Part VI to frank distributions made by the company.
- (5) For the purposes of subsection (4) above there shall be deducted from the amount of the franked investment income of the company arising in any accounting period and taken into account under subsection (1) above—
- (a) the amount of any profit arising in that accounting period to the company from general annuity business and computed under section 436; and
 - (b) the amount of any group income arising in that accounting period to the company and referable to its general annuity business.
- (6) A company which is not resident in the United Kingdom but carries on through a branch or agency there any general annuity business shall not be entitled to treat any part of the annuities paid by it which are referable to that business as paid out of profits or gains brought into charge to income tax.

438 Pension business: exemption from tax

- (1) Exemption from corporation tax shall be allowed in respect of income from, and chargeable gains in respect of, investments and deposits of so much of an insurance company’s life assurance fund and separate annuity fund, if any, as is referable to pension business.

- (2) The exemption from tax conferred by subsection (1) above shall not exclude any sums from being taken into account as receipts in computing profits or losses for any purpose of the Corporation Tax Acts.
- (3) Subject to subsection (6) below, the exclusion by section 208 from the charge to corporation tax of franked investment income shall not prevent such income being taken into account as part of the profits in computing under section 436 income from pension business.
- (4) If in the case of any company the income referred to in subsection (1) above includes a distribution in respect of which the company is entitled to a tax credit, the company may, subject to subsections (5) and (6) below, claim to have the amount of that credit paid to it.
- (5) If the company is resident in the United Kingdom (so that the distribution and the tax credit in question constitute franked investment income of that company), no franked investment income comprising any tax credit which is paid under subsection (4) above shall, subject to subsection (6) below, be used under Chapter V of Part VI to frank the company's distributions.
- (6) If for any accounting period there is, apart from this subsection, a profit arising to an insurance company from pension business and computed under section 436, and the company so elects as respects all or any part of its franked investment income arising in that period, being an amount of franked investment income not exceeding the amount of that profit, subsections (3) to (5) above shall not apply to the franked investment income to which the election relates.
- (7) An election under subsection (6) above shall be made by notice given to the inspector not later than two years after the end of the accounting period to which the election relates or within such longer period as the Board may by notice allow.
- (8) Nothing in sections 431(4)(c) or 643(2) of this Act or section 149B(1)(h) of the 1979 Act shall be construed as affording relief in respect of any sums to be brought into account under this section.

439 Restricted government securities

- (1) This section applies where for any accounting period —
 - (a) any division falls to be made between the pension business and any other kind of long-term business of an insurance company, and
 - (b) any of the income or gains or losses of the company for that period relate to restricted government securities;and where this section applies section 431(3) shall have effect subject to the provisions of this section.
- (2) All income, gains or losses of the company which relate to restricted government securities shall be referred to its pension business.
- (3) Where the division of the other income, gains or losses of the company is made by reference to the liabilities at any time in the accounting period which are referable to pension business or to two or more kinds of business including pension business, those liabilities shall be treated as reduced by the appropriate amount.
- (4) In subsection (3) above “the appropriate amount” means—

- (a) in a case in which the total liabilities of the company at the time in question which are referable to long-term business are less than the market value at that time of the investments and deposits held by the company relating to all such business, such proportion of the market value of the restricted government securities held by the company at that time as those liabilities bear to the market value of those investments and deposits, and
 - (b) in any other case, the market value of the restricted government securities at that time.
- (5) In this section—
- “long-term business” has the same meaning as in section 1(1) of the Insurance Companies Act 1982;
- “restricted government securities” means, subject to the following provisions of this section, government securities issued on the condition that, except in such circumstances as may be specified in the conditions of issue, they are to be held by insurance companies against and applied solely towards meeting pension business liabilities.
- (6) Subject to subsection (7) below, the following Treasury Stock, namely—
- (a) 2 per cent. Index-linked Treasury Stock 1996;
 - (b) 2 per cent. Index-linked Treasury Stock 2006;
 - (c) 2½ per cent. Index-linked Treasury Stock 2011;
- are not restricted government securities for the purposes of this section.
- (7) If any of the index-linked stock referred to in subsection (6) above was on 27th March 1982 held by an insurance company against and applied solely towards meeting the liabilities of the company’s pension business, then—
- (a) if and so long as the stock continues to be so held by that company, it shall continue to be treated as restricted government securities for the purposes of this section; and
 - (b) if the stock ceases to be restricted government securities otherwise than by virtue of being actually disposed of or redeemed, on the day on which it so ceases the stock shall be deemed for the purposes of corporation tax, including (subject to subsection (8) below) corporation tax on chargeable gains, to have been disposed of and immediately re-acquired at its market value on that date.
- (8) For the purposes of sections 67 and 68 of the 1979 Act (gilt-edged securities)—
- (a) in ascertaining the date on which securities were acquired, no account shall be taken of any deemed disposal and re-acquisition resulting from subsection (7) (b) above; and
 - (b) so long as any index-linked stock continues, by virtue of subsection (7)(a) above, to be treated as restricted government securities for the purposes of this section, it shall be regarded as being stock of a different kind from the index-linked stock referred to in subsection (6) above which is not so treated.

440 Identification or exchange of long term assets

- (1) The provisions of this section apply to any insurance company which carries on or has carried on long term business, and shall have effect for all purposes of the Corporation Tax Acts.

- (2) Subject to subsection (4) below, a profit or loss shall not be taken to arise in respect of any asset of the company by reason only that at any time after the base date the asset was or is exchanged for other assets of the company so as to become or cease to be part of the long term assets.
- (3) Subject to subsection (5) below, if an asset of the company which has at any time after 29th April 1975 been exchanged as mentioned in subsection (2) above is—
- (a) within the period of one year beginning with the date of that exchange (“the relevant exchange”) exchanged again for other assets of the company so as to cease to be or, as the case may be, become part of the long term assets; or
 - (b) within the period of six months beginning with the date of the relevant exchange disposed of by the company,
- then any income arising in respect of the asset after the relevant exchange, and any profit, gain or loss accruing to the company on a disposal of the asset made after the relevant exchange, shall be treated as if the relevant exchange had not taken place.
- (4) If an insurance company to which this section applies by notice given to the inspector so elects, then, where in the relevant period any relevant asset of the company was or is exchanged as mentioned in subsection (2) above—
- (a) that subsection shall not apply in relation to that asset as regards that exchange; and
 - (b) the company shall be treated as if the asset had been disposed of at market value by the company at the time of the exchange.

In this and the following subsection—

“the relevant period”, in relation to a notice under this subsection, means the period of six years from the end of the accounting period of the company in which the notice is given;

“relevant asset”, in relation to an insurance company, means an asset of the company such that, if it were sold, the proceeds would be taken into account in any computation of profits of the company in accordance with the provisions of this Act applicable to Case I of Schedule D.

- (5) Where an insurance company has given a notice under subsection (4) above, subsection (3) above shall, as regards relevant assets disposed of by the company in the relevant period, have effect as if paragraph (b) and the reference to any profit, gain or loss accruing to the company on a disposal made after the relevant exchange were omitted.
- (6) If at any time after the base date an insurance company to which this section applies disposed or disposes of an asset which—
- (a) was or is part of the long term assets at the time of the disposal, but without having been continuously part of those assets since its acquisition by the company; or
 - (b) was or is not part of the long term assets at the time of the disposal, but without having been continuously not part of those assets since its acquisition by the company,

the asset shall be treated, in a case falling within paragraph (a) above, as if it had been continuously part of the long term assets from the time of its acquisition by the company to the time of the disposal, or, in a case falling within paragraph (b) above, as if it had been continuously not part of the long term assets from the time of its acquisition by the company to the time of its disposal; and if the disposal is one

as respects which subsection (3) above applies, this subsection shall apply as if the relevant exchange (within the meaning of that subsection) had not taken place.

- (7) Without prejudice to subsection (6) above, if—
- (a) an insurance company to which this section applies disposes of an asset which, since its acquisition by the company, has on one or more occasions (whether after the base date or not) been exchanged for other assets of the company; and
 - (b) as regards that occasion or one or more of those occasions the company was assessed to income tax or corporation tax in an amount computed by reference to the value of the asset at the time of the exchange,
- then, in computing for any purpose of the Corporation Tax Acts the profit, gain or loss (if any) arising on the disposal, the asset shall be deemed to have been acquired by the company on the occasion or latest of the occasions mentioned in paragraph (b) above at a cost equal to the value by reference to which the company was so assessed as regards that occasion.
- (8) There shall be made such assessments, reductions of assessments or, on a claim in that behalf, repayments of tax as may in any case be required in order to give effect to subsection (3) or (4) above.
- (9) In this section, unless the context otherwise requires, “asset” includes part of an asset and any reference to a disposal of part of an asset includes a reference to a part disposal of an asset within the meaning of section 19(2)(b) of the 1979 Act; and where part of an asset is exchanged or disposed of as mentioned in any of subsections (2) to (7) above, that subsection shall have effect as if that part of the asset and the part not exchanged or disposed of were separate assets.
- (10) For the purposes of this section—
- “the base date”, in relation to an insurance company, means the last day of the financial year of the company which ended next after 7th December 1973;
 - “financial year” has the meaning given by section 96 of the Insurance Companies Act 1982;
 - “long term assets”, in relation to an insurance company, means assets representing the fund or funds maintained by the company in respect of its long term business; and
 - “long term business” has the meaning given by section 1(1) of the Insurance Companies Act 1982.

441 Foreign life assurance funds

- (1) Corporation tax under Cases IV and V on income arising from investments of the foreign life assurance fund of an insurance company shall be computed as in the case mentioned in section 65(4), that is to say, by reference to the amount of income received in the United Kingdom; and this subsection shall apply notwithstanding that that section relates only to income tax.
- (2) Where any of the following securities, namely—
- (a) securities issued by the Treasury with the condition that the interest thereon shall not be liable to income tax so long as it is shown, in manner directed by the Treasury, that the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom; or
 - (b) securities issued by the Treasury with the condition that—

- (i) so long as the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom, the interest thereon shall be exempt from income tax, and
 - (ii) so long as the securities are in the beneficial ownership of persons who are neither domiciled nor ordinarily resident in the United Kingdom, neither the capital thereof nor the interest thereon shall be liable to any taxation present or future; or
- (c) securities to which section 581 applies;
for the time being form part of the investments of the foreign life assurance fund of an insurance company, the income arising from those securities, if applied for the purposes of that fund or reinvested so as to form part of that fund, shall not be liable to tax.
- (3) Where any income arising abroad from the investments of the foreign life assurance fund of an insurance company has been remitted to the United Kingdom and invested, as part of the investments of that fund, in any such securities as are mentioned in subsection (2) above, that income shall not be liable to tax and any tax paid thereon shall, if necessary, be repaid to the company on the making of a claim.
- (4) Any securities issued by the Treasury in pursuance of the power conferred by section 60(1) of the Finance Act 1940 with a modified form of the condition specified in subsection (2)(b) above shall, save in so far as the terms of the issue otherwise provide, be deemed for the purposes of subsections (2) and (3) above to be such securities as are mentioned in subsection (2) above.
- (5) Where income arising from the investments of the foreign life assurance fund of an insurance company has been relieved from tax in pursuance of the provisions of this section, a corresponding reduction shall be made—
 - (a) in the relief granted under section 76 in respect of expenses of management; and
 - (b) in any amount on which the company is chargeable to tax by virtue of section 436.
- (6) In this section “foreign life assurance fund”—
 - (a) means any fund representing the amount of the liability of an insurance company in respect of its life assurance business with policy holders and annuitants residing outside the United Kingdom whose proposals were made to, or whose annuity contracts were granted by, the company at or through a branch or agency outside the United Kingdom; and
 - (b) where such a fund is not kept separately from the life assurance fund, means such part of the life assurance fund as represents the liability of the company under such policies and contracts, such liability being estimated in the same manner as it is estimated for the purpose of the company’s periodical return.
- (7) Where this section has effect in relation to income arising from investments of any part of an insurance company’s life assurance fund, it shall have the like effect in relation to chargeable gains accruing from the disposal of any such investments, and losses so accruing shall not be allowable losses.
- (8) For the purposes of this section, an offshore income gain accruing to an insurance company carrying on life assurance business shall, if it accrues in respect of investments held in connection with that business, be treated as if it were income from investments held in connection with that business.

- (9) Where any payment is made by the Export Credits Guarantee Department—
- (a) under any agreement entered into under arrangements made by the Secretary of State in pursuance of section 11 of the Export Guarantees and Overseas Investment Act 1978, and
 - (b) in respect of any income —
 - (i) which cannot be transferred to the United Kingdom, and
 - (ii) which arises from investments of the foreign life assurance fund of an insurance company,
- then, to the extent of the payment, this section shall apply in relation to the income as if it had been received in the United Kingdom (and accordingly cannot be received again in the United Kingdom).

442 Overseas business of U.K. companies

- (1) Subsections (2) and (3) below apply where a company resident in the United Kingdom carries on insurance business outside the United Kingdom through a branch or agency and—
- (a) that business, or part of it, together with the whole assets of the company used for the purposes of that business or part (or together with the whole of those assets other than cash), is transferred to a company not resident in the United Kingdom;
 - (b) the business or part is so transferred wholly or partly in exchange for shares, or for shares and loan stock, issued by the transferee company to the transferor company; and
 - (c) the shares so issued, either alone or taken together with any other shares in the transferee company already held by the transferor company, amount in all to not less than one quarter of the ordinary share capital of the transferee company.
- (2) In making any computation in accordance with the provisions of this Act applicable to Case I of Schedule D of the profits or losses of the transferor company for the accounting period in which the transfer occurs, there shall be disregarded any profit or loss in respect of any asset transferred which, apart from this subsection, would fall to be taken into account in making that computation.
- (3) Where by virtue of subsection (2) above any profit or loss is disregarded in making any computation otherwise than for the purposes of section 76(2) the profit or loss shall be treated for the purposes of the 1979 Act as a chargeable gain or allowable loss accruing to the transferor company on the transfer.
- (4) Where at any time a company resident in the United Kingdom—
- (a) which carries on insurance business wholly outside the United Kingdom, and
 - (b) the whole or part of whose ordinary share capital is beneficially owned by one or more companies resident in the United Kingdom,
- ceases to be resident in the United Kingdom, the profits or losses of the company in respect of that business for the accounting period ending at that time shall be computed for tax purposes without regard to the whole, or, as the case may be, a corresponding part of any profit or loss in respect of any asset which, apart from this subsection, would fall to be calculated in accordance with section 100(1)(b) and taken into account in making that computation.

443 Life policies carrying rights not in money

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 a consideration equal to the market value of the assets for the purposes of computing income in accordance with Case I or VI of Schedule D.

444 Life policies issued before 5th August 1965

- (1) This section applies in relation to policies of life assurance issued before 5th August 1965 by a company carrying on life assurance business, being policies which—
 - (a) provide for benefits consisting to any extent of investments of a specified description or of a sum of money to be determined by reference to the value of such investments, but
 - (b) do not provide for the deduction from those benefits of any amount by reference to tax chargeable in respect of chargeable gains.
- (2) Where—
 - (a) the investments of the company's life assurance fund, so far as referable to those policies, consist wholly or mainly of investments of the description so specified, and
 - (b) on the company becoming liable under any of those policies for any such benefits (including benefits to be provided on the surrender of a policy), a chargeable gain accrues to the company from the disposal, in meeting or for the purpose of meeting that liability, of investments of that description forming part of its life assurance fund, or would so accrue if the liability were met by or from the proceeds of such a disposal,then the company shall be entitled as against the person receiving the benefits to retain out of those benefits a part not exceeding in amount or value corporation tax, at the rate specified in subsection (3) below, in respect of the chargeable gain referred to in paragraph (b) above, computed without regard to any amount retained under this subsection.
- (3) The amount to be retained under subsection (2) above shall, subject to subsection (4) below, be computed by reference to the rate of corporation tax for the time being in force or, if no rate of corporation tax has yet been fixed for the financial year, the rate last in force.
- (4) In so far as the chargeable gain represents or would represent a gain belonging or allocated to, or reserved for, policy holders, the amount to be retained shall be computed by reference to a rate of tax not exceeding 37.5 per cent.

Provisions applying only to overseas life insurance companies

445 Charge to tax on investment income

- (1) Any income of an overseas life insurance company from the investments of its life assurance fund (excluding the pension fund and general annuity fund, if any), wherever received, shall, to the extent provided in this section, be deemed to be profits

comprised in Schedule D and shall be charged to corporation tax under Case III of Schedule D.

- (2) In subsection (1) above “income” shall not include—
- (a) distributions which are not qualifying distributions or income attributable to offshore income gains; or
 - (b) annual profits or gains chargeable to tax by virtue of section 714(2) or 716(3).
- (3) Qualifying distributions received from companies resident in the United Kingdom shall be brought into account under this section notwithstanding their exclusion from the charge to corporation tax.
- (4) A portion only of the income from the investments of the life assurance fund (excluding the pension fund and general annuity fund, if any) shall be charged in accordance with subsection (1) above, and for any accounting period that portion shall be determined by the formula—

$$\frac{A \times B}{C}$$

where—

A is the total income from those investments for that period;

B is the average of the liabilities for that period to policy holders resident in the United Kingdom and to policy holders resident abroad whose proposals were made to the company at or through its branch or agency in the United Kingdom; and

C is the average of the liabilities for that period to all the company’s policy holders;

but any reference in this subsection to liabilities does not include liabilities in respect of general annuity and pension business.

- (5) For the purposes of subsection (4) above the average of any liabilities for an accounting period shall be taken as one half of the aggregate of the liabilities at the beginning and end of the valuation period which coincides with that accounting period or in which that accounting period falls.
- (6) For the purposes of this section the liabilities of an insurance company attributable to any business at any time shall be ascertained by reference to the net liabilities of the company as valued by an actuary for the purposes of the relevant periodical return.
- (7) Section 73 shall not apply to tax in respect of income to which subsection (1) above applies.
- (8) In the case of an overseas life insurance company—
- (a) in computing for the purposes of this section the income from the investments of the life assurance fund of the company, any interest, dividends and other payments whatsoever to which section 48 or 123(4) extends shall be included notwithstanding the exemption from tax conferred by those sections respectively; and
 - (b) where in computing that income any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue of those securities regulating the treatment of the interest on them for tax purposes, the relief under section 76 shall be reduced so as to bear to the amount of relief which would be granted but for the provisions of this paragraph the same proportion

as the amount of that income, excluding that interest, bears to the amount of that income including that interest.

446 Annuity business

- (1) Nothing in the Corporation Tax Acts shall prevent the qualifying distributions of companies resident in the United Kingdom from being taken into account as part of the profits in computing, under section 436, the profits arising from pension business and general annuity business to an overseas life insurance company.
- (2) Any charge to tax under section 436 for any accounting period on profits arising to an overseas life insurance company from general annuity business shall extend only to a portion of the profits arising from that business and that portion shall be determined by the formula—

$$\frac{A \times B}{C}$$

where—

A is the total amount of those profits;

B is the average of the liabilities attributable to that business for the relevant accounting period in respect of contracts with persons resident in the United Kingdom or contracts with persons resident abroad whose proposals were made to the company at or through its branch or agency in the United Kingdom; and

C is the average of the liabilities attributable to that business for that accounting period in respect of all contracts.

- (3) For the purposes of subsection (2) above, the average of any liabilities for an accounting period shall be taken as one half of the aggregate of the liabilities at the beginning and end of the valuation period which coincides with that accounting period or in which that accounting period falls.
- (4) For the purposes of this section the liabilities of an insurance company attributable to general annuity business at any time shall be ascertained by reference to the net liabilities of the company as valued by an actuary for the purposes of the relevant periodical return.

447 Set-off of income tax and tax credits against corporation tax

- (1) For the purposes of subsection (3) of section 11 as it applies to life insurance companies, the amount of the income tax referred to in that subsection which shall be available for set-off under that subsection in an accounting period shall be limited in accordance with subsections (2) to (4) below.
- (2) If the company is chargeable to corporation tax for an accounting period in accordance with section 445 in respect of the income from the investments of its life assurance fund, the amount of income tax available for set-off against any corporation tax assessed for that period on that income shall not exceed an amount equal to income tax at the basic rate on the portion of income from investments which is chargeable to corporation tax by virtue of subsection (4) of that section.
- (3) If the company is chargeable to corporation tax for an accounting period in accordance with section 446 on a proportion of the total amount of the profits arising from its general annuity business, the amount of income tax available for set-off against any

corporation tax assessed for that period on those profits shall not exceed an amount equal to income tax at the basic rate on the like proportion of the income from investments included in computing those profits.

- (4) Where an overseas life insurance company receives a distribution in respect of which it is entitled to a tax credit the company may claim to have that credit set off against any corporation tax assessed on the company under section 445 or 446 for the accounting period in which the distribution is received, but the restriction in subsections (2) and (3) above on the amount of income tax that may be set off against corporation tax so assessed shall apply to the aggregate of that income tax and of the tax credit that can be so set off by virtue of this subsection.

448 Qualifying distributions and tax credits

- (1) Where an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom and relief in respect of the distribution is not available or is not claimed under arrangements specified in an Order in Council made under section 788, the overseas life insurance company shall be deemed for the purposes of sections 76(3) and (4), 434(8), 436, 438 and 445 to 447 to be entitled to such a tax credit in respect of the distribution as it would be entitled to under section 231 if it were resident in the United Kingdom; and accordingly the distribution shall be treated for the purposes of those provisions as representing income equal to the aggregate of the amount or value of the distribution and the amount of that credit.
- (2) Where under subsection (1) above an overseas life insurance company is deemed to be entitled to a tax credit in respect of a distribution, it may claim to have the income represented by the distribution set, subject to subsection (3) below, against its profits chargeable to tax under section 436 or against its income chargeable to tax in accordance with section 445 or partly against the one and partly against the other; but to the extent that any income is so set the tax credit included in it shall not be payable and shall not be set against corporation tax under section 447(4).
- (3) The amounts that an overseas life insurance company may by virtue of subsection (2) above set against profits or income of any description shall not exceed the amount of the profits or income of that description and shall be further limited as follows—
- (a) the amount set against profits arising from general annuity business shall not exceed a portion of the company's income from investments referable to that business, and that portion shall be determined by the same formula as determines under section 446 the portion of those profits which is chargeable to tax; and
 - (b) the amount set against profits from pension business shall not exceed such of its income referable to that business as is represented by distributions in respect of which the company is deemed to be entitled to a tax credit by virtue of this section, and shall not reduce any other income.
- (4) Where by virtue of a set-off under this section income or profits of any description are reduced by any amount, that amount shall be left out of account in determining the amount of income tax which is available for set-off against corporation tax under section 11(3).
- (5) A claim under this section in respect of a distribution shall not prevent the making of a subsequent claim for relief in respect of that distribution under arrangements specified in an Order in Council made under section 788; but where such a subsequent claim is made the claim under this section shall be deemed never to have been made, and no

adjustment (whether by additional assessments or otherwise) to which the subsequent claim gives rise shall be out of time if it is made within 12 months after the making of the subsequent claim.

449 Double taxation agreements

- (1) This section applies to an overseas life insurance company if, by virtue of arrangements specified in an Order in Council made under section 788, no charge to corporation tax under Case III of Schedule D arises under section 445 in respect of any income of the company from the investments of its life assurance fund (excluding the pension fund and general annuity fund, if any).
- (2) For the purposes of section 242 so much of any relevant distributions as is received in any year of assessment by an overseas life insurance company to which this section applies in respect of the portion of the investments of its life assurance fund (excluding the pension fund and general annuity fund, if any) attributable to the business of its branch or agency in the United Kingdom shall be deemed to be franked investment income of that company, and accordingly the company may make a claim under subsection (1) of section 242 for any of the purposes specified in subsection (2) of that section.
- (3) In subsection (2) above “relevant distributions” means distributions in respect of which the company receiving them is entitled to a tax credit.

Underwriters

450 Assessment, set-off of losses and reinsurance

- (1) Income tax, for any year of assessment, on the profits or gains arising from a member’s underwriting business or from assets forming part of a premiums trust fund shall be computed on the profits or gains of that year of assessment; but for this purpose and all other purposes of the Income Tax Acts—
 - (a) the profits or gains arising in any year of assessment from a member’s underwriting business shall be taken to be those arising in the corresponding underwriting year; and
 - (b) the profits or gains arising from assets forming part of a premiums trust fund shall be taken to be those allocated under the rules or practice of Lloyd’s to the corresponding underwriting year.
- (2) Income tax on the profits or gains arising to a member from assets forming part of a premiums trust fund may be assessed on the underwriting agent through whom his business is carried on.
- (3) Relief under section 380 in respect of a loss sustained by a member in his underwriting business in any year of assessment shall not be given under subsection (2) of that section but may, if the member so claims and he was a member in the preceding year of assessment, be given against his income for that preceding year, so far as it cannot be given against the income for the year in which the loss was sustained and can be given after any relief for a loss sustained in that preceding year.
- (4) In any case where a member has taken out an insurance against losses in his underwriting business—

Status: This is the original version (as it was originally enacted).

- (a) any premium paid by him on that insurance shall be deducted as an expense in computing the profits or gains arising from that business; and
 - (b) any insurance money paid to him under that insurance shall be taken into account as a trading receipt in computing those profits or gains for the year of assessment for which the premium was allowed as a deduction.
- (5) Where, in accordance with the rules or practice of Lloyd's, and in consideration of the payment of a premium, one member agrees with another to meet liabilities arising from the latter's business for an underwriting year so that the accounts of the business for that year may be closed—
- (a) in computing for the purposes of income tax the profits or gains of his business, the amount of the premium shall be deductible as an expense of the member by whom it is payable only to the extent that it is shown not to exceed a fair and reasonable assessment of the value of the liabilities in respect of which it is payable; and
 - (b) any part of a premium which, by virtue of paragraph (a) above, is not deductible as an expense of the member by whom it is payable, shall be disregarded in computing for the purposes of income tax the profits or gains of the business of the member to whom it is payable;

and the assessment referred to above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does not accrue to the member to whom the premium is payable but that he does not suffer a loss.

This subsection has effect in relation to premiums payable in connection with the closing of the accounts of a member's business for an underwriting year ending in the year of assessment 1985-86 or any later year of assessment.

- (6) The cost of acquisition and the consideration for the disposal of assets forming part of a premiums trust fund shall be left out of account in computing the profits or gains or losses of a member's underwriting business for the purposes of Schedule D (and accordingly shall not be excluded for the purposes of capital gains tax under section 31 or 33 of the 1979 Act).

451 Regulations

- (1) The Board may by regulations provide—
 - (a) for the assessment and collection of tax charged in accordance with section 450;
 - (b) for modifying the provisions of section 450 in relation to syndicates continuing for more than two years after the end of an underwriting year;
 - (c) for giving credit for foreign tax.
- (2) The Treasury may by regulations modify any of the provisions specified in paragraphs (a) to (c) below in their application to companies permitted by the Council of Lloyd's to act as underwriting agents at Lloyd's—
 - (a) section 11 of the Management Act (return of profits);
 - (b) section 87A of that Act (interest on overdue corporation tax); and
 - (c) section 10(1) of this Act.
- (3) Regulations under subsection (2) above shall not have effect with respect to accounting periods ending on or before such day, not being earlier than 31st March 1992, as the Treasury may by order appoint for the purposes of that subsection.

- (4) Regulations made under paragraph 17(1)(b) of Schedule 16 to the Finance Act 1973 which are in force immediately before the coming into operation of this Act shall continue in force notwithstanding the repeal of that paragraph by this Act, and shall be deemed to have been made under this section.

452 Special reserve funds

- (1) If in the case of Lloyd's—
- (a) arrangements are made for the setting up in relation to each underwriting member of such a special reserve fund as is referred to in the following provisions of this section and sections 453 to 456; and
 - (b) the arrangements comply with the requirements of this section and sections 453 to 455, are approved by the Board and are certified by the Secretary of State to be in the public interest;
- then, subject to section 456(4), the provisions of this section and sections 453 to 456 relating to taxation shall have effect in relation to any underwriting member.
- (2) The arrangements must provide for the setting up, in relation to the underwriter, of a special reserve fund vested in trustees who have control over it and power to invest the capital thereof and to vary the investments.
- (3) Where part of the business of the underwriter is carried on through an underwriting agent and part is not so carried on, or where different parts of his business are carried on through different underwriting agents, the arrangements may provide for separate special reserve funds being constituted in relation to the different parts of his business.
- (4) The arrangements must provide—
- (a) for the income arising from the investments of the underwriter's special reserve fund or funds being held on trust for the underwriter, his personal representatives or assigns; and
 - (b) that, on the underwriter ceasing to carry on his business, the capital of his special reserve fund or funds, so far as not required for giving effect to the requirements of section 453, shall be paid over to the underwriter or his personal representatives or assigns.
- (5) The arrangements must be such as to secure that if, for an underwriting year corresponding to a year of assessment during the whole or any part of which the underwriter continues to carry on his business (subject to section 456(4)), the underwriter makes a profit from his business, he has the right to make, into his special reserve fund or funds, payments ("permissible payments") the gross amount of which is not in the aggregate greater than £7,000 or 50 per cent. of the profit, whichever is the less, or such less sum as may be specified in the arrangements.
- (6) The amount of any permissible payment shall be notified to the inspector not later than 12 months after the date at which the accounts of the business for that underwriting year are deemed by the Board to be closed for the purposes of the arrangements, and no permissible payment shall be made more than 30 days after the date on which the inspector has notified his agreement in writing or, if later, 30 days after the expiration of those 12 months.
- (7) Where the underwriter carries on his business during part only of the year of assessment referred to in subsection (5) above, the maximum gross amount of the permissible payments shall be reduced by the application thereto of the proportion

which the part of that year of assessment for which he is entitled to profits from the business bears to a full year.

- (8) In subsection (5) above “profit” means a profit computed in the manner in which the profits or gains of the business of the underwriting year in question would fall to be computed under Case I of Schedule D if—
- (a) income arising from the investments forming part of the premiums trust fund of the underwriter, his special reserve fund or funds and any other fund required or authorised by the rules of Lloyd’s or required by the underwriting agent through whom the business or any part thereof is carried on, to be kept in connection with the business fell to be taken into account; and
 - (b) all shares of the profits of the business and all charges related to those profits or to the income mentioned in paragraph (a) above, being shares and charges payable to persons other than the underwriter and not otherwise taken into account, fell to be deducted.

In paragraph (a) above “income” includes annual profits or gains chargeable to tax by virtue of section 714(2) or 716(3).

453 Payments into premiums trust fund on account of losses

- (1) The arrangements must be such as to secure that, if it is certified that the underwriter has sustained a loss in his business for an underwriting year subsequent to that which corresponds to the first year of assessment to which section 452(5) applies, there shall be made into his premiums trust fund, out of the capital of his special reserve fund or funds, payments the gross amount of which is equal in the aggregate to the certified amount of the loss.
- (2) If the capital of the underwriter’s special reserve fund or funds, reduced by so much thereof as represents sums paid into it or them as a consequence of a profit for a year later than the year of the loss, is less than the net amount of the payments required to be made by subsection (1) above, those payments shall be reduced so that the net amount thereof is equal to the capital of the fund or funds as so reduced.
- (3) In this section—
 - (a) “loss” means a loss computed in the manner in which the profits or gains of the business of the underwriting year in question would fall to be computed under section 452(8); and
 - (b) where, under any arrangement between the underwriter and another person which provides for the sharing of losses, any amount is paid to the underwriter by that person as that person’s share of a loss for that year, the loss (as so computed) shall be reduced by that amount.
- (4) In this section “certified” means certified by a certificate of the inspector, but—
 - (a) no certificate shall be given by the inspector until 30 days have elapsed from the date on which he has given notice to the underwriter or his personal representatives stating his intention to give a certificate and stating the amount which he proposes to specify as the amount of the loss;
 - (b) the underwriter or his personal representatives may, on giving notice to the inspector within that 30 day period, appeal to the Special Commissioners;
 - (c) where notice is so given by the underwriter or his personal representatives, the inspector shall not without the consent of the underwriter or his personal representatives give any certificate until after the hearing of the appeal; and

- (d) on the hearing of the appeal, the Special Commissioners may direct the inspector not to give a certificate or to give it with such an amount specified as the amount of the loss as may be specified in the direction.
- (5) The arrangements may authorise the making of payments pursuant to subsection (1) above on a provisional basis before the amount of the loss has been finally ascertained and certified by the inspector.
- (6) The amount so withdrawn shall not exceed such proportion of the estimated loss as may be specified in the arrangements.
- (7) When the amount of the loss has been certified by the inspector such adjustments shall be made by repayment to the underwriter's special reserve fund or funds, or by further withdrawal of sums for payment into the underwriter's premiums trust fund, as will secure that the net amount withdrawn from the underwriter's special reserve fund or funds in respect of the loss is that required pursuant to subsection (1) above; and no tax consequences shall ensue on the withdrawal of sums in respect of a loss until the amount of the loss has been so certified and any such adjustments have been made.

454 Income tax consequences on payments into and out of special reserve fund

- (1) Where such a payment as is mentioned in section 452(5) is made into a special reserve fund of an underwriter by reason of the making by him of a profit for an underwriting year—
 - (a) subject to subsection (2) below, the payment shall be deemed to be an annual payment chargeable to income tax by way of deduction and payable and paid in the year of assessment corresponding to that underwriting year; and
 - (b) the sum actually paid shall be deemed for the purposes of sections 452 to 456 and for all income tax purposes to be a net amount corresponding to a gross amount from which income tax has been duly deducted.
- (2) Subsection (1)(a) above—
 - (a) shall not reduce any income other than income derived from the underwriter's underwriting business or from any deposit made or assets held on trust in connection with that business; and
 - (b) subject to paragraph (a) above, shall reduce income other than investment income before reducing investment income.
- (3) Where such a payment as is mentioned in section 453(1) is made out of a special reserve fund of an underwriter into a premiums trust fund of his by reason that he has sustained a loss for an underwriting year then, subject to section 453(7)—
 - (a) the payment shall be deemed for all income tax purposes—
 - (i) to be an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to income tax; and
 - (ii) to have been payable and paid to the underwriter; and
 - (iii) to have been payable and paid to him on the last day of the year of assessment corresponding to that underwriting year or, if he ceased to carry on his business before that day, on the last day on which he carried on his business; and
 - (b) the sum actually paid shall be deemed for the purposes of sections 452 to 456 and for all income tax purposes to be a net amount corresponding to a

gross amount from which income tax has been duly deducted for the year of assessment in which the payment is so deemed to have been payable and paid.

- (4) Where such a payment as is mentioned in section 453(1) is made out of a special reserve fund of an underwriter by reason that he has sustained a loss, relief in respect of the loss shall, so far as possible, be given by treating the loss as reducing the income represented by the payment.
- (5) Where the underwriter ceases to carry on his business before his death and under so much of the arrangements as gives effect to section 452(4)(b) a sum is paid to him or his personal representatives or assigns—
 - (a) the payment shall be deemed for all income tax purposes—
 - (i) to be an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to income tax; and
 - (ii) to have been payable and paid to the underwriter; and
 - (iii) to have been payable and paid to him on the last day on which he carried on his business; and
 - (b) the sum actually paid shall be deemed for the purposes of sections 452 to 456 and for all income tax purposes to be a net amount corresponding to a gross amount from which income tax has been duly deducted.
- (6) Neither the arrangements, nor any disposition, trust, covenant, agreement or arrangement entered into for the purposes of the arrangements, shall be treated as included in the expression “settlement” for the purposes of Chapter III or IV of Part XV.

455 Income tax consequences on death of underwriter

- (1) In this section “the lower limit” means the limit which would be imposed by section 452(5) if the words “£5,000 or 35 per cent. of that profit, whichever is the less” stood in that subsection in place of the words “£7,000 or 50 per cent. of that profit, whichever is the less”.
- (2) Where an underwriter dies while carrying on his business and, after giving effect to the requirements of section 453, his special reserve fund or funds include an amount which represents an excess in the payments made into the fund or funds for any underwriting year over the lower limit—
 - (a) he shall be deemed for all income tax purposes to have received in the year of assessment corresponding to that underwriting year a payment of that amount—
 - (i) which was an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to income tax, and
 - (ii) which was payable in the year of assessment in which it is deemed to have been paid, and
 - (b) the payment (to that actual amount) shall be deemed for the purposes of sections 452 to 456 and for all income tax purposes to be a net amount corresponding to a gross amount from which tax has been duly deducted.
- (3) Where, to give effect to the requirements of section 453 as to the meeting of a loss, any withdrawal was made at any time from the capital of the underwriter’s special

reserve fund or funds, the amount withdrawn shall be regarded for the purposes of subsection (2) above—

- (a) as having been met out of payments made into the fund or funds for underwriting years before that in which the loss was incurred, and as having been met before any withdrawal to meet a loss for a later underwriting year; and
- (b) as having been met out of so much of the payments made for any underwriting year as was not in excess of the lower limit, rather than out of such part of the payments made for any underwriting year as was in excess of the lower limit; and
- (c) subject to that, as having been met out of payments in excess of the lower limit for a later year rather than out of payments in excess of the lower limit for an earlier year;

and, where payments have been made into the underwriter's special reserve fund or funds for any underwriting year in excess of the lower limit, his fund or funds shall be deemed at all subsequent times to include an amount representing that excess except to the extent that any withdrawal is, under the provisions of this subsection, to be regarded as having been met out of that amount.

- (4) Any tax chargeable by virtue of this section shall be assessed and charged upon the underwriter's personal representatives and tax so charged shall be a debt due from and payable out of his estate; and, notwithstanding section 34(1) of the Management Act (which requires assessments to be made not later than six years after the end of the year to which they relate), assessments in respect of tax so chargeable may be made at any time not later than three years after the end of the year of assessment in which the underwriter died.
- (5) References in this section to payments made into a special reserve fund or funds for any underwriting year are references to payments made, as described in section 452(5), by reference to the profits made for that underwriting year.

456 Unearned income, variation of arrangements and cancellation of approval etc

- (1) So much of an underwriter's income as is attributable to payments from his special reserve fund or to such an excess as is mentioned in section 455 shall (so far as remaining after allowing for any relief by which it is reduced) be treated as unearned income if, but only if, his income from his underwriting business falls to be so treated.
- (2) Where, as a result of a change in the circumstances in which an underwriting business is carried on, an underwriter's income from the business falls to be treated as unearned income, the change shall be disregarded for the purposes of subsection (1) above except to the extent that the special reserve fund represents payments made into it after the change; and for this purpose any amount withdrawn after the change to give effect to the requirements of section 453 shall, so far as possible and notwithstanding section 455(3), be regarded as having been met by payments into the fund made after the change.
- (3) The arrangements may from time to time be varied with the consent of the Board and the Secretary of State.
- (4) If, after giving notice of their intention so to do to the Council of Lloyd's, the Board or the Secretary of State cancel the approval or certificate which they have or he has given with respect to the arrangements, section 452(5) to (9) shall not apply, in the case

of any underwriter, to any year of assessment after the year of assessment in which the approval or certificate is cancelled.

457 Interpretation of sections 450 to 456

(1) In sections 450 to 456—

“arrangements” means any such arrangements as are referred to in section 452(1);

“business”, in relation to an underwriter, means his underwriting business as a member of Lloyd's, whether carried on personally or through an underwriting agent, and does not include any other business carried on by him, and in particular, where he is himself an underwriting agent, does not include his business as such an agent;

“member” means an underwriting member of Lloyd's;

“net amount” and “gross amount”, in relation to any payment, mean respectively the sum actually paid and the sum which, after deduction of income tax, is equal to the sum actually paid;

“premiums trust fund” means such a trust fund as is referred to in section 83 of the Insurance Companies Act 1982;

“underwriting year” means the calendar year.

(2) For the purpose of construing any reference in sections 450 to 456 to the year of assessment which corresponds to an underwriting year or to the underwriting year which corresponds to a year of assessment, an underwriting year and a year of assessment shall be deemed to correspond to each other if the underwriting year ends in the year of assessment.

Capital redemption business

458 Capital redemption business

(1) Where any person carries on capital redemption business in conjunction with business of any other class, the capital redemption business shall, for the purposes of the Corporation Tax Acts (including the provisions about corporation tax on chargeable gains) and the Income Tax Acts, be treated as a separate business from any other class of business carried on by that person.

(2) In ascertaining whether and to what extent any person has incurred a loss on his capital redemption business for the purposes of section 380 or sections 393 and 394—

(a) any profits derived from investments held in connection with the capital redemption business (including franked investment income of a company resident in the United Kingdom) shall be treated as part of the profits of that business, and

(b) in determining whether any, and if so what, relief can be given under section 385(4) in the case of capital redemption business, the loss which may be carried forward under subsection (1) of that section shall be similarly computed.

(3) In this section “capital redemption business” means the business (not being life assurance business or industrial assurance business) of effecting and carrying out contracts of insurance, whether effected by the issue of policies, bonds or endowment

certificates or otherwise, whereby, in return for one or more premiums paid to the insurer, a sum or a series of sums is to become payable to the insured in the future.

- (4) This section shall not apply to any capital redemption business in so far as it consists of carrying out contracts of insurance effected before 1st January 1938.