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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income and Corporation Taxes Act 1988. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 19AC

Section 444B.]

MODIFICATION OF ACT IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

Textual Amendments

F1 [Sch. 19AC](#) inserted (27.7.1993) by 1993 c. 34, s. 97, [Sch. 9 para.1](#)

^{F2}1 In its application to an overseas life insurance company this Act shall have effect with the following modifications.

Textual Amendments

F2 [Sch. 19AC](#) inserted (27.7.1993) by 1993 c. 34, s. 97, [Sch. 9 para.1](#)

^{F3}2 (1) In section 6(4), the words “and section 444D” shall be treated as inserted after the words “Part XI”.

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F3 [Sch. 19AC](#) inserted (27.7.1993) by 1993 c. 34, s. 97, [Sch. 9 para.1](#)

^{F4}3 (1) In subsection (2) of section 11, the following paragraphs shall be treated as inserted after paragraph (a)—

(“ where section 11B applies for an accounting period, any trading or other income arising in that period from assets which by virtue of that section are attributed to the branch or agency at the time the income arises (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and

(ab) where section 11C applies for an accounting period, any trading or other income falling within section 11C(2) in that period (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and”.

(2) The following shall be treated as inserted after paragraph (b) of that subsection “and

(c) chargeable gains accruing to the company on the disposal of assets of the company’s long term business fund situated outside the United Kingdom and

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- used or held for the purposes of the branch or agency immediately before the disposal; and
- (d) where section 11B applies for an accounting period, chargeable gains accruing to the company in that period on the disposal of assets which by virtue of that section are attributed to the branch or agency immediately before the disposal; and
 - (e) where section 11C applies for an accounting period, chargeable gains accruing to the company in that period by virtue of section 11C(3).”
- (3) The following subsection shall be treated as inserted after that subsection—
- (“) For the purposes of subsection (2)(c) above—
- (a) section 275 of the 1992 Act (location of assets) shall apply as it applies for the purposes of that Act;
 - (b) “long term business fund has the meaning given by section 431(2).”
- (4) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F4 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

- ^{F54} (1) The following sections shall be treated as inserted after section 11—

“11A “Overseas life insurance companies: interpretation of sections 11B and 11C.

- (1) For the purposes of this section and sections 11B and 11C—
- (a) an asset is at any time a section 11(2)(b) asset if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b);
 - (b) an asset is at any time a section 11(2)(c) asset if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(c);
 - (c) relevant contracts and policies are contracts and policies the effecting of which constitutes the carrying on of life assurance business;

and in this section and those sections any expression to which a meaning is given by section 431(2) has that meaning.

- (2) For the purposes only of subsection (1)(a) and (b) above any enactment which—
- (a) limits any chargeable gain on the disposal of an asset;
 - (b) treats any gain on the disposal of an asset as not being a chargeable gain; or
 - (c) treats any disposal of an asset as not giving rise to a chargeable gain, shall be disregarded.

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- (3) For the purposes of sections 11B and 11C—
- (a) the notional value at any time is the value at that time of the assets which the branch or agency would reasonably be expected to hold at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency;
 - (b) the section 11B value at any time is the value at that time of such of the section 11(2)(b) and section 11(2)(c) assets as are assets held at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency;
 - (c) the section 11C value at any time is the value at that time of—
 - (i) such of the section 11(2)(b) and section 11(2)(c) assets as are assets held at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency; and
 - (ii) the assets which by virtue of section 11B are attributed to the branch or agency at that time;
 - (d) a relevant fund is a fund of assets of the company (wherever those assets may be situated) any part of which is held in consequence of any relevant contracts, and any relevant policies, which at any time in the accounting period concerned are carried out at the branch or agency.
- (4) In applying subsection (3)(a) above as regards a particular time, it shall be assumed that—
- (a) at that time the branch or agency is a company resident in the United Kingdom, undertaking the activities it then actually undertakes;
 - (b) the terms of any dealings between the branch or agency and another part of the company are not (or not necessarily) their actual terms but are such as would be the terms if the branch or agency and the other part of the company were independent persons dealing at arm's length.

11B Overseas life insurance companies: attribution of assets.

- (1) This section applies for an accounting period where the mean of the notional value at the beginning and end of the accounting period exceeds the mean of the section 11B value at those times.
- (2) Where this section applies for an accounting period, assets shall be attributed to the branch or agency in that period in accordance with the following provisions of this section.
- (3) There shall be attributed to the branch or agency in the accounting period such of the qualifying assets of the company as (having regard to the excess mentioned in subsection (1) above) it is just and reasonable to attribute to the branch or agency.
- (4) For the purposes of subsection (3) above—
 - (a) where an asset is a qualifying asset for the whole of the accounting period it may, subject to paragraphs (c) and (d) below, be attributed to the branch or the agency for the whole or any part or parts of that period;

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- (b) where an asset is a qualifying asset for any portion of the accounting period it may, subject to paragraphs (c) and (d) below, be attributed to the branch or agency for the whole or any part or parts of that portion;
 - (c) an asset shall not be attributed to the branch or agency for any period of time during which it is a section 11(2)(b) or section 11(2)(c) asset;
 - (d) an asset shall not be attributed to the branch or agency at any particular time unless it is held in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency.
- (5) An asset of the company is a qualifying asset at any time if it is an asset of one or more of the following descriptions, that is to say—
- (a) an asset which, in relation to any relevant contracts and any relevant policies which at that time are carried out at the branch or agency, is a linked asset within the meaning given by section 431(2);
 - (b) an asset which at that time is maintained in the United Kingdom as a result of a requirement imposed under section 39 of the ^{M1}Insurance Companies Act 1982, other than an asset not treated as so maintained by virtue of a direction under subsection (2) of that section;
 - (c) an asset which at that time is treated for the purposes of any such requirement as is mentioned in paragraph (b) above as maintained in the United Kingdom by virtue of a direction under subsection (2) of that section;
 - (d) an asset which at that time is held in respect of the business carried on by the branch or agency as a result of a condition of an order under section 68 of the Insurance Companies Act 1982;
 - (e) an asset which at that time is held in a fund which the company is required to maintain under the prudential legislation of a territory outside the United Kingdom in respect of the business carried on by the branch or agency;
 - (f) an asset which is identified in tax returns submitted to a taxing authority of a territory outside the United Kingdom as an asset which at that time is wholly referable to the business carried on by the branch or agency.

11C Overseas life insurance companies: additional income and gains.

- (1) This section applies for an accounting period where the mean of the notional value at the beginning and end of the accounting period exceeds the mean of the section 11C value at those times.
- (2) Where this section applies for an accounting period, the income which falls within this subsection in that period shall be the specified amount of each item of relevant income arising in that period from any assets of the relevant fund.
- (3) Where this section applies for an accounting period, the chargeable gains accruing to the company in that period by virtue of this subsection shall be the specified amount of each relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund.
- (4) For the purposes of this section—

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- (a) relevant income is income other than income which falls within section 11(2)(a) or (aa);
 - (b) a relevant gain is a gain (other than a chargeable gain which falls within section 11(2)(b), (c) or (d)) which would be a chargeable gain if the company were resident in the United Kingdom.
- (5) For the purposes of this section the specified amount of an item of relevant income arising in the accounting period from any assets of the relevant fund shall be determined by the formula—

$$SI = I_y \frac{(NV - CV)}{RF}$$

- (6) For the purposes of this section the specified amount of a relevant gain accruing to the company in the accounting period on the disposal of any assets of the relevant fund shall be determined by the formula—

$$SG = G_y \frac{(NV - CV)}{RF}$$

- (7) In subsections (5) and (6) above—

SI is the specified amount of an item of relevant income arising in the accounting period from any assets of the relevant fund;

I is an item of relevant income arising in that period from any assets of the relevant fund;

NV is the mean of the notional value at the beginning and end of that period;

CV is the mean of the section 11C value at the beginning and end of that period;

RF (subject to subsection (8) below) is the mean of the value of the relevant fund at the beginning and end of that period;

SG is the specified amount of a relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund;

G is a relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund.

- (8) Where the assets of the relevant fund at the beginning or end of the accounting period include—

- (a) section 11(2)(b) or section 11(2)(c) assets; or
- (b) assets which by virtue of section 11B are attributed to the branch or agency,

the value at that time of the relevant fund for the purposes of the definition of RF in subsection (7) above shall be reduced by the value at that time of those assets.

- (9) Where in the accounting period the company has more than one relevant fund—

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- (a) in the definition of RF in subsection (7) above, the reference to the value of the relevant fund shall be treated as a reference to the value of the relevant funds; and
- (b) any other reference in this section to the relevant fund shall be treated as a reference to the relevant funds.””

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F5 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, **Sch. 9 para. 1**

Marginal Citations

M1 1982 c. 50.

VALID FROM 01/05/1995

- 4A (1) In section 12(7A), the reference to a transfer of the whole or part of a company’s long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the ^{M2}Insurance Companies Act 1982 shall be treated as including a reference to a qualifying overseas transfer.
- (2) In this paragraph “a qualifying overseas transfer” means so much of any transfer of the whole or any part of the business of an overseas life insurance company carried on through a branch or agency in the United Kingdom as takes place in accordance with any authorisation granted outside the United Kingdom for the purposes of Article 11 of the third long term insurance Directive.
- (3) In sub-paragraph (2) above “the third long term insurance Directive” has the same meaning as in that Act of 1982.

Marginal Citations

M2 1982 c. 50.

- ^{F65} (1) In section 76, the following subsections shall be treated as inserted after subsection (6)—
- (“ In its application to an overseas life insurance company this section shall have effect as if—
- (a) the reference in subsection (1)(ca) to any reinsurance commission were to any such reinsurance commission concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business;
 - (b) the references in subsection (1) to income and gains were to such income and gains concerned as are so attributable.

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(6B) In their application to an overseas life insurance company section 75(5) and subsections (2) and (3)(b) above shall have effect as if for “242” there were substituted “444D”.

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F6 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

VALID FROM 28/09/2004

5ZA After subsection (11) there shall be treated as inserted the following subsections—

“(11A) In subsection (11) the reference in paragraph (a) of the definition of “the relevant income” to income and gains shall be treated as a reference to so much of the income and gains mentioned in that paragraph as falls to be attributed, for the purposes of section 11AA(2) ^{F7}, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.

(11B) In that subsection the reference in paragraph (b) of that definition to distributions shall be treated as a reference to so much of the distributions mentioned in that paragraph as falls to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business.”.

Textual Amendments

F7 This section was inserted by section 149 of the Finance Act 2003.

VALID FROM 01/05/1995

5A (1) Where an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom and the distribution (or part of the distribution)—

- (a) would fall within paragraph (a), (aa) or (ab) of section 11(2) but for the exclusion contained in that paragraph, and
- (b) is referable to life assurance business, but not to overseas life assurance business,

then the recipient shall be treated for the purposes of the Corporation Tax Acts as entitled to such a tax credit in respect of the distribution (or part of the distribution) as it would be entitled to under section 231 if it were resident in the United Kingdom.

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- (2) Where part only of a qualifying distribution would fall within paragraph (ab) of section 11(2) but for the exclusion contained in that paragraph, the tax credit to which the recipient shall be treated as entitled by virtue of sub-paragraph (1) above is the proportionate part of the tax credit to which the recipient would be so treated as entitled in respect of the whole of the distribution.

VALID FROM 01/05/1995

- 5B (1) An overseas life insurance company may, on making a claim for the purpose, require that any UK distribution income for an accounting period shall for all or any of the purposes mentioned in sub-paragraph (2) below be treated as if it were a like amount of profits chargeable to corporation tax; and where it does so—
- (a) the provisions mentioned in that sub-paragraph shall apply to reduce the amount of the UK distribution income, and
 - (b) the company shall be entitled to have paid to it the amount of the tax credits comprised in the amount of UK distribution income which is so reduced.
- (2) The purposes for which a claim may be made under this paragraph are those of—
- (a) the setting of trading losses against total profits under section 393A(1);
 - (b) the deduction of charges on income under section 338 or paragraph 5 of Schedule 4;
 - (c) the deduction of expenses of management under section 76;
 - (d) the setting of certain capital allowances against total profits under section 145(3) of the 1990 Act.
- (3) Subsections (3), (4) and (8) of section 242 shall apply for the purposes of a claim under this paragraph as they apply for the purposes of a claim under that section.
- (4) In this paragraph “UK distribution income” means income of an overseas life insurance company which consists of a distribution (or part of a distribution) in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution (or part) and the amount of that credit).

VALID FROM 01/05/1995

- 5C (1) This paragraph applies to income from the investments of an overseas life insurance company attributable to the basic life assurance and general annuity business of the branch or agency in the United Kingdom through which the company carries on life assurance business.
- (2) Where, in computing the income to which this paragraph applies, 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 that it bears to the amount of relief which would be granted apart from this sub-paragraph the same proportion as the

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

^{F86} (1) In subsection (2) of section 431, the following definition shall be treated as substituted for the definition of “investment reserve”—

““investment reserve”, in relation to an overseas life insurance company, means the excess of the value of the relevant assets over the relevant liabilities, and for the purposes of this definition—

- (a) relevant assets are such assets of the company’s long term business fund as are—
 - (i) section 11(2)(b) assets;
 - (ii) section 11(2)(c) assets; or
 - (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business; and
- (b) relevant liabilities are such liabilities of the long term business as are attributable to the branch or agency;

and in a case where section 11C applies, the value of the relevant assets shall be increased by the amount by which the notional value exceeds the section 11C value; and any expression used in this definition to which a meaning is given by section 11A has that meaning.”

(2) In that subsection, the following definition shall be treated as substituted for the definition of “liabilities”—

““liabilities”, where the company concerned is an overseas life insurance company, does not include excluded liabilities and (subject to that) means—

- (a) liabilities as estimated for the purposes of the company’s periodical return, or
- (b) in the case of liabilities not estimated for the purposes of such a periodical return, liabilities as estimated for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident, or
- (c) in the case of liabilities not estimated for the purposes of such a periodical return or equivalent return, liabilities as found from the company’s records;

and excluded liabilities are any liabilities that have fallen due or been reinsured and any not arising under or in connection with policies or contracts effected as part of the company’s insurance business.”

(3) In that subsection, the following words shall be treated as inserted after paragraph (b) of the definition of “overseas life assurance business”—

“but none of the life assurance business of an overseas life insurance company shall be treated as overseas life assurance business.”

(4) In that subsection, at the end of the definition of “overseas life assurance fund” the following words shall be treated as inserted , “but that Schedule shall not apply in the case of an overseas life insurance company”.

(5) In that subsection, the following definition shall be treated as substituted for the definition of “value” —

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““value”, in relation to assets and where the company concerned is an overseas life insurance company, means—

- (a) their value as taken into account for the purposes of the company’s periodical return, or
- (b) where their value is not taken into account for the purposes of such a periodical return, their value as taken into account for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident, or
- (c) where their value is not taken into account for the purposes of such a periodical return or equivalent return, their value as found from the company’s records;

and the reference in paragraph (c) above to the value of assets as found from the company’s records is a reference to the market value as so found or, where applicable, the current value (within the meaning of the Directive of the Council of the European Communities dated 19th December 1991 No. 91/674/EEC (directive on the annual accounts and consolidated accounts of insurance undertakings)) as so found;”.

- (6) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F8 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

VALID FROM 01/05/1995

6A In section 431D(1), the words “carried on through a branch or agency in the United Kingdom by an overseas life insurance company” shall be treated as inserted after the words “means life assurance business”.

- ^{F97} (1) In section 432A, the following subsection shall be treated as inserted after subsection (2)—

(“ In the case of an overseas life insurance company—

- (a) any income which falls within section 11(2)(aa) or (ab); and
- (b) any chargeable gains or allowable losses which fall within section 11(2)(d) or (e),

shall be referable to life assurance business.”

- (2) The following subsection shall be treated as inserted after subsection (9) of that section—

(“ In its application to an overseas life insurance company this section shall have effect as if—

- (a) the references in subsections (3), (6) and (8) to assets were to such of the assets concerned as are—

- (i) section 11(2)(b) assets;
- (ii) section 11(2)(c) assets; or

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- (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
 - (b) the references in subsections (6) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency; and any expression used in this subsection to which a meaning is given by section 11A has that meaning.”
- (3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F9 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

- ^{F10g} (1) In subsection (1) of section 432B, the words “or treated as brought into account by virtue of paragraph 1 of Schedule 8A to the Finance Act 1989” shall be treated as inserted after the word “1982”.
- (2) The following words shall be treated as inserted at the end of subsection (2) of that section “ ; but this subsection shall not apply for a period of account in relation to which paragraph 1(6), (7) or (8) of Schedule 8A to the Finance Act 1989 applies. ”
- (3) The following subsection shall be treated as inserted after subsection (3) of that section—
- “(4) In their application to an overseas life insurance company—
- (a) subsection (3) above shall have effect as if after “with which an account is concerned” there were inserted “or in respect of which items are treated as brought into account by virtue of paragraph 1 of Schedule 8A to the Finance Act 1989”; and
 - (b) that subsection and sections 432C to 432E shall have effect as if the reference to relevant business were to relevant business of the branch or agency in the United Kingdom through which the company carries on life assurance business.”
- (4) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F10 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

- ^{F11g} (1) In section 434, the following subsection shall be treated as inserted after subsection (1)—
- “(1A) Nothing in paragraph (a), (aa) or (ab) of section 11(2) shall prevent UK distribution income of an overseas life insurance company 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.”

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- (2) In subsection (2) of that section, the words “UK distribution income of an overseas life insurance company” shall be treated as substituted for the words “franked investment income of a company so resident”.
- (3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F11 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

VALID FROM 01/05/1995

- 9A In section 434A(1)—
- (a) the words “UK distribution income” shall be treated as substituted for “franked investment income”, and
 - (b) the words “an overseas life insurance company” shall be treated as substituted for “a company resident in the United Kingdom”.

VALID FROM 01/05/1995

- 9B In section 434B the following subsection shall be treated as inserted after subsection (2)—
- (”) An overseas life insurance 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 its life assurance business.”.

VALID FROM 01/05/1995

- 9C In its application to an overseas life insurance company section 434D(4) shall have effect as if the references to liabilities were only to such liabilities as are attributable to the branch or agency in the United Kingdom through which the company carries on the business concerned.

- ^{F12}10 (1) In section 438, the following subsection shall be treated as inserted after subsection (3)—

“(3A) Subject to subsection (6) below, nothing in paragraph (a), (aa) or (ab) of section 11(2) shall prevent UK distribution income of an overseas life insurance company from being taken into account as part of the profits in computing under section 436 income from pension business.”

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- (2) In subsections (6) and (6A) of that section, the words “UK distribution income” shall be treated as substituted for the words “franked investment income” in each place where they occur.
- (3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F12 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

VALID FROM 01/05/1995

10A In section 439B the following subsection shall be treated as inserted after subsection (7) of that section—

- (”) In ascertaining whether or to what extent the company has incurred a loss on its life reinsurance business, UK distribution income of an overseas life insurance company shall be taken into account (notwithstanding anything in paragraph (a), (aa) or (ab) of section 11(2)) as part of the profits of that business.”.

VALID FROM 01/05/1995

10AA In section 440(2)(a), the reference to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the ^{M3}Insurance Companies Act 1982 shall be treated as including a reference to a qualifying overseas transfer (within the meaning of paragraph 4A above).

Marginal Citations

M3 1982 c. 50.

VALID FROM 01/05/1995

10B (1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 has effect with the following modifications.

- (2) Subsection (4) shall be treated as if—
- (a) in paragraphs (a), (b), (d), (e) and (f) the words “UK assets” were substituted for the words “assets”; and
 - (b) at the end there were inserted—
- (”) section 11C assets;

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(h) non-UK assets.”.

(3) The following subsection shall be treated as inserted at the end of the section—

(”) For the purposes of this section—

(a) UK assets are—

- (i) section 11(2)(b) assets;
- (ii) section 11(2)(c) assets; or
- (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) section 11C assets are assets—

- (i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or
- (ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;

(c) non-UK assets are assets which are not UK assets or section 11C assets;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning.”.

(4) Where one of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) shall have effect as if for the words “is within another of those categories” there were substituted “is not within the corresponding category”.

(5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in sub-paragraphs (2) and (3) above.

(6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in sub-paragraphs (2) and (3) above.

VALID FROM 01/05/1995

10C (1) In section 440B the following subsection shall be treated as substituted for subsection (3)—

(”) Section 440(1) and (2) have effect as if the only categories specified in subsection (4) of that section were—

- (a) UK assets of the long term business fund,
- (b) other UK assets,
- (c) section 11C assets, and
- (d) non-UK assets,

(those expressions having the meanings given by section 440(7)).”.

(2) The following subsection shall be treated as substituted for subsection (4) of that section—

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- (”) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—
- (”) so many of the UK securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of long term business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,
 - (b) any remaining UK securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph,
 - (c) the section 11C securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs, and
 - (d) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.”.

- ^{F13}11 (1) In subsection (2) of section 440A, in paragraphs (a) and (b) the words “UK securities” shall be treated as substituted for the word “securities” in the first place where it occurs in each paragraph.
- (2) Paragraph (c) of that subsection shall be treated as omitted.
- (3) In paragraphs (d) and (e) of that subsection, the words “UK securities” shall be treated as substituted for the word “securities”
- (4) The following paragraphs shall be treated as inserted at the end of that subsection—
- (“) the section 11C securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs; and
 - (g) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.”
- (5) The following subsection shall be treated as inserted after subsection (6) of that section—
- (“) For the purposes of this section—
- (a) UK securities are such securities as are—
 - (i) section 11(2)(b) assets;
 - (ii) section 11(2)(c) assets; or
 - (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
 - (b) section 11C securities are securities—
 - (i) (in a case where section 11C (other than subsection (9)) applies) which are assets of the relevant fund, other than UK securities; or
 - (ii) (in a case where that section including that subsection applies) which are assets of the relevant funds, other than UK securities;

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(c) non-UK securities are securities which are not UK securities or section 11C securities;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning.”

(6) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F13 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

VALID FROM 01/05/1995

11A (1) In section 441A, the following subsection shall be treated as inserted after subsection (1)—

(”) The exclusion from section 11(2)(a), (aa) and (ab) of distributions received from companies resident in the United Kingdom shall not apply in relation to a distribution in respect of any asset of the overseas life assurance fund of an overseas life insurance company.”.

(2) The following subsection shall be treated as substituted for subsections (2) and (3) of that section—

(”) An overseas life insurance company shall be entitled to a tax credit in respect of a distribution which—

(a) is a distribution in respect of an asset of the company’s overseas life assurance fund, and

(b) is received from a company resident in the United Kingdom,

if and to the extent that regulations made by the Board so provide.”.

VALID FROM 01/05/1995

11B In section 442A the following subsection shall be treated as inserted after subsection (6)—

(”) In the case of an overseas life insurance company, the investment return treated as accruing under this section in any accounting period in relation to a policy or contract shall be treated as chargeable profits within section 11(2) of the Taxes Act 1988 where the policy or contract is one which in that accounting period gives rise, or but for the reinsurance arrangement would give rise, to such profits.”.

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11C In sections 444A(1) and 460(10A), the references to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the ^{M4}Insurance Companies Act 1982 shall be treated as including references to a qualifying overseas transfer (within the meaning of paragraph 4A above).

Marginal Citations

M4 1982 c. 50.

^{F14}12 (1) In paragraph A of section 704, in sub-paragraph (e) the words “UK distribution income under section 444D” shall be treated as substituted for the words “a surplus of franked investment income under section 242 or 243”.

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F14 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

^{F15}13 (1) In subsection (2) of section 794, the following shall be treated as inserted after paragraph (c) “and

(d) for tax paid under the law of any territory in respect of the UK branch income or UK branch gains of an overseas life insurance company for the chargeable period in question but only where the following conditions are fulfilled, namely—

(i) that the territory under whose law the tax was paid is not one in which the company is liable to tax by reason of domicile, residence or place of management; and

(ii) that the amount of relief claimed does not exceed (or is by the claim expressly limited to) that which would have been available if the branch or agency concerned had been an insurance company resident in the United Kingdom and the income or gains in question had been income or gains of that company. ”

(2) The following subsections shall be treated as inserted after that subsection—

(“) For the purposes of subsection (2)(d) above—

(a) “UK branch income”, in relation to an overseas life insurance company, means such of its income falling within section 11(2)(a), (aa) or (ab) as arises from assets of its long term business fund;

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- (b) “UK branch gains”, in relation to an overseas life insurance company, means such of its chargeable gains falling within section 11(2)(b), (c), (d) or (e) as accrue on the disposal of assets of its long term business fund;
 - (c) “long term business fund” has the meaning given by section 431(2).
- (4) In relation to any item of income falling within section 11(2)(ab), or any chargeable gain falling within section 11(2)(e), the reference in subsection (2)(d) above to tax paid shall be construed as a reference to that part of the tax paid which bears to the whole of the tax paid the same proportion as that item of income, or that chargeable gain, bears to the relevant income, or relevant gain, by reference to which that item of income, or that chargeable gain, is, by virtue of section 11C, calculated; and, in relation to any such item of income or any such chargeable gain, the reference in section 790(4) to tax paid shall be construed accordingly.”
- (3) This paragraph shall apply in relation to chargeable periods beginning after 31st December 1992.

Textual Amendments

F15 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

- ^{F16}14 (1) In subsection (1) of section 811, the words “subsections (1A) and (2)” shall be treated as substituted for the words “subsection (2)”.
- (2) The following subsection shall be treated as inserted after that subsection—
- (“ In relation to any item of income falling within section 11(2)(ab), the reference in subsection (1) above to any sum which has been paid in respect of tax on that income shall be construed as a reference to the part of that sum which bears to the whole of that sum the same proportion as that item of income bears to the relevant income by reference to which that item of income is, by virtue of section 11C, calculated.”
- (3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F16 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

VALID FROM 01/05/1995

- 14A (1) In Schedule 19AA, paragraph 5(5)(c) (and the reference to it in paragraph 2(3) of that Schedule) shall be treated as omitted.
- (2) The following paragraph shall be treated as inserted at the end of that Schedule—
- “”6 In its application to an overseas life insurance company this Schedule shall have effect as if—

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- (a) the references in paragraphs 2 and 3 to assets of the long term business fund were to such of the assets as are—
- (i) section 11(2)(b) assets;
 - (ii) section 11(2)(c) assets; or
 - (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business; and
- (b) the references in paragraphs 2 and 4 to the liabilities of the company's long term business were to such of those liabilities as are attributable to the branch or agency;
- and any expression used in this paragraph to which a meaning is given by section 11A has that meaning.””

^{F17}15 (1) In paragraph 1(8) of Schedule 19AB, the words “UK distribution income” shall be treated as substituted for the words “franked investment income” in each place where they occur.

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F17 Sch. 19AC inserted (27.7.1993) by 1993 c. 34, s. 97, Sch. 9 para.1

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