



Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Overseas life insurance companies

97 Modification of Taxes Act 1988

- (1) The following shall be inserted after section 444A of the Taxes Act 1988—

“Provisions applying in relation to overseas life insurance companies

444B Modification of Act in relation to overseas life insurance companies

Schedule 19AC (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect.”

- (2) Schedule 9 to this Act (which inserts Schedule 19AC into that Act and makes further provision) shall have effect.

98 Modification of section 440 of Taxes Act 1988

- (1) The following section shall be inserted after section 444B of the Taxes Act 1988—

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“444C Modification of section 440

- (1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 shall have effect with the modifications in subsections (2) and (3) below.
 - (2) Subsection (4) shall be treated as if—
 - (a) paragraph (c) were omitted;
 - (b) in paragraphs (a), (b), (d) and (e), the words “UK assets” were substituted for the word “assets”; and
 - (c) at the end there were inserted the following paragraphs—
 - “(f) section 11C assets;
 - (g) non-UK assets.”
 - (3) The following subsection shall be treated as inserted at the end of the section—

“(6) 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 or each of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) and (4) shall have effect as if for “categories”, in each place where the word occurs, there were substituted “paragraphs”.
 - (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 subsections (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 subsections (2) and (3) above.”
- (2) This section shall apply—
- (a) so far as section 440(1) is concerned, as regards events falling on or after the first day of the relevant accounting period of the company concerned;

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- (b) so far as section 440(2) is concerned, as regards events falling on or after the first day of the relevant accounting period of the transferor company or on or after the first day of the relevant accounting period of the acquiring company (whichever of those days falls later).
- (3) For the purposes of subsection (2) above a company's relevant accounting period is its first accounting period to begin after 31st December 1992.

99 Qualifying distributions, tax credits, etc

- (1) The following section shall be inserted after section 444C of the Taxes Act 1988—

“444D Qualifying distributions, tax credits, etc

- (1) Subsection (2) below applies where—
 - (a) an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom; and
 - (b) the distribution (or part of the distribution)—
 - (i) would fall within paragraph (a), (aa) or (ab) of section 11(2) (as section 11(2) has effect by virtue of Schedule 19AC) but for the exclusion contained in that paragraph; and
 - (ii) is referable to life assurance business.
- (2) Where this subsection applies 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.
- (3) Where part only of a qualifying distribution would fall within paragraph (ab) of section 11(2) (as section 11(2) has effect by virtue of Schedule 19AC) but for the exclusion contained in that paragraph, the tax credit to which the recipient shall be treated as entitled by virtue of subsection (2) 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.
- (4) In this section “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).
- (5) 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 subsection (6) 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 subsection (6) below 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.

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- (6) The purposes for which a claim may be made under subsection (5) above 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.
- (7) Subsections (3), (4) and (8) of section 242 shall apply for the purposes of a claim under subsection (5) above as they apply for the purposes of a claim under that section.”
- (2) In section 431(2) of that Act (definitions), the following definition shall be inserted after the definition of “periodical return”—
- ““UK distribution income” has the meaning given by section 444D(4);”.
- (3) This section shall apply in relation to accounting periods beginning after 31st December 1992.

100 Income from investments attributable to BLAGAB, etc

- (1) The following section shall be inserted after section 444D of the Taxes Act 1988—
- “444E Income from investments attributable to BLAGAB, etc**
- (1) In computing the 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, 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.
- (2) Where in computing the income referred to in subsection (1) above 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 subsection the same proportion as the amount of that income excluding that interest bears to the amount of that income including that interest.”
- (2) In section 475 of that Act (tax-free Treasury securities: exclusion of interest on borrowed money), in subsection (6)—
- (a) for “445(8)(b)”, in each place where it occurs, there shall be substituted “444E(2)”;
 - (b) for the words “of the life assurance fund”, in each place where they occur, there shall be substituted the words “attributable to basic life assurance and general annuity business”.
- (3) This section shall apply in relation to accounting periods beginning after 31st December 1992.

101 Modification of Finance Act 1989

- (1) The following section shall be inserted after section 89 of the Finance Act 1989—

“89A Modification of sections 83 and 89 in relation to overseas life insurance companies

Schedule 8A to this Act (which makes modifications of sections 83 and 89 in relation to overseas life insurance companies) shall have effect.”

- (2) Schedule 10 to this Act (which inserts Schedule 8A into that Act) shall have effect.

102 Modification of Taxation of Chargeable Gains Act 1992

- (1) The following section shall be inserted after section 214A of the Taxation of Chargeable Gains Act 1992—

“214B Modification of Act in relation to overseas life insurance companies

Schedule 7B (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect.”

- (2) Schedule 11 to this Act (which inserts Schedule 7B into that Act) shall have effect.

103 Amendment of definition and repeals

- (1) In section 431(2) of the Taxes Act 1988 (definitions), in the definition of “overseas life insurance company” for the words “having its head office outside” there shall be substituted the words “not resident in”.

- (2) The following provisions of that Act shall cease to have effect—

- (a) section 445 (charge to tax on investment income of overseas life insurance company);
- (b) section 446(1) (qualifying distributions part of profits of pension business of overseas life insurance company);
- (c) section 447(1), (2) and (4) (set-off of income tax and tax credits against corporation tax assessed under section 445);
- (d) section 448 (qualifying distributions and tax credits);
- (e) section 449 (double taxation agreements);
- (f) section 724(5) to (8) (special provisions of accrued income scheme for overseas life insurance companies);
- (g) section 811(2)(c) (provision about deduction of foreign tax not to affect overseas life insurance company charged under section 445);
- (h) paragraph 1(9) of Schedule 19AB (payments on account of tax credits in case of pension business: special provision for overseas life insurance companies).

- (3) Subject to subsection (4) below, this section shall apply in relation to accounting periods beginning after 31st December 1992.

- (4) Where in the accounting period of an overseas life insurance company ending immediately before its first accounting period to begin after 31st December 1992 there is such an excess as is mentioned in subsection (7) of section 724 of the Taxes Act

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1988, then, notwithstanding the preceding provisions of this section, that subsection shall continue to apply to the company but only—

- (a) in relation to that excess; and
- (b) if it would have so applied apart from this section.