



Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Chargeable gains

91 Deemed disposals of unit trusts by insurance companies

- (1) Section 212 of the Taxation of Chargeable Gains Act 1992 (annual deemed disposal by insurance companies of unit trusts) shall have effect in relation to accounting periods beginning on or after 1st January 1993; and neither that section nor section 46 of the Finance Act 1990 (which is consolidated in that section) shall have effect in relation to any earlier accounting period in relation to which either of them would have applied apart from this subsection.
- (2) In relation to any accounting period beginning on or after 1st January 1993—
 - (a) section 432A of the Taxes Act 1988 shall have effect with the omission of subsection (10) (which disappplies the apportionment rules in that section in the case of a deemed disposal under section 212 of that Act of 1992); and
 - (b) that section 212 shall have effect with the omission, in subsection (2), of the words from “and in relation to” onwards and of subsections (3), (4) and (6) (which provide for a different apportionment rule in the case of the deemed disposal).
- (3) In subsection (7) of that section 212, in the words after paragraph (b) (application of definitions in the Taxes Act 1988), for “and 214” there shall be substituted “to 214A”.

Status: This is the original version (as it was originally enacted).

- (4) After section 213(1) of that Act of 1992 (spreading of gains and losses), there shall be inserted the following subsection—

“(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

- (a) are referable to basic life assurance and general annuity business; or
- (b) would (apart from that subsection) be taken into account in computing the profits of any business treated as a separate business under section 458 of the Taxes Act;

and that subsection shall apply separately in relation to the gains and losses falling within paragraph (a) above and those falling within paragraph (b) above for the purpose of determining what chargeable gains or allowable losses so referable are to be treated as accruing under that subsection and what chargeable gains or allowable losses to be so taken into account are to be treated as so accruing.”

- (5) Section 214 of that Act of 1992 shall have effect with the omission of subsections (3) to (5) (run-off relief), and after that section there shall be inserted the following section—

“214A Further transitional provisions

- (1) This section applies where within two years after the end of an accounting period beginning on or after 1st January 1993 (“the relevant period”)—

- (a) an insurance company makes a claim for the purposes of this section in relation to that period; and
- (b) that period is one of the company’s first eight accounting periods after the end of 1992.

- (2) Where this section applies, section 213 shall have effect as if—

- (a) the amount of the chargeable gains which—
 - (i) apart from that section and this section, would be treated as accruing on disposals deemed by virtue of section 212 to have been made at the end of the relevant period, and
 - (ii) satisfy the condition specified in paragraph (a) of section 213(1A),

were reduced by the protected proportion of that amount; and

- (b) an amount equal to the appropriate part of that reduction were (subject to section 213) a chargeable gain satisfying that condition and accruing at the end of each of the accounting periods in which the reduction is to be taken into account.

- (3) For the purposes of subsection (2) above the protected proportion, in relation to the relevant period, of the amount mentioned in paragraph (a) of that subsection shall be an amount equal to the amount calculated in accordance with the following formula—

$$\left(A + \frac{B \times C}{D} \right) \times \frac{E}{F} \times \frac{G}{8}$$

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

(4) In subsection (3) above—

A is so much of the amount mentioned in subsection (2)(a) above as represents chargeable gains on section 212 assets which at the end of the relevant period were linked solely to the basic life assurance and general annuity business of the company in question;

B is so much of the amount so mentioned as represents chargeable gains on linked section 212 assets which at the end of that period were partially linked to that business;

C is the amount of such of the closing liabilities at the end of that period of the company's basic life assurance and general annuity business as were liabilities in respect of benefits to be determined by reference to the value of linked section 212 assets which were then partially linked to that business;

D is the amount of all the closing liabilities of the company at the end of that period which were long term business liabilities in respect of benefits to be so determined;

E is the amount of such of the closing liabilities of the company on the relevant date as were relevant linked liabilities in respect of benefits determined by reference to linked section 212 assets;

F is the amount of all the closing liabilities on the relevant date of the company's basic life assurance and general annuity business which were liabilities in respect of such benefits; and

G is the number of accounting periods in the first nine accounting periods of the company after the end of 1992 which remain after the end of the relevant period or, as the case may be, which would so remain apart from any cessation of the carrying on of any business of the company; and for the purposes of this subsection the relevant date is, subject to subsection (7) below, the time of the first disposal which is deemed to have been made by the company in question under section 212.

(5) For the purposes of this section and subject to subsection (6) below—

(a) a reduction made under subsection (2) above in relation to the accounting period of any company shall be taken into account in every succeeding accounting period of that company which is included in the first nine accounting periods of that company after the end of 1992; and

(b) in relation to any accounting period in which a reduction is to be taken into account, the appropriate part of the reduction is—

(i) if that is the only accounting period in which it falls to be taken into account, the whole of the reduction; and

(ii) in any other case, the amount of the reduction divided by the number of the accounting periods after the period in which the reduction is made in which the reduction falls to be taken into account or, as the case may be, would so fall apart from any cessation of the carrying on of any business of the company.

(6) Subject to subsection (7) below, where a company ceases to carry on long term business before the end of the first nine accounting periods after the end of 1992, the appropriate part of any reduction in relation to the accounting

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

period ending with the cessation shall be such as to secure that the whole of the reduction has been taken into account under subsection (2)(b) above.

- (7) Where at any time on or after 1st January 1993 there is a transfer of the whole or part of the long term business of an insurance company (“the transferor”) to another company (“the transferee”) in accordance with a scheme sanctioned by a court under section 49 of the Insurance Companies Act 1982, this section shall have effect so that—
- (a) the relevant date for the purposes of subsection (4) above shall be determined in relation to any disposal deemed to have been made after the transfer—
 - (i) by the transferee, or
 - (ii) in a case where the transfer is of part of the transferor’s long term business, by the transferee or the transferor,
 as if there had been no deemed disposals under section 212 before the transfer; and
 - (b) any reduction which (on the assumption that the transferor had continued to carry on the transferred business) would have fallen to be taken into account under subsection (2)(b) above shall be taken into account instead in relation to the transferee.
- (8) Where the transfer is of part only of the transferor’s long term business, subsection (7)(b) above shall apply only to such part of any reduction to which it would otherwise apply as is appropriate.
- (9) Any question arising as to the operation of subsection (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.
- (10) This section shall have effect in relation to any cases in which there is such a transfer as is mentioned in subsection (7) above as if the accounting periods to be taken into account in any calculation for the purposes of this section of the number of accounting periods of the transferee after the end of 1992, and the only accounting periods in relation to which any reduction is to be taken into account under paragraph (b) of that subsection, were—
- (a) the accounting periods of the transferor which began on or after 1st January 1993 and ended on or before the day of the transfer (including any which, by reference to a transfer in relation to which the transferor is a transferee, are taken into account in accordance with this subsection as accounting periods of the transferor); and
 - (b) the accounting periods of the transferee ending after the day of the transfer,
- and this section shall have effect in relation to such a reduction as if the first accounting period of the transferee to end after the day of the transfer began with the day after the transfer.
- (11) For the purposes of this section assets shall be taken to be partially linked to a company’s basic life assurance and general annuity business if they are not linked solely to that business and are neither—
- (a) linked solely to any pension business or long term business of that company other than life assurance business; nor

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

- (b) assets of the company’s overseas life assurance fund;
and subsection (1) of section 214 shall apply for the purposes of this section as it applies for the purposes of that section.
- (12) Subject to subsection (10) above, the references in this section, in relation to any company, to the first eight accounting periods of a company after the end of 1992 are references to the first accounting period of that company to begin on or after 1st January 1993 and to the succeeding seven accounting periods of that company, and references to the first nine accounting periods of a company after the end of 1992 shall be construed accordingly.”
- (6) In section 214(6)(a) of that Act of 1992 (replacement relief), after “1989” there shall be inserted “and before the time when it is first deemed under section 212 to have made a disposal of any assets”.