

Status: Point in time view as at 19/03/1997.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, SCHEDULE 8. (See end of Document for details)

SCHEDULES

SCHEDULE 8

Section 51.

LIFE ASSURANCE BUSINESS

PART I

GENERAL AMENDMENTS

Classes of life assurance business

- 1 In section 431(2) of the Taxes Act 1988 (interpretative provisions relating to insurance companies), insert the following at the appropriate places in alphabetical order—
- “pension business” has the meaning given by section 431B;
 - “life reinsurance business” has the meaning given by section 431C;
 - “overseas life assurance business” has the meaning given by section 431D;
 - “basic life assurance and general annuity business” has the meaning given by section 431F;
 - “reinsurance business” includes retrocession business.
- 2 After section 431A of the Taxes Act 1988 insert—

“ Classes of life assurance business

431B Meaning of “pension business”.

- (1) In this Chapter “pension business” means so much of a company’s life assurance business as is referable to contracts of the following descriptions or to the reinsurance of liabilities under such contracts.
- (2) The descriptions of contracts are—
 - (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 a 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

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- 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 scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV; or
 - (iii) a fund to which section 608 applies,
- being a contract which is 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 (see subsections (3) and (4) below), and no other benefits, are secured;
- (e) any annuity contract which is entered into in substitution for a contract within paragraph (d) above and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;
- (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).
- (3) For the purposes of subsection (2)(d) and (e) above “relevant benefits” means relevant benefits as defined by section 612(1) which correspond—
- (a) where subsection (2)(d)(i) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(i), with benefits that could be provided by a scheme approved under Chapter I of Part XIV;
 - (b) where subsection (2)(d)(ii) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(ii), with benefits that could be provided by a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV;
 - (c) where subsection (2)(d)(iii) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a fund falling within subsection (2)(d)(iii), with benefits that could be provided by a fund to which section 608 applies.

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- (4) For the purposes of subsection (3)(a), (b) or (c) above a hypothetical scheme or fund (rather than any particular scheme or fund), and benefits provided by a scheme or fund directly (rather than by means of an annuity contract), shall be taken.
- (5) Subsection (2)(f) above shall not apply to 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 subsection (5) above “premium” includes any consideration for an annuity.

431C Meaning of “life reinsurance business”.

- (1) In this Chapter “life reinsurance business” means reinsurance of life assurance business other than pension business or business of any description excluded from this section by regulations made by the Board.
- (2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

431D Meaning of “overseas life assurance business”.

- (1) In this Chapter “overseas life assurance business” means life assurance business, other than pension business or life reinsurance business, which—
 - (a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and
 - (b) in the case of reinsurance business, is—
 - (i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or
 - (ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph.
- (2) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is an individual if—
 - (a) the policy holder or annuitant is not beneficially entitled to the rights conferred by the policy or contract for the business, or
 - (b) any benefits under the policy or contract for the business are or will be payable to a person other than the policy holder or annuitant (or his personal representatives) or to a number of persons not including him (or them).

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- (3) For the purposes of subsection (2) above any nomination by a policy holder or annuitant of an individual or individuals as the recipient or recipients of benefits payable on death shall be disregarded.
- (4) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is not an individual.
- (5) Subsections (2) and (4) above do not apply if—
- (a) the rights conferred by the policy or contract for the business are held subject to a trust,
 - (b) the settlor does not reside in the United Kingdom, and
 - (c) each beneficiary is either an individual not residing in the United Kingdom or a charity.
- (6) In subsection (5) above—
- (a) “settlor” means the person, or (where more than one) each of the persons, by whom the trust was directly or indirectly created (and for this purpose a person shall, in particular, be regarded as having created the trust if he provided or undertook to provide funds directly or indirectly for the purposes of the trust or made with any other person a reciprocal arrangement for that other person to create the trust),
 - (b) “beneficiary” means any person who is, or will or may become, entitled to any benefit under the trust (including any person who may become so entitled on the exercise of a discretion by the trustees of the trust), and
 - (c) “charity” means a person or body of persons established for charitable purposes only;
- and for the purpose of that subsection an individual who is a trustee (of any trust) shall not be regarded as an individual.
- (7) Subsections (2) and (4) above do not apply if the policy or contract for the business was effected solely to provide benefits for or in respect of—
- (a) persons all, or all but an insignificant number, of whom are relevant overseas employees, or
 - (b) spouses, widows, widowers, children or dependants of such persons.
- (8) In subsection (7) above “relevant overseas employees” means persons who are not residing in the United Kingdom and are—
- (a) employees of the policy holder or annuitant,
 - (b) employees of a person connected with the policy holder or annuitant, or
 - (c) employees in respect of whose employment there is established a superannuation fund to which section 615(3) applies;
- and section 839 applies for the purposes of this subsection.

431E Overseas life assurance business: regulations.

- (1) The Board may by regulations make provision for giving effect to section 431D.

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- (2) Such regulations may, in particular—
- (a) provide that, in such circumstances as may be prescribed, any prescribed issue as to whether business is or is not overseas life assurance business (or overseas life assurance business of a particular kind) shall be determined by reference to such matters (including the giving of certificates or undertakings, the giving or possession of information or the making of declarations) as may be prescribed,
 - (b) require companies to obtain certificates, undertakings, information or declarations from policy holders or annuitants, or from trustees or other companies, for the purposes of the regulations,
 - (c) make provision for dealing with cases where any issue such as is mentioned in paragraph (a) above is (for any reason) wrongly determined, including provision allowing for the imposition of charges to tax (with or without limits on time) on the insurance company concerned or on the policy holders or annuitants concerned,
 - (d) require companies to supply information and make available books, documents and other records for inspection on behalf of the Board, and
 - (e) make provision (including provision imposing penalties) for contravention of, or non-compliance with, the regulations.
- (3) The regulations may—
- (a) make different provision for different cases, and
 - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

431F Meaning of “basic life assurance and general annuity business”.

In this Chapter “basic life assurance and general annuity business” means life assurance business (including reinsurance business) other than pension business, life reinsurance business or overseas life assurance business.”.

- 3 In section 432C(2) of the Taxes Act 1988 after “assets of the overseas life assurance fund” insert “ or land in the United Kingdom linked to overseas life assurance business ”.
- 4 (1) Section 438 of the Taxes Act 1988 is amended as follows.
- (2) In subsection (1) for “life assurance fund and separate annuity fund, if any” substitute “ long term business fund ”.
- (3) In subsection (8) for “431(4)(c)” substitute “ 431B(2)(c) ”.
- 5 (1) Section 440 of the Taxes Act 1988 is amended as follows.
- (2) In subsection (3) for “paragraphs (a) to (d)” substitute “ paragraphs (a) to (e) ”.
- (3) For subsection (4) substitute—
- “(4) The categories referred to in subsections (1) to (3) above are—
- (a) assets linked solely to pension business;
 - (b) assets linked solely to life reinsurance business;

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- (c) assets of the overseas life assurance fund;
- (d) assets linked solely to basic life assurance and general annuity business;
- (e) assets of the long term business fund not within any of the preceding paragraphs;
- (f) other assets.”.

6 In section 440A of the Taxes Act 1988, in subsection (2) for paragraphs (a) and (b) substitute—

- “(a) so many of the 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—
 - (i) pension business, or
 - (ii) life reinsurance business, or
 - (iii) basic life assurance and general annuity business,
 shall be treated for the purposes of corporation tax as a separate holding linked solely to that business.”.

7 In section 76(1)(d) of the Taxes Act 1988 after “pension business” insert “ , life reinsurance business ”.

8 In Schedule 19AA to the Taxes Act 1988, in the closing words of paragraph 5(5) for “pension business or basic life assurance business” substitute “ pension business, life reinsurance business or basic life assurance and general annuity business ”.

- 9 (1) The ^{M1}Taxation of Chargeable Gains Act 1992 is amended as follows.
- (2) In section 212(2) after “pension business” insert “ or life reinsurance business ”.
- (3) In section 214A(11)(a) for “any pension business or” substitute “ any pension business or life reinsurance business of that company or to ”.

Marginal Citations
 M1 1992 c. 12.

^{F1}10

Textual Amendments
 F1 Sch. 8 para. 10 repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

Linked assets

11 (1) In section 431(2) of the Taxes Act 1988, for the definition of “linked assets” substitute—

““linked assets”, and related expressions, shall be construed in accordance with section 432ZA;”.

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(2) After section 432 of the Taxes Act 1988 insert—

“432ZA Linked assets.

- (1) In this Chapter “linked assets” means assets of an insurance company which are identified in its records as assets by reference to the value of which benefits provided for under a policy or contract are to be determined.
- (2) Linked assets shall be taken—
 - (a) to be linked to long term business of a particular category if the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category; and
 - (b) to be linked solely to long term business of a particular category if all (or all but an insignificant proportion) of the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category.
- (3) Where an asset is linked to more than one category of long term business, a part of the asset shall be taken to be linked to each category; and references in this Chapter to assets linked (but not solely linked) to any category of business shall be construed accordingly.
- (4) Where subsection (3) above applies, the part of the asset linked to any category of business shall be a proportion determined as follows—
 - (a) where in the records of the company values are shown for the asset in funds referable to particular categories of business, the proportion shall be determined by reference to those values;
 - (b) in any other case the proportion shall be equal to the proportion which the total of the linked liabilities of the company referable to that category of business bears to the total of the linked liabilities of the company referable to all the categories of business to which the asset is linked.
- (5) For the purposes of sections 432A to 432F—
 - (a) income arising in any period from assets linked but not solely linked to a category of business,
 - (b) gains arising in any period from the disposal of such assets, and
 - (c) increases and decreases in the value of such assets,shall be treated as arising to that category of business in the proportion which is the mean of the proportions determined under subsection (4) above at the beginning and end of the period.
- (6) In this section “linked liabilities” means liabilities in respect of benefits to be determined by reference to the value of linked assets.
- (7) In the case of a policy or contract the effecting of which constitutes a class of life assurance business the fact that it also constitutes long term business other than life assurance business shall be disregarded for the purposes of this section unless the benefits to be provided which constitute long term business other than life assurance business are to be determined by reference to the value of assets.”.

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- 12 (1) In the following provisions for “linked solely” substitute “ linked ”
- (a) section 432C(1), section 432D(1) (twice) and section 432E(3)(a) and (b) and (6)(a) of the Taxes Act 1988;
 - (b) paragraph 1(5)(b)(i) of Schedule 19AB to the Taxes Act 1988;
 - ^{F2}(c)
- (2) The amendments made by paragraph 11 above do not affect the meaning of “linked assets”, and related expressions, in sections 214 and 214A of the ^{M2}Taxation of Chargeable Gains Act 1992 (transitional provisions relating to changes made in 1990 and 1991).
- (3) In section 432 of the Taxes Act 1988 for “class” in each place where it occurs substitute “ category ”.

Textual Amendments

F2 Sch. 8 para. 12(1)(c) repealed (29.4.1996 with effect as mentioned in ss. 80-105 of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(3) Note

Marginal Citations

M2 1992 c. 12.

- 13 (1) Section 432A of the Taxes Act 1988 is amended as follows.
- (2) For subsections (1) to (3) substitute—
- “(1) This section has effect where in any period an insurance company carries on more than one category of business and it is necessary for the purposes of the Corporation Tax Acts to determine in relation to the period what parts of—
- (a) income arising from the assets of the company’s long term business fund, or
 - (b) gains or losses accruing on the disposal of such assets,
- are referable to any category of business.
- (2) The categories of business referred to in subsection (1) above are—
- (a) pension business;
 - (b) life reinsurance business;
 - (c) overseas life assurance business;
 - (d) basic life assurance and general annuity business which is ordinary life assurance business;
 - (e) basic life assurance and general annuity business which is industrial assurance business; and
 - (f) long term business other than life assurance business.
- (3) Income arising from, and gains or losses accruing on the disposal of, assets linked to any category of business (apart from overseas life assurance business) shall be referable to that category of business.”.
- (3) In subsections (5) and (6)(b)(i) for “any of the appropriate categories” substitute “ any category ”.
- (4) For subsection (7) substitute—

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“(7) For the purposes of subsections (5) and (6) above—

- (a) income, gains or losses are directly referable to a category of business if referable to that category by virtue of subsection (3) or (4) above, and
- (b) assets are directly referable to a category of business if income arising from the assets is, and gains or losses accruing on the disposal of the assets are, so referable by virtue of subsection (3) above.”.

(5) For subsection (9) substitute—

“(9) Where a company carries on overseas life assurance business—

- (a) references in this section to liabilities do not include liabilities of that business, and
- (b) the appropriate part of the investment reserve as defined by paragraph 4(2)(a) of Schedule 19AA shall be left out of account in determining that reserve for the purposes of this section.”.

14 (1) Section 432C of the Taxes Act 1988 is amended as follows.

(2) In subsection (1) for the words from “life assurance business” to “general annuity business” substitute “pension business, life reinsurance business, basic life assurance and general annuity business or long term business other than life assurance business”.

(3) In subsection (3) for “any of the appropriate categories of business” substitute “any category of business”.

(4) In subsection (4)(b) for “any of the appropriate categories of business” substitute “any category of business”.

(5) In subsection (5), omit paragraph (a).

(6) For subsection (6) substitute—

“(6) For the purposes of this section, where a company carries on overseas life assurance business “liabilities” does not include liabilities of that business.”.

15 (1) Section 432D of the Taxes Act 1988 is amended as follows.

(2) In subsection (1) for the words from “life assurance business” to “general annuity business” substitute “pension business, life reinsurance business, basic life assurance and general annuity business or long term business other than life assurance business”.

(3) In subsection (2) for “any of the appropriate categories of business” substitute “any category of business”.

(4) For subsection (3) substitute—

“(3) For the purposes of subsection (2) above “the relevant fraction”, in relation to a category of business, is the fraction of which—

- (a) the numerator is the mean of the opening and closing liabilities of the relevant business so far as referable to the category, reduced by the mean of the opening and closing values of any assets of the relevant business directly referable to the category; and

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- (b) the denominator is the mean of the opening and closing liabilities of the relevant business, reduced by the mean of the opening and closing values of any assets of the relevant business directly referable to any category of business.
- (4) For the purposes of subsections (2) and (3) above, the part of the amount brought into account as the increase or decrease in the value of assets which is directly referable to a category of business is the part referable to the category by virtue of subsection (1) above and assets are directly referable to a category of business if such part of the amount brought into account as the increase or decrease in the value of assets as is attributable to them is so referable.”.

Receipts to be brought into account

- 16 (1) For section 83 of the ^{M3}Finance Act 1989 substitute—

“83 Receipts to be brought into account.

- (1) The following provisions of this section have effect where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D.
- (2) So far as referable to that business, the following items, as brought into account for a period of account (and not otherwise), shall be taken into account as receipts of the period—
 - (a) the company’s investment income from the assets of its long term business fund, and
 - (b) any increase in value (whether realised or not) of those assets.

If for any period of account there is a reduction in the value referred to in paragraph (b) above (as brought into account for the period), that reduction shall be taken into account as an expense of that period.

- (3) In ascertaining whether or to what extent a company has incurred a loss in respect of that business any amount transferred into the company’s long term business fund from other assets of the company, or otherwise added to that fund, shall be taken into account, in the period in which it is brought into account, as an increase in value of the assets of that fund within subsection (2)(b) above.

This subsection does not apply where, or to the extent that, the amount concerned—

- (a) would fall to be taken into account as a receipt apart from this section,
- (b) is otherwise taken into account under subsection (2) above, or
- (c) is specifically exempted from tax.

83A Meaning of “brought into account”.

- (1) In section 83 “brought into account” means brought into account in an account which is recognised for the purposes of that section.

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- (2) Subject to the following provisions of this section and to any regulations made by the Treasury, the accounts recognised for the purposes of that section are—
- (a) a revenue account prepared for the purposes of the Insurance Companies Act 1982 in respect of the whole of the company’s long term business;
 - (b) any separate revenue account required to be prepared under that Act in respect of a part of that business.

Paragraph (b) above does not include accounts required in respect of internal linked funds.

- (3) Where there are prepared any such separate accounts as are mentioned in subsection (2)(b) above, reference shall be made to those accounts rather than to the account for the whole of the business.
- (4) If in any such case the total of the items brought into account in the separate accounts is not equal to the total amount brought into account in the account prepared for the whole business, there shall be treated as having been required and prepared a further separate revenue account covering the balance.
- (5) Where a company carries on both ordinary long term business and industrial assurance business, the references above to the company’s long term business shall be construed as references to either or both of those businesses, as the case may require.”.

(2) In section 432B of the Taxes Act 1988—

- (a) in subsection (1) for the words from “brought into account” to “1982” substitute “ brought into account, within the meaning of that section, ”; and
- (b) for subsection (2) substitute—

“(2) Where for that purpose reference falls to be made to more than one account recognised for the purposes of that section, the provisions of sections 432C to 432F apply separately in relation to each account.”.

(3) In section 432E(1) of the Taxes Act 1988 for the words from “of the items referred to in subsection (1)” to “paragraph (b))” substitute “ to be taken into account in accordance with section 83(2) of the ^{M4}Finance Act 1989 (that is to say, the aggregate amount to be taken into account as receipts reduced by the aggregate amount to be taken into account as expenses) ”.

^{F3}(4)

^{F3}(5)

(6) In section 65(2) of the Finance (No.2) Act 1992 for paragraph (d) substitute—

“(d) section 83(2) of the Finance Act 1989 (amounts to be taken into account as receipts or expenses);”.

Textual Amendments

F3 Sch. 8 para. 16(4)(5) repealed (29.4.1996 with effect as mentioned in s. 163, Sch. 31 para. 10(2) of the amending Act) by 1996 c. 8, s. 205, Sch. 41 Pt. V(23) Note

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Marginal Citations

M3 1989 c. 26.

M4 1989 c. 26.

Supplementary provisions as to apportionment

- 17 (1) In section 432B of the Taxes Act 1988 (apportionment of receipts brought into account)—
- (a) in subsections (1) and (2) for “sections 432C to 432E” substitute “ sections 432C to 432F ”, and
 - (b) in subsection (3) for “section 432E applies” substitute “ sections 432E and 432F apply ”.
- (2) In section 432E of the Taxes Act 1988 (section 432B apportionment: participating funds)—
- (a) in subsection (1), for the words from “shall be” to the end substitute “ shall be the amount determined in accordance with subsection (2) below or, if greater, the amount determined in accordance with subsection (3) below. ”; and
 - (b) in subsection (5) at the end insert—

“References in this subsection to the amount determined in accordance with subsection (3) above are to that amount after making any deduction required by section 432F.”
- (3) After section 432E of the Taxes Act 1988 insert—

“432F Section 432B apportionment: supplementary provisions.

- (1) The provisions of this section provide for the reduction of the amount determined in accordance with section 432E(3) (“the subsection (3) figure”) for an accounting period in which that amount exceeds, or would otherwise exceed, the amount determined in accordance with section 432E(2) (“the subsection (2) figure”).
 - (2) For each category of business in relation to which section 432E falls to be applied there shall be determined for each accounting period the amount (if any) by which the subsection (2) figure, after making any reduction required by section 432E(5), exceeds the subsection (3) figure (“the subsection (2) excess”).
 - (3) Where there is a subsection (2) excess, the amount shall be carried forward and if in any subsequent accounting period the subsection (3) figure exceeds, or would otherwise exceed, the subsection (2) figure, it shall be reduced by the amount or cumulative amount of subsection (2) excesses so far as not previously used under this subsection.
 - (4) Where in an accounting period that amount is greater than is required to bring the subsection (3) figure down to the subsection (2) figure, the balance shall be carried forward and aggregated with any subsequent subsection (2) excess for use in subsequent accounting periods.”
- (4) In section 444A of the Taxes Act 1988 (transfers of business) after subsection (3) insert—

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“(3A) Any subsection (2) excess (within the meaning of section 432F(2)) which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available under section 432F(3) or (4) to reduce a subsection (3) figure (within the meaning of section 432F(1)) of the transferor in an accounting period following that which ends with the day on which transfer takes place—

(a) shall, instead, be treated as a subsection (2) excess of the transferee, and

(b) shall be taken into account in the first accounting period of the transferee ending after the date of the transfer (to reduce the subsection (3) figure or, as the case may be, to produce or increase a subsection (2) excess for that period),

in relation to the revenue account of the transferee dealing with or including the business transferred.”.

(5) In section 444A(5) of the Taxes Act 1988 for “subsection (2) or (3)” substitute “subsection (2), (3) or (3A) ”.

Franked investment income: supplementary provisions

18 (1) Chapter V of Part VI of the Taxes Act 1988 is amended as follows.

(2) In section 238(1) for the definition of “surplus of franked investment income” substitute—

““surplus of franked investment income” shall be construed in accordance with subsection (1A) below;”.

(3) After that subsection insert—

“(1A) For the purposes of this Chapter, a company has a surplus of franked investment income in an accounting period if the amount of the franked investment income of the company in that period exceeds the amount of the franked payments made by it in that period.

For the purposes of determining whether a company has such a surplus, or the amount of the surplus, franked investment income that cannot be used to frank distributions of the company shall be disregarded.”.

(4) For section 238(3) substitute—

“(3) References in this Chapter to using franked investment income to frank distributions of a company are to using the income in accordance with section 241(1) and Schedule 13 so as to relieve the company from, or obtain repayment of, advance corporation tax for which the company would otherwise be liable.”.

(5) In section 241(3) for the words from the beginning to “the excess” substitute “ Where a company has a surplus of franked investment income for any accounting period, the surplus ”.

(6) In section 241(5) omit the words from “(that is to say,” to “otherwise be liable)”.

(7) In section 242(1)(b) omit “for purposes of section 241(3)”.

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- (8) In section 242(9)—
- (a) omit “by virtue of section 241(5)”, and
 - (b) for “a company” substitute “ the company ”.
- 19 (1) Section 434 of the Taxes Act 1988 is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Nothing in section 208 shall prevent franked investment income or foreign income dividends from being taken into account—
- (a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
 - (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.”.

(3) For subsection (3) substitute—

“(3) The policy holders’ share of the franked investment income from investments held in connection with a company’s life assurance business shall not be used under Chapter V of Part VI to frank distributions made by the company; but it may be the subject of a claim under section 242 and shall be treated for that purpose as a surplus of franked investment income additional to any surplus under section 238(1A).

For the purpose of ascertaining whether any surplus or what amount of surplus franked investment income falls to be carried forward under section 241(3), relief under section 242 shall be treated as given against the policy holders’ share before other franked investment income.”.

Computation of losses

- 20 (1) For section 434A of the Taxes Act 1988 substitute—
- “434A Computation of losses and limitation on relief.**
- (1) In ascertaining whether or to what extent a company has incurred a loss on its life assurance business profits derived from investments held for the purposes of that business (including franked investment income of, and foreign income dividends arising to, a company resident in the United Kingdom) shall be treated as part of the profits of that business.
 - (2) Where for any accounting period the loss arising to an insurance company from its life assurance business falls to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D, any loss resulting from the computation shall be reduced (but not below nil) by the aggregate of—
 - (a) any losses for that period under section 436, 441 or 439B, and
 - (b) the amount of interest and annuities treated as charges on income in computing for the period otherwise than in accordance with the provisions of this Act applicable to Case I of Schedule D the profits or losses of the company’s life assurance business.

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- (3) In the case of a company carrying on life assurance business, no relief shall be allowable under—
- (a) Chapter II (loss relief) or Chapter IV (group relief) of Part X, or
 - (b) Chapter II of Part II of the Finance Act 1993 so far as it has effect in relation to losses treated as non-trading losses for the purposes of section 160 of the Finance Act 1994,
- against the policy holders' share of the relevant profits for any accounting period.

For the purposes of this subsection “the policy holders' share of the relevant profits” has the same meaning as in section 88 of the Finance Act 1989.”.

- (2) In section 65(2) of the Finance (No. 2) Act 1992, for paragraph (a) substitute—
- “(a) section 434A(1) of the Taxes Act 1988 (profits derived from investments held for purposes of life assurance business treated as profits of that business in ascertaining loss);”.

Treatment of interest and annuities

21 [F4(1) After section 434A of the Taxes Act 1988 insert—

“ **Treatment of interest and annuities.**

- (1) Where the profits or losses arising to an insurance company from its life assurance business, or any class of life assurance business, fall to be computed for any purpose in accordance with the provisions of this Act applicable to Case I of Schedule D, section 337(2)(b) shall not prevent the deduction of any interest or annuity payable by the company under a liability of its long term business so far as referable to its life assurance business or any class of that business.
- (2) Nothing in subsection (1) above or in section 338(2) shall be construed as preventing any such interest or annuity as is mentioned in subsection (1) above, so far as referable to the company's basic life assurance and general annuity business, from being treated as a charge on income for the purposes of the computation of the profits or losses of that business otherwise than in accordance with Case I of Schedule D.”.]

(2) In section 88 of the Finance Act 1989, for subsection (3) substitute—

- “(3) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the income and gains of the company's life assurance business reduced by the aggregate amount of—
- (a) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and
 - (b) charges on income,
- so far as referable to the company's life assurance business.”.

Textual Amendments

F4 Sch. 8 para. 21(1) repealed (19.3.1997 with effect in relation to accounting periods beginning after 5.3.1997) by 1997 c. 16, s. 113, Sch. 18 Pt. VI(6) Note

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Interest on repayment of advance corporation tax

22 After section 434B of the Taxes Act 1988 (inserted by paragraph 21 above) insert—

“434C Interest on repayment of advance corporation tax.

Section 826(1) applies in a case where a repayment falls to be made of advance corporation tax paid by a company carrying on life assurance business in respect of distributions made by it.

In relation to such a case the material date for the purposes of that section is that specified in subsection (2A) of that section.”.

Capital allowances

23 (1) After section 434C of the Taxes Act 1988 (inserted by paragraph 22 above) insert—

“434D Capital allowances: management assets.

- (1) This section has effect with respect to the allowances and charges to be made under the 1990 Act in respect of “management assets”, that is, assets provided for use or used for the management of life assurance business carried on by a company.
- (2) No allowances or charges shall be made under that Act in respect of expenditure on management assets except under Part II (machinery and plant).
- (3) Where the company is charged to tax under section 441 in respect of the profits of its overseas life assurance business for an accounting period—
 - (a) any allowance falling to be made under Part II of the 1990 Act in respect of expenditure on the provision outside the United Kingdom of machinery or plant for use for the management of that business shall be given effect by treating it as an expense of the business for that period; and
 - (b) any charge in respect of such expenditure falling to be so made shall be given effect by treating it as a receipt of the business for that period;
 and sections 73, 144 and 145 of the 1990 Act do not apply.
- (4) Allowances and charges falling to be made under Part II of the 1990 Act in respect of expenditure in respect of management assets not falling within subsection (3) above shall be apportioned between the different classes of life assurance business carried on by the company.

The amount referable to any class of life assurance business shall be the relevant fraction of the amount of the allowance or charge, that is, the fraction of which—

- (a) the numerator is the mean of the opening and closing liabilities of the class of life assurance concerned, and

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- (b) the denominator is the mean of the opening and closing liabilities of all the classes of life assurance business carried on by the company.
- (5) Where the company is charged to tax under section 436, 439B or 441 in respect of the profits of its pension business, life reinsurance business or overseas life assurance business for an accounting period—
 - (a) any allowance falling to be made under Part II of the 1990 Act in respect of expenditure on the provision of machinery or plant for use for the management of that business shall be given effect by treating the relevant proportion of the allowance as an expense of that business for the purpose of calculating the Case VI profit for that period; and
 - (b) any charge in respect of such expenditure falling to be so made shall be given effect by treating the relevant proportion of the charge as a receipt of that business for that purpose.
- (6) Where a company carries on basic life assurance and general annuity business and the profits arising from that business do not fall to be charged to tax in accordance with the provisions applicable to Case I of Schedule D—
 - (a) allowances falling to be given under Part II of the 1990 Act in respect of expenditure on management assets shall be treated as additional expenses of management within section 76; and
 - (b) any charge falling to be made under that Part in respect of such assets shall be chargeable to tax under Case VI of Schedule D.
- (7) For the purposes of this section the purposes of the management of a business shall be taken to be those purposes expenditure on which would be treated as expenses of management within section 76.
- (8) Expenditure to which this section applies shall not be taken into account otherwise than in accordance with this section.

This shall not be construed as preventing any allowance under Part II of the 1990 Act which falls to be given by virtue of this section from being taken into account—

- (a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
- (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.

434E Capital allowances: investment assets.

- (1) In this section “investment asset” means an asset held by a company for the purposes of its life assurance business otherwise than for the management of that business.
- (2) The letting by a company of an investment asset shall be treated for the purposes of section 61 of the 1990 Act (machinery and plant on lease) as a letting otherwise than in the course of a trade.
- (3) Any allowance under Part V of the 1990 Act (agricultural buildings, &c.) in respect of an investment asset shall be made by way of discharge or

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repayment of tax and shall be available primarily against agricultural income and income which is the subject of a balancing charge.

Effect shall be given to any balancing charge under that Part in respect of an investment asset by treating the amount on which the charge is to be made as agricultural income.

- (4) Any allowance under the 1990 Act in respect of an investment asset shall be treated as referable to the category or categories of business to which income arising from the asset is or would be referable and shall be apportioned in accordance with section 432A in the same way as such income.
- (5) No allowance under the 1990 Act in respect of an investment asset shall be taken into account—
- (a) in computing the profits of any class of life assurance business under section 436, 439B or 441, or
 - (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.
- (6) Where any allowance under the 1990 Act in respect of an investment asset falls to be taken into account (having regard to subsection (5) above), only such allowances as are referable to the company's basic life assurance and general annuity business shall be given effect under section 145(1) of that Act, and then only against income referable to that business; and section 145(3) shall not apply.”
- (2) In section 75(4) of the Taxes Act 1988 omit the words “and insurance”.
- (3) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses), after subsection (5) insert—
- “(5A) References in this section to expenses of management do not include any amounts treated as additional expenses of management by virtue of section 434D(6)(a) of the Taxes Act 1988 (capital allowances in respect of expenditure on management assets).”.

24 In Chapter I of Part II of the Capital Allowances Act 1990 (machinery and plant), for section 28 (investment companies and life assurance companies) substitute—

“28 Investment companies.

- (1) This Part and the other provisions of the Corporation Tax Acts relating to allowances or charges under this Part apply with the necessary adaptations in relation to machinery and plant provided for use or used for the purposes of the management of the business of an investment company (as defined in section 130 of the principal Act) as they apply in relation to machinery and plant provided for use or used for the purposes of a trade.
- (2) Effect shall be given to allowances and charges falling to be made by virtue of this section as follows—
 - (a) any allowance falling to be made for any accounting period shall, as far as may be, be given effect by deducting the amount of the allowance from any income for the period of the business, and in so

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far as effect cannot be so given section 75(4) of the principal Act shall apply; and

- (b) effect shall be given to any charge falling to be made under this section by treating the amount on which the charge is to be made as income of the business;

and sections 73, 144 and 145 do not apply.

- (3) Except as provided by subsection (2) above, the Corporation Tax Acts apply in relation to allowances or charges falling to be made by virtue of this section as if they were to be made in taxing a trade.
- (4) For the purposes of this section the purposes of the management of a business shall be taken to be those purposes expenditure on which would be treated as expenses of management within section 75 of the principal Act.
- (5) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under this Part both under this section and in some other way.
- (6) Expenditure to which this section applies shall not be taken into account otherwise than under this Part or as provided by section 75(4) of the principal Act.”.

Treatment of tax-free income

- 25 (1) In the Taxes Act 1988 omit—
- (a) section 474(1)(b); and
- (b) in section 475(2)(a), the words from “or,” to “life assurance business”.
- (2) In section 474 of the Taxes Act 1988, at the end insert—
- “(3) In this section any reference to insurance business includes a reference to insurance business of any category.”.

Taxation of pure reinsurance business

- 26 After section 439 of the Taxes Act 1988 insert—

“439A Taxation of pure reinsurance business.

If a company does not carry on life assurance business other than reinsurance business, and none of that business is of a type excluded from this section by regulations made by the Board, the profits of that business shall be charged to tax in accordance with Case I of Schedule D and not otherwise.”.

Life reinsurance business: separate charge on profits

- 27 (1) After section 439A of the Taxes Act 1988 (inserted by paragraph 26 above) insert—

“439B Life reinsurance business: separate charge on profits.

- (1) Where a company carries on life reinsurance business and the profits arising from that business are not charged to tax in accordance with the provisions applicable to Case I of Schedule D, then, subject as follows, those profits

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shall be treated as income within Schedule D and be chargeable to tax under Case VI of that Schedule, and for that purpose—

- (a) that business shall be treated separately, and
- (b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.

- (2) Subsection (1) above does not apply to so much of reinsurance business of any description excluded from that subsection by regulations made by the Board.

Regulations under this subsection may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

- (3) In making the computation referred to in subsection (1) above—
- (a) sections 82(1), (2) and (4) and 83 of the Finance Act 1989 shall apply with the necessary modifications and in particular with the omission of the words “tax or” in section 82(1)(a),
 - (b) section 83(3) of that Act shall not apply, and
 - (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 life reinsurance business in any previous accounting period beginning on or after 1st January 1995.
- (4) Section 396 shall not be taken to apply to a loss incurred by a company on life reinsurance business.
- (5) Nothing in section 128 or 399(1) shall affect the operation of this section.
- (6) Gains accruing to a company which are referable to its life reinsurance business shall not be chargeable gains.
- (7) In ascertaining whether or to what extent a company has incurred a loss on its life reinsurance business, franked investment income and foreign income dividends shall be taken into account (notwithstanding anything in section 208) as part of the profits of that business.”

- (2) In section 444A(3)(a) of the Taxes Act 1988 after “section 436(3)(c)” insert “ or 439B(3)(c) ”.

- (3) In section 724(3) and (4) of the Taxes Act 1988 after “section 436” insert “, 439B ”.

Provisions applicable to charge under Case I of Schedule D

- 28 (1) After section 440A of the Taxes Act 1988 insert—

“440B Modifications where tax charged under Case I of Schedule D.

- (1) The following provisions apply where the profits of a company’s life assurance business are charged to tax in accordance with Case I of Schedule D.
- (2) Section 438 applies as if in subsections (6), (6B) and (6E) for the reference to any profit arising to the company and computed under section 436 there

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were substituted a reference to the profit that would arise on a computation under section 436 if the profits of the company's life assurance business were not charged to tax under Case I of Schedule D.

(3) Section 440(1) and (2) apply as if the only categories set out in subsection (4) of that section were—

- (a) assets of the long term business fund, and
- (b) other assets.

(4) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—

- (") so many of the 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, and
- (b) any remaining securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph."

(5) Section 212(1) of the 1992 Act does not apply, but without prejudice to the bringing into account of any amounts deferred under section 213(1) or 214A(2) of that Act from any accounting period beginning before 1st January 1995."

(2) In section 438 of the Taxes Act 1988, after subsection (8) insert—

"(9) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(2)."

(3) In section 440 of the Taxes Act 1988, after subsection (5) insert—

"(6) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3)."

(4) In section 440A of the Taxes Act 1988, after subsection (6) insert—

"(7) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(4)."

(5) In section 212 of the Taxation of Chargeable Gains Act 1992, after subsection (7) insert—

"(7A) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D subsection (1) above has effect subject to section 440B(5) of the Taxes Act."

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“, or

- (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.”.

Overseas life assurance business

30 In section 441(1) of the Taxes Act 1988 omit the words “resident in the United Kingdom”.

31 In section 441A of the Taxes Act 1988 for subsections (3) to (6) substitute—

“(3) A company shall be entitled to such a tax credit if and to the extent that regulations made by the Board so provide.

(4) Regulations under subsection (3) above may, in particular, provide for the entitlement of a company to a tax credit, and the amount to which the company is entitled, to be determined by reference to—

- (a) the residence of any description of policy holders or annuitants prescribed by the regulations, or
- (b) the location of any branch or agency at or through which the policy or contract for any business is effected.

(5) Subsections (2) and (3) of section 431E apply in relation to regulations under subsection (3) above as they apply in relation to regulations under subsection (1) of that section but as if any issue which falls to be decided for the purposes of the regulations under subsection (3) above were an issue such as is mentioned in subsection (2)(a) of that section.”.

32 After section 441A of the Taxes Act 1988 insert—

“441B Treatment of UK land.

(1) This section applies to land in the United Kingdom which—

- (a) is held by a company as an asset linked to the company’s overseas life assurance business, or
- (b) is held by a company which is charged to tax under Case I of Schedule D in respect of its life assurance business as an asset by reference to the value of which benefits under any policy or contract are to be determined, where the policy or contract (or, in the case of a reinsurance contract, the underlying policy or contract) is held by a person not residing in the United Kingdom.

(2) Income arising from land to which this section applies shall be treated for the purposes of this Chapter as referable to basic life assurance and general annuity business.

(3) Where (apart from this subsection) an insurance company would not be carrying on basic life assurance and general annuity business it shall be treated as carrying on such business if any income of the company is treated as referable to such business by subsection (2) above.

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- (4) A company may be charged to tax by virtue of this section—
- (a) notwithstanding section 439A, and
 - (b) whether or not the income to which subsection (2) above relates is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.

(5) In this section “land” has the same meaning as in Schedule 19AA.”.

- 33 In paragraph 1(2) of Schedule 19AA to the Taxes Act 1988, at the end insert “ (including any modification of any of those provisions made by paragraph 14A of Schedule 19AC) ”.

Taxation of investment return where risk reinsured

- 34 After section 442 of the Taxes Act 1988 insert—

“442A Taxation of investment return where risk reinsured.

- (1) Where an insurance company reinsures any risk in respect of a policy or contract attributable to its basic life assurance and general annuity business, the investment return on the policy or contract shall be treated as accruing to the company over the period of the reinsurance arrangement and shall be charged to tax under Case VI of Schedule D.
- (2) The Board may make provision by regulations as to the amount of investment return to be treated as accruing in each accounting period during which the reinsurance arrangement is in force.
- (3) The regulations may, in particular, provide that the investment return to be treated as accruing to the company in respect of a policy or contract in any accounting period shall be calculated by reference to—
 - (a) the aggregate of the sums paid by the company to the reinsurer during that accounting period and any earlier accounting periods by way of premium or otherwise;
 - (b) the aggregate of the sums paid by the reinsurer to the company during that accounting period and any earlier accounting periods by way of commission or otherwise;
 - (c) the aggregate amount of the net investment return treated as accruing to the company in any earlier accounting periods, that is to say, net of tax at such rate as may be prescribed; and
 - (d) such percentage rate of return as may be prescribed.
- (4) The regulations shall provide that the amount of investment return to be treated as accruing to the company in respect of a policy or contract in the final accounting period during which the policy or contract is in force is the amount, ascertained in accordance with regulations, by which the profit over the whole period during which the policy or contract, and the reinsurance arrangement, were in force exceeds the aggregate of the amounts treated as accruing in earlier accounting periods.

If that profit is less than the aggregate of the amounts treated as accruing in earlier accounting periods, the difference shall go to reduce the amounts

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treated by virtue of this section as arising in that accounting period from other policies or contracts, and if not fully so relieved may be carried forward and set against any such amounts in subsequent accounting periods.

- (5) Regulations under this section—
- (a) may exclude from the operation of this section such descriptions of insurance company, such descriptions of policies or contracts and such descriptions of reinsurance arrangements as may be prescribed;
 - (b) may make such supplementary provision as to the ascertainment of the investment return to be treated as accruing to the company as appears to the Board to be appropriate, including provision requiring payments made during an accounting period to be treated as made on such date or dates as may be prescribed; and
 - (c) may make different provision for different cases or descriptions of case.
- (6) In this section “prescribed” means prescribed by regulations under this section.”.

PART II

APPLICATION OF PROVISIONS TO OVERSEAS LIFE INSURANCE COMPANIES

- 35 (1) After paragraph 5 of Schedule 19AC to the Taxes Act 1988 insert—
- “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.
- (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.
- 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—

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- (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).
- 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 amount of that income excluding that interest bears to the amount of that income including that interest.”.
- (2) In paragraph 2(1) of Schedule 19AC to the Taxes Act 1988, for “section 444D” substitute “ paragraph 5B of Schedule 19AC ”.
 - (3) After paragraph 6(4) of that Schedule insert—
 - “(4A) In that subsection the following definition shall be inserted at the appropriate place—
 - “UK distribution income” has the meaning given by paragraph 5B(4) of Schedule 19AC;”.
 - (4) In section 475(6) of the Taxes Act 1988 for “section 444E(2)” (twice) substitute “ paragraph 5C(2) of Schedule 19AC ”.

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- (5) In paragraph 2(2) of Schedule 8A to the Finance Act 1989 for “section 444D(4) of the Taxes Act 1988” substitute “ paragraph 5B(4) of that Schedule ”.
- 36 In paragraph 5(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted subsection (6B)—
- (a) for “242” substitute “ section 242 ”, and
 - (b) for “444D” substitute “ paragraph 5B of Schedule 19AC ”.
- 37 In paragraph 6 of Schedule 19AC to the Taxes Act 1988, omit sub-paragraphs (3) and (4).
- 38 After paragraph 6 of Schedule 19AC to the Taxes Act 1988 insert—
- “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”.”.
- 39 For paragraph 7 of Schedule 19AC to the Taxes Act 1988 substitute—
- “7 (1) Section 432A has effect as if the references in subsections (3), (6) and (8) to assets were to such of the assets concerned as are—
- (a) section 11(2)(b) assets,
 - (b) section 11(2)(c) assets, or
 - (c) 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 as if the references in subsections (6) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency.
- Expressions used in this sub-paragraph to which a meaning is given by section 11A have that meaning.
- (2) For the purposes of section 432A as it applies in relation to an overseas life insurance company, income which falls within section 11(2)(aa) or (ab), and chargeable gains or allowable losses which fall within section 11(2)(d) or (e)—
- (a) shall not be referable to long term business other than life assurance business; and
 - (b) shall be apportioned under subsections (5) and (6) of that section separately from other income, gains and losses.
- (3) For the purposes of the application of section 432A(6) in relation to such income, gains or losses as are mentioned in sub-paragraph (2) above—
- (a) “liabilities” does not include liabilities of the long term business other than life assurance business;
 - (b) the value of assets directly referable to any category of business does not include assets directly referable to long term business other than life assurance business; and
 - (c) the reference in section 432A(6)(b)(ii) to the investment reserve shall be construed as a reference to so much of the investment reserve as is not referable to long term business other than life assurance business.”.

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- 40 (1) Paragraph 8 of Schedule 19AC to the Taxes Act 1988 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “paragraph 1” substitute “ paragraph 1C ”; and
- (b) for “the word ’1982’” substitute “ the words ’brought into account, within the meaning of that section,’ ”.
- (3) In sub-paragraph (2) for “paragraph 1(6), (7) or (8)” substitute “ any provision of paragraph 1C ”.
- (4) For sub-paragraph (3) substitute—
- “(3) Subsection (3) of section 432B shall have effect as if after the words “with which an account is concerned” there were inserted the words “or in respect of which items are treated as brought into account by virtue of paragraph 1C of Schedule 8A to the Finance Act 1989”; and 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.”.
- 41 In paragraph 9(1) of Schedule 19AC to the Taxes Act 1988 in the notionally inserted section 434(1A)—
- (a) after “UK distribution income of” insert “ , or foreign income dividends arising to, ”; and
- (b) for the words from “as part of the profit” to the end substitute—
- “(a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
- (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.”.
- 42 After paragraph 9 of Schedule 19AC to the Taxes Act 1988 insert—
- “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”.
- 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.”.
- 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.”.

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- 43 (1) In paragraph 10(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted section 438(3A)—
- (a) for “subsection (6)” substitute “ subsections (6) and (6B) ”;
 - (b) after “UK distribution income of” insert “ , or foreign income dividends arising to, ”;
 - (c) after “taken into account” insert “ —(a) ”; and
 - (d) after “pension business” insert—
 - “, or
 - (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.”.
- (2) In paragraph 10(2) for “subsections (6) and (6A)” substitute “ subsections (6), (6A), (6D) and (6E) ”.
- 44 After paragraph 10 of Schedule 19AC to the Taxes Act 1988 insert—
- “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.”.
- 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;
 - (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;

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- (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.
- 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—
- (”) 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.”.”.

- 45 (1) Paragraph 11 of Schedule 19AC to the Taxes Act 1988 is amended as follows.

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- (2) For sub-paragraph (1) substitute—
- “(1) In section 440A(2), in paragraph (a) the words “UK securities” shall be treated as substituted for the word “securities” in the first place where it occurs.”.
- (3) Omit sub-paragraph (2).
- (4) In sub-paragraph (5) renumber the notionally inserted subsection as (6A).
- 46 After paragraph 11 of Schedule 19AC to the Taxes Act 1988 insert—
- “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.”.
- 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.”.
- 47 In paragraph 12(1) of Schedule 19AC to the Taxes Act 1988, for “section 444D” substitute “ paragraph 5B of Schedule 19AC ”.
- 48 After paragraph 14 of Schedule 19AC to the Taxes Act 1988 insert—
- “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—
- (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;

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- (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.”.”.
- 49 (1) Schedule 8A to the ^{M5}Finance Act 1989 is amended as follows.
- (2) For paragraph 1 substitute—
- “1 (1) In their application to an overseas life insurance company sections 83 and 83A of this Act shall have effect with the modifications specified in paragraphs 1A to 1C below.
- (2) In those paragraphs—
- (a) any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act; and
 - (b) any expression to which a meaning is given by section 11A of that Act has that meaning.
- 1A (1) The reference in section 83(2)(a) to investment income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.
- (2) The reference to assets in section 83(2)(b) (as it applies apart from subsection (3) of that section) shall be construed as a reference to such of the assets concerned—
- (a) as are—
 - (i) section 11(2)(b) assets;
 - (ii) section 11(2)(c) assets; or
 - (iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or
 - (b) as are assets—
 - (i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or
 - (ii) (in a case where that section including that subsection applies) of the relevant funds,other than assets which fall within paragraph (a) above.
- (3) In determining for the purposes of section 83(2) (as it applies apart from subsection (3) of that section) whether there has been any increase or reduction in the value (whether realised or not) of assets—
- (a) no regard shall be had to any period of time during which an asset held by the company does not fall within paragraph (a) or (b) of subparagraph (2) above; and

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- (b) in the case of an asset which falls within paragraph (b) of that subparagraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account.

For the purposes of paragraph (b) above the specified portion of any increase or reduction in the value of an asset is found by applying to that increase or reduction the same fraction as would, by virtue of section 11C of the Taxes Act 1988, be applied to any relevant gain accruing to the company on the disposal of the asset.

- (4) For the reference in section 83(3) to any amount being transferred into the company's long term business fund from other assets of the company, or otherwise added to that fund, there shall be substituted a reference to assets becoming assets of the long term business fund used or held for the purposes of the company's United Kingdom branch or agency, having immediately previously been held by the company otherwise than as assets of that fund or used or held otherwise than for those purposes.

The amount of the increase in value under section 83(2)(b), as it applies in relation to such a transfer, shall be taken to be an amount equal to the value of the assets transferred.

- 1B The references in section 83A to the company's long term business shall be construed as references to the whole of that business or to the whole of that business other than business in respect of which preparation of a revenue account for the purposes of the Insurance Companies Act 1982 is not required.
- 1C (1) Where for a period of account any investment income referred to in section 83(2)(a) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it arises in the period.
- (2) Where for a period of account any increase in value referred to in section 83(2)(b) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.
- (3) Where for a period of account any reduction in value referred to in section 83(2) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.
- (4) Where in any period of account any such transfer is made as is mentioned in section 83(3) which is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period in which it is made.”.

- (3) In paragraph 2(7) for the words following paragraph (b) substitute—

“and in paragraph (b) above “the specified portion” has the same meaning as in paragraph 1A(3)(b) above.”.

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(4) After paragraph 2(7) insert—

“(7A) For the purposes of this paragraph any expression to which a meaning is given by section 11A of the Taxes Act 1988 has that meaning.”.

Marginal Citations

M5 1989 c. 26.

PART III

SUPPLEMENTARY PROVISIONS

Penalties

50 In the Table in section 98 of the ^{M6}Taxes Management Act 1970 (penalties for failure to comply with notice or to furnish information etc.), the entry “ regulations under section 431E(1) or 441A(3); ” shall be inserted—

- (a) in the first column after the entry relating to regulations under section 333 of the Taxes Act 1988, and
- (b) in the second column after the entry relating to section 375(5) of that Act.

Marginal Citations

M6 1970 c. 9.

Miscellaneous

- 51 (1) The Taxes Act 1988 is amended as follows.
- (2) Before section 432 insert the heading “ *Separation of different categories of business* ”.
 - (3) In the sidenote to section 432 for “classes” substitute “ categories ”.
 - (4) Before section 434 insert the heading “ *Miscellaneous provisions relating to life assurance business* ”.
 - (5) In the sidenote to section 436 for “Annuity business and pension business” substitute “ Pension business ”.

Commencement

- 52 The amendment made by paragraph 43(2) above shall be deemed always to have had effect.
- 53 (1) The amendments made by paragraph 17 above have effect in relation to accounting periods ending on or after 1st January 1994.
- (2) In the first accounting period of a company ending on or after 1st January 1994 in which the subsection (3) figure for any category of business exceeds the

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subsection (2) figure, the subsection (2) figure shall be treated as increased by an amount not exceeding the amount or aggregate amount of any subsection (2) excesses in relation to that category of business for accounting periods beginning on or after 1st January 1990 and ending before 1st January 1994, but not so as to produce a subsection (2) excess for that period.

For this purpose the subsection (2) excess for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 shall be determined without regard to the fact that in any other such accounting period the subsection (3) figure exceeded the subsection (2) figure.

Expressions used in this sub-paragraph have the same meaning as in section 432F of the Taxes Act 1988.

- (3) Where a transfer mentioned in section 444A of the Taxes Act 1988 took place at the end of an accounting period of the transferor beginning on or after 1st January 1990 and ending before 1st January 1994, section 444A(3A) shall have effect in relation to the transfer as if it read—

“(3A) Any subsection (2) excess (within the meaning of section 432F(2)) of the transferor for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to increase the subsection (2) figure (within the meaning of section 432F(1)) of the transferor in the first accounting period ending on or after 1st January 1994 in which the subsection (3) figure exceeded the subsection (2) figure—

- (a) shall, instead, be treated as a subsection (2) excess of the transferee, and
- (b) shall be taken into account to increase the subsection (2) figure of the transferee in its first accounting period ending on or after 1st January 1994 in which the subsection (3) figure exceeds the subsection (2) figure, but not so as to produce a subsection (2) excess for that period,

in relation to the revenue account of the transferee dealing with or including the business transferred.

For this purpose the subsection (2) excess for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 shall be determined without regard to the fact that in any other such accounting period the subsection (3) figure exceeded the subsection (2) figure.”.

- 54 The amendment made by paragraph 22 above applies in relation to distributions made by an insurance company in any accounting period ending after 30th September 1993.

- 55 (1) Subject to sub-paragraphs (2) and (3) below, the amendments made by the following provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st November 1994—

paragraph 1 so far as relating to the definition of “overseas life assurance business”,

paragraph 2 so far as relating to sections 431D and 431E of the Taxes Act 1988, paragraphs 3, 25, 30 to 33, 37, 38 and 45(1) and (3),

paragraph 46 so far as relating to paragraph 11A of Schedule 19AC to the Taxes Act 1988, and

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paragraphs 48 and 50.

- (2) Where the policy or contract for any life assurance business was made before 1st November 1994, the amendments made by this Schedule (and the repeals consequential on those amendments) shall not have effect for determining whether the business is overseas life assurance business.
- (3) Where the policy or contract for any life assurance business effected by a company resident in the United Kingdom at or through a branch or agency outside the United Kingdom was made before 29th November 1994, subsections (2) to (8) of section 431D of the Taxes Act 1988 shall not have effect for determining whether the business is overseas life assurance business.
- 56 The amendments made by paragraphs 41(a) and 43(1) above have effect in relation to foreign income dividends paid after 29th November 1994.
- 57 (1) Except as provided by paragraphs 52 to 56 above, and subject to sub-paragraph (2) below, the amendments made by provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st January 1995.
- (2) Section 442A of the Taxes Act 1988 does not apply in relation to the reinsurance of a policy or contract where the policy or contract was made, and the reinsurance arrangement effected, before 29th November 1994.
- 58 Any power to make regulations exercisable by virtue of an amendment made by any provision of this Schedule may be exercised so as to make provision having effect in relation to any accounting period in relation to which that provision has effect in accordance with paragraph 55 or 57 above.

Status:

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Changes to legislation:

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