These notes refer to the Finance Act 2012 (c.14) which received Royal Assent on 17 July 2012

FINANCE ACT 2012

EXPLANATORY NOTES

INTRODUCTION

Section 26: Abolition of Relief for Equalisation Reserves: General Insurers

Summary

1. Section 26 repeals sections 444BA to 444BD of the Income and Corporation Taxes Act 1988 (ICTA) that provide for tax relief for equalisation reserves maintained by general insurance companies. It also sets out transitional provisions following on from the repeal

Details of the Section

2. Subsection (1) repeals sections 444BA to 444BD of ICTA.

3. Subsection (2) sets out consequential repeals arising from the repeal of sections 444BA to 444BD of ICTA.

4. Subsection (3) provides that the amendments made by this section shall have effect in relation to accounting periods ending on or after a date to be specified in a Treasury order. Different days may be specified for different cases.

5. Subsection (4) provides that one sixth of an insurance company's existing equalisation or equivalent reserve is to be treated as a receipt of the company's business in each of the six calendar years beginning with the calendar year in which the date specified in an order made by the Treasury falls.

6. Subsection (5) provides that if there are different accounting periods falling in a calendar year, the receipt is to be apportioned between those periods by reference to the number of days of the calendar year falling in those periods.

7. Subsection (6) provides that if a company ceases to carry on the business in a calendar year before the expiry of the six year period referred to in subsection (4) any remaining balance of the existing equalisation or equivalent reserve is to be treated as a receipt of the company's business in the accounting period in which the company ceased to carry it on.

8. Subsection (7) defines the terms "equalisation reserve", "equivalent reserve", "existing equalisation or equivalent reserve" and "the company's business".

9. Subsection (8) sets out the tax treatment where an insurance company has made an election under section 444BA(4) of ICTA for an accounting period ending before the date specified in a Treasury order and such a sum would have been carried forward as a deductible amount. The amount shall be deducted from the amount of the equalisation or equivalent reserve as it stood immediately before the accounting period to which it would have been carried forward.

10. Subsection (9) provides that references to section 444BA of ICTA include that section as modified by sections 444BB or 444BC of that Act.

Background Note

11. There is currently a regulatory requirement for general insurance companies (but not members of Lloyd's) to maintain equalisation reserves in respect of certain lines of business. From 1996, amounts transferred into equalisation reserves were made tax deductible and transfers out were treated as taxable receipts of the company's business.

12. The relief currently available is dependent on the regulatory requirement for general insurance companies to maintain equalisation reserves. As a result of the European Union Solvency II Directive that requirement will be withdrawn.

13. An informal consultation took place between April and August 2011 with an industry working group. Both the Association of British Insurers and Lloyd's, representing general insurance companies and corporate and partnership members at Lloyd's, have been included in the consultation process.

14. Taking into account these discussions, the Government has decided to repeal the legislation that allows tax relief for equalisation reserves. The Government has also decided to introduce a transitional period for the release of built-up reserves that involves spreading that release in equal instalments over a 6 year period commencing from the date that the Solvency II capital requirements come into force. Insurers may also elect to have the full remaining balance of the built-up reserve released to tax in any calendar year during the transitional period.