



Finance Act 2012

2012 CHAPTER 14

PART 2

INSURANCE COMPANIES CARRYING ON LONG-TERM BUSINESS

CHAPTER 10

TRANSFERS OF LONG-TERM BUSINESS

Transfers of BLAGAB

128 Relief for transferee in respect of transferor's [^{F1}excess] BLAGAB expenses

(1) This section applies if, under an insurance business transfer scheme, there is a transfer of basic life assurance and general annuity business (or any part of that business) from one insurance company to another.

^{F2}(2)

^{F2}(3)

^{F2}(4)

(5) Relief at step 5 in section 76 is to be given to the transferee for any excess BLAGAB expenses for which, on the assumptions set out below, that relief would have been given to the transferor for an accounting period starting after the date of the transfer.

(6) For the purposes of this section it is to be assumed that—

(a) the transferor had continued to carry on the transferred business after the transfer, and

(b) the transferor had an accounting date ending with the date of the transfer (if that would not otherwise be the case).

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- (7) If the transfer is a transfer of part of the business, references in this section to any expenses are to be read as references to the appropriate part of the expenses.
- (8) Any relief given to the transferee as a result of this section is instead of any relief that would otherwise have been given to the transferor.

Textual Amendments

- F1** Word in [s. 128 heading](#) inserted (with effect in relation to accounting periods of companies beginning on or after 1.1.2023 of the commencing S.I.) by [Finance Act 2022 \(c. 3\), Sch. 5 paras. 3\(2\)\(h\)\(i\), 4; S.I. 2022/1164, reg. 2\(1\)](#) (with [reg. 2\(2\)](#))
- F2** [S. 128\(2\)-\(4\)](#) omitted (with effect in relation to accounting periods of companies beginning on or after 1.1.2023 of the commencing S.I.) by virtue of [Finance Act 2022 \(c. 3\), Sch. 5 paras. 3\(2\)\(h\)\(ii\), 4; S.I. 2022/1164, reg. 2\(1\)](#) (with [reg. 2\(2\)](#))

129 Intra-group transfers and demutualisation

- (1) This section applies if—
- (a) under an insurance business transfer scheme, there is a transfer of basic life assurance and general annuity business (or any part of that business) from one insurance company to another, and
 - (b) the transfer is a relevant intra-group transfer or is in connection with a demutualisation.
- (2) A transfer is a “relevant intra-group transfer” if—
- (a) the transferor and transferee are members of the same group of companies when the transfer occurs, and
 - (b) the transferee is within the charge to corporation tax in relation to the transfer.
- (3) A transfer is “in connection with a demutualisation” if—
- (a) it is for the purposes of the conversion of a company (under the law of any territory) from one without share capital to one with share capital (without any change of legal personality), or
 - (b) it is a transfer by a mutual life insurance company of all, or substantially all, of its basic life assurance and general annuity business to an insurance company which is not a mutual life insurance company,
- and for the purposes of paragraph (b) a “mutual life insurance company” means an insurance company which carries on mutual life assurance business.
- (4) For the purpose of calculating the BLAGAB trade profit or loss of the transferor for any accounting period, any amount in respect of the transfer that is debited or credited in accounts drawn up by the transferor in accordance with generally accepted accounting practice is to be ignored.
- (5) For the purpose of calculating the BLAGAB trade profit or loss of the transferee for any accounting period, any amount in respect of the transfer that is debited or credited in accounts drawn up by the transferee in accordance with generally accepted accounting practice is to be ignored.
- (6) But if there is a difference between—

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- (a) the net amount recognised by the transferee in respect of the transfer of contracts of long-term insurance or contracts made in the course of capital redemption business, and
- (b) the net amount recognised by the transferor in respect of the transfer of those contracts,

the amount of the difference is to be taken into account for the purpose of calculating the BLAGAB trade profit or loss of the transferee for the accounting period in which those contracts are transferred.

- (7) The difference is to be taken into account—
- (a) as a receipt (if, when added to the net amount in subsection (6)(b), the result is the net amount in subsection (6)(a)), and
 - (b) as an expense (if, when subtracted from the net amount in subsection (6)(b), the result is the net amount in subsection (6)(a)).
- (8) The net amount recognised by an insurance company in respect of the transfer of the contracts is determined by subtracting—
- (a) the total amount in respect of [^{F3}relevant] liabilities relating to the contracts that is or would be recognised for the purposes of a balance sheet drawn up at the relevant time by the company in accordance with generally accepted accounting practice, from
 - (b) the total amount in respect of [^{F4}relevant] assets relating to the contracts that is or would be recognised for those purposes,
- [^{F5}In this paragraph, “relevant liabilities” and “relevant assets” means those liabilities and assets which give rise to amounts that are taken into account as part of the calculation under Chapter 6 of Part 2, and “relevant time” means the time immediately before the transfer (in the case of the transferor) and the time immediately after it (in the case of the transferee).]
- (9) The Treasury may by order amend any of subsections (6) to (8).
- (10) This section does not apply to any amount that arises in respect of a transfer so far as the transfer consists of a with-profits fund transfer.

The reference here to a with-profits fund transfer is a reference to—

- (a) a transfer of business from a with-profits fund to a fund that is not a with-profits fund, or
- (b) a transfer of business from a fund that is not a with-profits fund to a with-profits fund.

- (11) If this section applies, the provisions of Part 4 of TIOPA 2010 (transfer pricing) do not apply.

Textual Amendments

- F3** Word in s. 129(8)(a) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Insurance Companies \(Amendment to Section 129 of, and Schedule 17 to, the Finance Act 2012\) Regulations 2015 \(S.I. 2015/1959\)](#), regs. 1, **2(2)**
- F4** Word in s. 129(8)(b) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Insurance Companies \(Amendment to Section 129 of, and Schedule 17 to, the Finance Act 2012\) Regulations 2015 \(S.I. 2015/1959\)](#), regs. 1, **2(2)**

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F5 Words in s. 129(8) substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Insurance Companies \(Amendment to Section 129 of, and Schedule 17 to, the Finance Act 2012\) Regulations 2015 \(S.I. 2015/1959\)](#), regs. 1, **2(3)**

130 Transfers between non-group companies: present value of in-force business

- (1) This section applies if—
- (a) under an insurance business transfer scheme, there is a transfer of basic life assurance and general annuity business (or any part of that business) from one insurance company to another,
 - (b) either the transferor and transferee are not members of the same group of companies when the transfer occurs or, if they are, the transfer consists of or includes a with-profits fund transfer within the meaning of section 129(10),
 - (c) the accounts of the transferee drawn up in accordance with generally accepted accounting practice include an asset that represents, as at the time of the transfer, the value of future profits arising from the relevant transferred business, and
 - (d) the asset is not one to which Part 8 of CTA 2009 (intangible fixed assets) applies.
- (2) Amounts in respect of the asset that are debited or credited in accounts drawn up by the transferee in accordance with generally accepted accounting practice are to be taken into account in calculating the BLAGAB trade profit or loss of the transferee.
- (3) In subsection (1)(c) “the relevant transferred business” means—
- (a) if the transferor and transferee are not members of the same group of companies when the transfer occurs, the business (or part of the business) transferred under the insurance business transfer scheme, and
 - (b) if the transfer consists of or includes a with-profits fund transfer, the business transferred by the with-profits fund transfer.
- (4) For the purposes of subsection (1)(c) no account is to be taken of an asset so far as it is regarded for accounting purposes as internally-generated.
- (5) This section does not apply so far as section 129(5) applies in relation to the transfer.
- (6) Nothing in this section is to apply in relation to transfers taking place before 1 January 2013.

[^{F6}130A Re-insurance in the course of transfer of BLAGAB

- (1) This section applies to a re-insurer in relation to the re-insurance of the whole, or part of, a cedant’s basic life assurance and general annuity business, if—
- (a) the business is not excluded business for the purposes of section 57(2)(e), and
 - (b) it is reasonable to suppose that the arrangements for the re-insurance are made, or are operated, in connection with an insurance business transfer scheme under which the business will be transferred to the re-insurer or a person connected with the re-insurer.
- (2) Where the arrangements are operated, but were not made, in connection with the insurance business transfer scheme, this section is to apply to the re-insurer from the later of—

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- (a) the beginning of the accounting period in which it is reasonable to suppose that the arrangements were first operated in connection with the transfer, and
 - (b) 15 December 2022.
- (3) Where this section applies in relation to re-insurance, that re-insurance (so far as it is of basic life assurance and general annuity business) is to be treated as excluded business for the purposes of section 57(2)(e) (and that business is referred to in this section as “the re-insured business”).
- (4) Accordingly—
- (a) the re-insured business is, or forms part of, the separate basic life assurance and general annuity business of the re-insurer (see section 66(2)), and
 - (b) accounting profit or loss and the tax adjustments (within the meaning of section 114(4)) referable to the re-insured business are, for the purposes of provision made by or under this Part or Schedule 5 to FA 2022, to be allocated to the basic life assurance and general annuity business.
- (5) But, subject to subsection (6), no amount referable to the re-insured business is to be included in the determination of the I-E profit of the re-insurer for an accounting period (and accordingly, subject to that subsection, the I-E profit referable to that business for the accounting period will be nil).
- (6) Any BLAGAB trade loss relieved for an accounting period (see section 78(5)) that is referable to the re-insured business is to be included (as a deduction in Step 4 in section 76) in determining the adjusted BLAGAB management expenses of the re-insurer for the accounting period (which, accordingly, may result in the I-E profit referable to that business for the accounting period being greater than nil).
- (7) Nothing in this section is to be taken to affect the liability of the cedant to corporation tax.
- (8) For the purposes of this section “arrangements” includes any agreement, scheme, transaction or understanding (whether or not legally enforceable).
- (9) Section 1122 of CTA 2010 (connected persons) has effect for the purposes of this section.]

Textual Amendments

- F6** S. 130A inserted (retrospective to 15.12.2022 and with effect in accordance with s. 30(2)-(4) of the amending Act) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), s. 30(1)

Changes to legislation:

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