Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XII

SPECIAL CLASSES OF COMPANIES AND BUSINESSES

CHAPTER I

INSURANCE COMPANIES, UNDERWRITERS AND CAPITAL REDEMPTION BUSINESS

Insurance companies: general

Modifications etc. (not altering text)

C1 See 1989 ss.82-92 for changes made by Finance Act 1989 and 1990 ss.41-48 for changes made by Finance Act 1990.

431 Interpretative provisions relating to insurance companies.

(1) [M1]This section has effect for the interpretation of this Chapter.

(2) [M2]Unless the context otherwise requires—

"annuity business" means the business of granting annuities on human life;

"general annuity business" means any annuity business which is not pension business **[**[F1]or overseas life assurance business**]**, and "pension business" shall be construed in accordance with subsections (3) and (4) below;

"annuity fund" means, where an annuity fund is not kept separately from the life assurance fund of an insurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts, as stated in its periodical returns;

[[F2]"basic life assurance business" means life assurance business other than general business, pension business and overseas life assurance business;

"closing" and "opening", in relation to a period of account, refer respectively to the position at the end and at the beginning of the period and, in relation to an accounting period, refer respectively to the position at the end and at the beginning of the period of account in which the accounting period falls;

"closing liabilities" includes liabilities assumed at the end of the period of account concerned in consequence of the declaration of reversionary bonuses or a reduction in premiums;

"industrial assurance business" has the same meaning as in the [M3]Insurance Companies Act 1982;**]**

"insurance company" means a company to which Part II of the Insurance Companies Act 1982 applies;

[[F3]"investment reserve", in relation to an insurance company, means the excess of the value of the assets of the company's long term business fund over the liabilities of the long term business;

"liabilities", in relation to an insurance company, means the liabilities of the company estimated as for the purposes of its periodical return (excluding any that have fallen due or been reinsured and any not arising under or in connection with policies or contracts effected as part of the company's insurance business);**]**

"life assurance business" includes annuity business;

[[F4]"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;

"long term business" has the meaning given by section 1(1) of the Insurance Companies Act 1982;

"long term business fund" means the fund maintained by an insurance company in respect of its long term business or, where the company carried on both ordinary long term business and industrial assurance business, either or both (as the context may require) of the two funds so maintained;**]**

"offshore income gain" has the same meaning as in Chapter V of Part XVII;

[[F5]"ordinary long term business" and "ordinary life assurance business" means respectively long term business and life assurance business that is not industrial assurance business;

"overseas life assurance business"—

(a) in the case of life assurance business other than reinsurance business, means business with a policy holder or annuitant not residing in the United Kingdom the policy or contract for which was effected at or through a branch or agency outside the United Kingdom where life assurance business is carried on; and

(b) in the case of reinsurance business, means business the contract for which was effected at or through a branch or agency outside the United Kingdom where none, or no significant part, of the reinsurance business carried on relates to life assurance business with policy holders or annuitants residing in the United Kingdom;

"overseas life assurance fund" shall be construed in accordance with Schedule 19AA;**]**

"overseas life insurance company" means an insurance company having its head office outside the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom; and

"periodical return", in relation to an insurance company, means a return deposited with the Secretary of State under Part II of the Insurance Companies Act 1982.

[[F6]"*policy holders' fraction*" *and* "*shareholders' fraction*" *shall be construed in accordance with section* 89*of the Finance Act* 1989.**]**

[[F7]"value", in relation to assets of an insurance company, means the value of the assets as taken into account for the purposes of the company's periodical return;

"with-profits liabilities" means liabilities in respect of policies or contracts under which the policy holders or annuitants are eligible to participate in surplus;**]**

[[F8](2A) Linked assets shall be taken to be linked solely to long term business of a particular category if, and only 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) [M4]Subject to section 439, any division to be made between general annuity business, pension business and other life assurance business shall be made on the principle of—

(a) referring to pension business any premiums falling within subsection (4) below, together with the incomings, outgoings and liabilities referable to those premiums and the policies and contracts under which they are or have been paid;

(b) allocating to general annuity business all other annuity business **[**[F9]that is not overseas life assurance business**]**;

and references to "pension fund" and "general annuity fund" shall be construed accordingly, whether or not any such funds are kept separate from the insurance company's life assurance fund.

(4) The premiums to be referred to pension business are those payable under contracts falling within one or other of the following descriptions, that is to say—

(a) [M5]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 any substituted contract within the meaning of section 622(3);

(b) [M6]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 insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme;

(c) a [M7]ny 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) [M8]a scheme which is approved or is being considered for approval under Chapter I of Part XIV;

[F10(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 approved by the Board and 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 as defined by section 612(1) (but no other benefits) are secured;

(e) any annuity contract approved by the Board which is entered into in substitution for a contract within paragraph (d) above;

(f) M9any 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).

(5) **[**F11 Subsection (4)(f) **]** above shall not apply to premiums payable under 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) M10In subsections (3) to (5) above "premium" includes any consideration for an annuity.

Textual Amendments

F1 1990 s.41*and* Sch.6 para.1(2)(a)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

F2 1990 s.41*and* Sch.6 para.1(2)(b)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

F3 1990 s.41*and* Sch.6 para.1(2)(b)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

F4 1990 s.41*and* Sch.6 para.1(2)(b)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

F5 1990 s.41*and* Sch.6 para.1(2)(b)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

F6 1989 s.84*and* Sch.8 para.1—*with respect to accounting periods beginning on or after* 1*January* 1990 (*including the* 1990*component period*).*Repealed by* 1990 s.132*and* Sch.19 Part IV—*repeal deemed always to have had effect.*

F7 1990 s.41*and* Sch.6 para.1(2)(b)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

F8 1990 s.41*and* Sch.6 para.1(3)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

F9 1990 s.41*and* Sch.6 para.1(4)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

F10 1989 s.75*and* Sch.6 paras.2*and* 18(1)*—deemed to have come into force on* 14*March* 1989.*Previously* "a statutory scheme as defined by section 612(1);".

F11 Words in s. 431(5) substituted (retrospectively) by Finance Act 1994 (c. 9), **Sch. 17 para. 4**

Modifications etc. (not altering text)

C2 *For application of definition see*—1975 (No.2) s.58(10)*—disposal of shares and securities.*1988 Sch.19 para.5(3)*—distributable income.*

Marginal Citations

M1 Source—1970 s.323(1); 1973 s.40(7); 1982 s.58(7)

M2 Source—1970 s.323(2); 1970(F) Sch.5 Pt.III 11(4)

M3 1982 c. 50.

M4 Source—1970 s.323(3); 1970(F) Sch.5 Pt.III 11(5); 1981 s.41

M5 Source—1970 s.323(4)(a); 1970(F) Sch.5 Part III 11(3); 1978 s.26(5)

M6 Source—1970 s.323(4)(aa); 1970(F) Sch.5 Part III 11(1)

M7 Source—1970 s.323(4)(ab); 1987 (No.2) s.39(3)

M8 Source—1970 s.323(4)(ac), (ad); 1987 (No.2) Sch.3 16

M9 Source—1970 s.323(4)(b)

M10 Source—1970 s.323(4)

VALID FROM 21/07/2008

[F12 431ZA Election that assets not be foreign business assets

(1) An insurance company may, in its company tax return for the first accounting period of the company beginning on or after 1 January 2008 in which any of the assets of the company's long-term insurance fund would (apart from this section) be foreign business assets, elect that none of the assets of the company's long-term insurance fund are to be regarded for the purposes of this Act as being foreign business assets.

(2) The election has effect for that accounting period and all subsequent accounting periods of the company.

(3) An election under subsection (1) is irrevocable.]

Textual Amendments

F12 S. 431ZA inserted (with effect in accordance with Sch. 17 para. 10(6)(7) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 10(2)**

[F13 431A Amendment of Chapter etc.

Where it is expedient to do so in consequence of the exercise of any power under the M11 Insurance Companies Act 1982, the Treasury may by order amend the provisions of this Chapter and any other provision of the Tax Acts so far as relating to insurance companies.]

Textual Amendments

F13 S. 431A inserted (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 2, **11(2)** (with Sch. 6 para. 12)

Marginal Citations

M11 1982 c. 50.

VALID FROM 03/05/1994

[F14 431AR Relevant benefits for purposes of section 431(4)(d) and (e).

(1) Subsection (2) below applies where—

(a) section 431(4)(d)(i) applies, or

(b) section 431(4)(e) applies and the contract within section 431(4)(d) was entered into for the purposes of a scheme falling within section 431(4)(d)(i).

(2) In such a case, relevant benefits fall within this section if they correspond with benefits that could be provided by a scheme approved under Chapter I of Part XIV, and for this purpose—

(a) a hypothetical scheme (rather than any particular scheme) is to be taken, and

(b) benefits provided by a scheme directly (rather than by means of an annuity contract) are to be taken.

(3) Subsection (4) below applies where—

(a) subsection 431(4)(d)(ii) applies, or

(b) section 431(4)(e) applies and the contract within section 431(4)(d) was entered into for the purposes of a scheme falling within section 431(4)(d)(ii).

(4) In such a case, relevant benefits fall within this section if they correspond with benefits that could be provided by a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV, and for this purpose—

(a) a hypothetical scheme (rather than any particular scheme) is to be taken, and

(b) benefits provided by a scheme directly (rather than by means of an annuity contract) are to be taken.

(5) Subsection (6) below applies where—

(a) section 431(4)(d)(iii) applies, or

(b) section 431(4)(e) applies and the contract within section 431(4)(d) was entered into for the purposes of a fund falling within section 431(4)(d)(iii).

(6) In such a case, relevant benefits fall within this section if they correspond with benefits that could be provided by a fund to which section 608 applies, and for this purpose—

(a) a hypothetical fund (rather than any particular fund) is to be taken, and

(b) benefits provided by a fund directly (rather than by means of an annuity contract) are to be taken.**]**

Textual Amendments

F14 S. 431AA inserted (with application in accordance with s. 143(5) of the amending Act) by Finance Act 1994 (c. 9), **s. 143(4)**

432 Separation of different classes of business.

(1) [M12]Where an insurance company carries on life assurance business in conjunction with insurance business of any other class, the life assurance business shall, for the purposes of the Corporation Tax Acts, be treated as a separate business from any other class of business carried on by the company.

(2) Where an insurance company carries on both ordinary life assurance business and **[**[F15]industrial assurance**]** business, the business of each such class shall, for the purposes of the Corporation Tax Acts, be treated as though it were a separate business, and section 76 **[**[F15]and where appropriate the provisions of this chapter**]** shall apply separately to each such class of business.

Textual Amendments

F15 1990 s.41*and* Sch.6 para.3(a), (b)*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.*Previously*
"industrial life assurance"
in subs.(2)*line* 2.

Marginal Citations

M12 Source—1970 s.307

[[F16]432A Apportionment of income and gains.

(1) This section has effect where—

(a) an insurance company carries on in any period both ordinary long term business and industrial assurance business, or life assurance business and other long term business, or more than one class of life assurance business, and

(b) it is necessary for the purposes of the Corporation Tax Acts to determine in relation to the period what parts of—

(i) income arising from the assets of the company's long term business fund, or

(ii) gains or losses accruing on the disposal of such assets, are referable to any of the categories of business in question.

(2) The classes of life assurance business referred to in subsection (1) above are—

(a) pension business;

(b) general annuity business;

(c) overseas life assurance business; and

(d) basic life assurance business.

(3) Income arising from, and gains or losses accruing on the disposal of, assets linked solely to ordinary long term business, industrial assurance business, life assurance

business, long term business other than life assurance business, pension business or basic life assurance business shall be referable to the category of business concerned.

(4) Income arising from, and gains or losses accruing on the disposal of, assets of the overseas life assurance fund (and no other assets) shall be referable to overseas life assurance business.

(5) There shall be referable to any category of business (apart from overseas life assurance business) the relevant fraction of any income, gains or losses not directly referable to any of the appropriate categories of business.

(6) For the purposes of subsection (5) above "the relevant fraction", in relation to a category of business, is the fraction of which—

(a) the numerator is the aggregate of—

(i) the mean of the opening and closing liabilities of the category, reduced by the mean of the opening and closing values of any assets directly referable to the category, and

(ii) the mean of the appropriate parts of the opening and closing amounts of the investment reserve; and

(b) the denominator is the aggregate of—

(i) the mean of the opening and closing liabilities of the long term business, reduced by the mean of the opening and closing values of any assets directly referable to any of the appropriate categories of business, and

(ii) the mean of the opening and closing amounts of the investment reserve.

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

(a) references to appropriate categories of business—

(i) where the category of business in question is ordinary long term business or industrial assurance business, are references to those categories of business;

(ii) where the category of business in question is life assurance business or long term business other than life assurance business, are references to those categories of business; and

(iii) where the category of business in question is pension business, general annuity business or basic life assurance business, are references to pension business and basic life assurance business; and

(b) income, gains or losses are directly referable to a category of business if referable to the category by virtue of subsection (3) above and 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.

(8) In subsection (6) above "appropriate part", in relation to the investment reserve, means—

(a) where all of the liabilities of the long term business are linked liabilities, the part of that reserve which bears to the whole the same proportion as the amount of the liabilities of the category of business in question bears to the whole amount of the liabilities of the long term business,

(b) where any of the liabilities of the long term business are not linked liabilities but none (or none but an insignificant proportion) are with-profits liabilities, the part of that reserve which bears to the whole the same proportion as the

amount of the liabilities of the category of business in question which are not linked liabilities bears to the whole amount of the liabilities of the long term business which are not linked liabilities, and

(c) in any other case, the part of that reserve which bears to the whole the same proportion as the amount of the with-profits liabilities of the category of business in question bears to the whole amount of the with-profits liabilities of the long term business;

and in this subsection "linked liabilities" means liabilities in respect of benefits to be determined by reference to the value of linked assets.

(9) Where the category of business in question is a class of life assurance business, for the purposes of this section—

(a) "liabilities" does not include liabilities of the overseas life assurance business; and

(b) assets of the overseas life assurance fund and liabilities of the overseas life assurance business shall be left out of account in determining the investment reserve.

(10) Subsection (5) above shall not apply in relation to gains or losses accruing on disposals deemed to have been made by virtue of section 46 of the Finance Act 1990 except where it is necessary to determine what parts are referable to different categories of business within subsection (3)(b) of that section (and shall apply in that case subject to appropriate modifications).]**]**

Textual Amendments

F16 1990 s.41*and* Sch.6 para.4*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.

Modifications etc. (not altering text)

C3 *Definition employed for purposes of* 1990 s.46*—annual deemed disposal of holdings of unit trusts etc. by insurance companies.*

432B [F17Apportionment of receipts brought into account.

(1) This section and sections 432C to 432E have effect where it is necessary in accordance with section 83 of the Finance Act 1989 to determine what parts of any items brought into account in the revenue account prepared for the purposes of the M13Insurance Companies Act 1982 are referable to life assurance business or any class of life assurance business.

(2) Where in addition to the revenue account prepared for the purposes of the Insurance Companies Act 1982 in respect of the whole of any business carried on by a company there are prepared for the purposes of that Act revenue accounts relating to parts of the business, amounts referred to in sections 432C to 432E shall, so far as they relate to those parts, be ascertained by reference to the latter accounts rather than by reference to the former.

(3) Sections 432C and 432D apply where the business with which an account is concerned ("the relevant business") relates exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus; and section 432E

applies where the relevant business relates wholly or partly to other policies or contracts.]

Textual Amendments

F17 1990 s.41 and Sch.6 para.4 on and after 1 January 1990 subject to the commencement provisions of paras.11 and 12.

Modifications etc. (not altering text)

C4 S. 432B modified by S.I. 1992/1655, **reg. 9**, as amended (with effect in accordance with reg. 1(2)(3) of the amending instrument) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **reg. 8**, 1(1)

C5 ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S. I. 1992/1655, **regs. 1**,10

C6 S. 432B modified (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1992/1655, **regs. 1**, 9(1)

Marginal Citations

M13 1982 c. 50.

432C [F18Section 432B apportionment: income of non-participating funds.

(1) To the extent that the amount brought into account as income is attributable to assets linked solely to life assurance business, pension business or basic life assurance business, it shall be referable to the category of business concerned.

(2) To the extent that that amount is attributable to assets of the overseas life assurance fund, it shall be referable to overseas life assurance business.

(3) There shall be referable to any category of business (apart from overseas life assurance business) the relevant fraction of so much of the amount brought into account as income as is not directly referable to any of the appropriate categories of business.

(4) For the purposes of subsection (3) 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

(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 of the appropriate categories of business.

(5) For the purposes of subsections (3) and (4) above—

(a) references to appropriate categories of business—

(i) where the category of business in question is life assurance business, are references to that category of business and long term business other than life assurance business; and

(ii) where the category of business in question is pension business, general annuity business or basic life assurance business, are references to pension business and basic life assurance business; and

(b) the part of the amount brought into account as income 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 income as is attributable to them is so referable.

(6) Where the category of business in question is a class of life assurance business, for the purposes of this section "liabilities" does not include liabilities of the overseas life assurance business.]

Textual Amendments

F18 1990 s.41 and Sch.6 para.4 on and after 1 January 1990 subject to the commencement provisions of paras.11 and 12.

432D [F19Section 432B apportionment: value of non-participating funds.

(1) To the extent that the amount brought into account as the increase or decrease in the value of assets is attributable to assets linked solely to life assurance business, pension business or basic life assurance business, or to assets of the overseas life assurance fund which are linked solely to overseas life assurance business, it shall be referable to the category of business concerned.

(2) There shall be referable to any category of business the relevant fraction of the amount brought into account as the increase or decrease in the value of assets except so far as the amount is attributable to assets which are directly referable to any of the appropriate categories of business.

(3) Subsections (4) and (5) (but not (6)) of section 432C shall apply for the purposes of this section as if—

(a) each of the references to a subsection of that section were a reference to the corresponding subsection of this section, and

(b) in subsection (5)—

(i) a reference to overseas life assurance business were included after each of the references to pension business in paragraph (a)(ii), and

(ii) each of the references in paragraph (b) to income were a reference to the increase or decrease in the value of assets.]

Textual Amendments

F19 1990 s.41 and Sch.6 para.4 on and after 1 January 1990 subject to the commencement provisions of paras.11 and 12.

432E [F20Section 432B apportionment: participating funds.

(1) The part of the net amount of the items referred to in subsection (1) of section 83 of the Finance Act 1989 (that is to say the income referred to in paragraph (a) of that subsection increased or reduced by the increase or reduction in the value referred to in paragraph (b)) which is referable to a particular category of business shall be—

(a) the amount determined in accordance with subsection (2) below, or

(b) the amount determined in accordance with subsection (3) below,

whichever is the greater.

(2) For the purposes of subsection (1) above there shall be determined the amount which is such as to secure—

(a) in a case where the relevant business is mutual business, that

$$\mathrm{CAS} = \mathrm{CS}$$

,and

(b) in any other case, that

$$\mathrm{CS} - \mathrm{CAS} = \left(S - \mathrm{AS}\right) \times \frac{\mathrm{CAS}}{\mathrm{AS}}$$

where—

S is the surplus of the relevant business;

AS is so much of that surplus as is allocated to persons entitled to the benefits provided for by the policies or contracts to which the relevant business relates;

CAS is so much of the surplus so allocated as is attributable to policies or contracts of the category of business concerned; and

CS is so much of the surplus of the relevant business as would remain if the relevant business were confined to business of the category concerned.

(3) For the purposes of subsection (1) above there shall also be determined the aggregate of—

(a) the applicable percentage of what is left of the mean of the opening and closing liabilities of the relevant business so far as referable to the category of business concerned after deducting from it the mean of the opening and closing values of any assets of the relevant business linked solely to that category of business, and

(b) the part of the net amount mentioned in subsection (1) above that is attributable to assets linked solely to that category of business.

(4) For the purposes of subsection (3) above "the applicable percentage", in any case, is such percentage as may be determined for that case by or in accordance with an order made by the Treasury.

(5) Where the part of the net amount referable to a particular category or categories of business ("the subsection (3) category or categories") is the amount determined in accordance with subsection (3) above, the amount determined in accordance with subsection (2) above in relation to any other category ("the relevant category") shall be reduced by—

$$\frac{\mathrm{XY}}{Z}$$

where—

X is the excess of the amount determined in accordance with subsection (3) above in the case of the subsection (3) category (or each of them) over the amount determined in its case (or the case of each of them) in accordance with subsection (2) above;

Y is so much of the surplus of the relevant business as is allocated to persons entitled to the benefits provided for by policies or contracts of the relevant category; and

Z is so much of the surplus of the relevant business as is allocated to persons entitled to the benefits provided for by policies or contracts of the category (or each of the categories) which is not a subsection (3) category.

(6) Where the category of business concerned is overseas life assurance business—

(a) if the part of the income brought into account that is attributable to assets of the overseas life assurance fund not linked solely to overseas life assurance business is greater than the amount arrived at under subsection (3)(a) above, this section shall have effect as if that part of that income were the amount so arrived at; and

(b) the amount which, apart from this paragraph, would be the part of the net amount referable to that category of business shall be—

(i) reduced by the part of the net amount attributable to distributions of companies resident in the United Kingdom relating to assets of the company's overseas life assurance fund, and

(ii) increased by the amount which is income of the relevant business by virtue of section 441A.

Textual Amendments

F20 1990 s.41 and Sch.6 para.4 on and after 1 January 1990 subject to the commencement provisions of paras.11 and 12.

Modifications etc. (not altering text)

C7 Ss. 432B-432E excluded (31.7.1992 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1992/1655, **regs. 1**,10

C8 *For orders see* Part III Vol.5 (*under* "*Life assurance apportionment of participating funds: applicable percentage*").

433 Profits reserved for policy holders and annuitants.

M14 Where the profits of an insurance company in respect of its life assurance business are, for the purposes of this Act, computed in accordance with the provisions of this Act applicable to Case I*of Schedule D, such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants shall be excluded in making the computation, but if any profits so excluded as being reserved for policy holders or annuitants cease at any time to be so reserved and are not allocated to or expended on behalf of policy holders or annuitants, those profits shall be treated as profits of the company for the accounting period in which they ceased to be so reserved.* F21

Textual Amendments

F21 *Repealed by* 1989 ss.84*and* 187*and* Schs.8 para.2*and* 17 Part IV —*deemed to have come into force on* 14*March* 1989.*For effect see* s.84(6).

Marginal Citations

M14 Source—1970 s.309

434 Franked investment income etc.

(1) [M15]Section 208 shall not prevent franked investment income of a company resident in the United Kingdom which carries on life assurance business from being taken into account as part of the profits in computing trading income in accordance with the provisions applicable to Case I of Schedule D.

(2) In ascertaining for the purposes of section 393 or 394 whether and to what extent a company has incurred a loss on its life assurance business, any profits derived from the investments of its life assurance fund (including franked investment income of a company so resident) shall be treated as part of the profits of that business.

[[F22](3) Subject to sections 437 and 438, the **[**[F23]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 and, accordingly, for the purposes of that Chapter (other than the application of franked investment income under section 241), in relation to any unrelieved income of a company falling within subsection (1) above, the surplus of franked investment income for any accounting period means the aggregate of—

(a) the **[**[F23]policy holders' share**]** of that franked investment income **[**[F24]from investments held in connection with the company's life assurance business**]**; and

(b) the amount determined under section 241(3) on the basis that the reference therein to franked investment income is a reference **[**[F25]to that income excluding the amount within paragraph (a) above**]**.

(3A) The policy holders' **[**[F26]share**]** of the franked investment income from investments held in connection with a company's life assurance business shall be left out of account in determining, under subsection (7) of section 13, the franked investment income forming part of the company's profits for the purposes of that section.**]**

(4) [M16]*Subject to subsection* (5)*below, the specified part shall be, in the case of any unrelieved income, the same fraction of it as the fraction which, on a computation of the profits of the company in respect of its life assurance business in accordance with the provisions applicable to Case* I*of Schedule D* (*whether or not the company is in fact charged to tax under that Case for the relevant accounting period or periods*),*would be connoted by the words in section* 433 "*such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants*". [F27]

(5) *If the income exceeds the profits as computed in accordance with the provisions applicable to Case* I*of Schedule D other than section 433, the specified part shall be that fraction of the income so far as not exceeding the profits, together with the amount of the excess*. [F27]

(6) M17For the purposes of section 239 the profits charged to corporation tax for any accounting period (as defined in subsection (6) of that section) shall be reduced by deducting **[**F28the policy holders' share of the relevant profits**]**.

[F29(6A) For the purposes of this section—

(a) "the policy holders' share" of any franked investment income is so much of that income as is not the shareholders' share within the meaning of section 89 of the Finance Act 1989, and

(b) "the policy holders' share of the relevant profits" has the same meaning as in section 88 of that Act.**]**

(7) M18For the purposes of subsection **[**F30(3)**]** above "unrelieved income" means income which has not been excluded from charge to tax by virtue of any provision and against which **[**F31disregarding relief under section 242**]** no relief has been allowed by deduction or set-off.

(8) M19Where subsection (3) or (6) above would deny to a company any relief to which it would have been entitled if it had been charged to tax in respect of its life assurance business under Case I of Schedule D, corresponding relief shall be afforded to the company by repayment of, or set-off against, corporation tax or by payment of tax credit comprised in franked investment income from investments held in connection with that business.

Textual Amendments

F22 1989 s.84*and* Sch.8 para.3(1),*and subject to* s.84(6),*has effect with respect to accounting periods beginning on or after* 1*January* 1990 (*including the* 1990*component period*).*Previously*
"(3) Any such part of the franked investment income from investments held in connection with a company's life assurance business as is specified in subsection (4) below ("the specified part") shall not be used under Chapter V of Part VI to frank distributions made by the company.".

F23 1990 s.45(4)(a).*Previously*
"policy holders' fraction".

F24 1990 s.45(4)(b).

F25 1990 s.45(4)(c).*Previously*
"only to the shareholders' fraction of that income.".

F26 1990 s.45(5).*Previously*
"fraction".

F27 *Repealed by* 1989 ss.84*and* 187*and* Sch.8 para.3(2)*and* Sch.17 Part IV*with respect to accounting periods beginning on or after* 1*January* 1990.

F28 1990 s.45(6).*Previously*
"therefrom [the policyholders' fraction thereof (1989 s.84*and* Sch.8 para.3(3),*and subject to* s.84(6),*has effect with respect to accounting periods beginning on or after* 1*January* 1990 (*including the* 1990*component period*).*Previously*
"such fraction thereof as is equal to the fraction of the profits of the company in respect of its life assurance business which under section 433 is excluded from the computation of those profits or would be so excluded if the profits were computed in accordance with the provisions applicable to Case I of Schedule D.".)].".

F29 1990 s.45(7).

F30 1989 s.84*and* Sch.8 para.3(4),*and subject to* s.84(6),*has effect with respect to accounting periods beginning on or after* 1*January* 1990 (*including the* 1990*component period*).*Previously*
"(4)."

F31 1989 s.84*and* Sch.8 paras.3(4), 4,*respectively and subject to* s.84(6),*has effect with respect to accounting periods beginning on or after* 1*January* 1990 (*including the* 1990*component period*).

Marginal Citations

M15 Source—1970 s.308(1), (2)
M16 Source—1970 s.310(6)
M17 Source—1972 Sch.18 2(4); 1987 (No.2) s.75(1)(b)
M18 Source—1970 s.310(7); 1984 s.18(5)
M19 Source—1972 Sch.18 2(5)

[F32 434A Limitations on loss relief and group relief.

(1) In the case of a company carrying on life assurance business, no relief shall be allowable under Chapter II (loss relief) or Chapter IV (group relief) of Part X against the policy holders' **[**F33share**]** of the relevant profits for any accounting period.

(2) For the purposes of subsection (1) above, **[**F33"the policy holders' share of the relevant profits" has the same meaning as in section 88 of the Finance Act 1989.**]]**

Textual Amendments

F32 1989 s.84*and* Sch.8 paras.3(4), 4,*respectively and subject to* s.84(6),*has effect with respect to accounting periods beginning on or after* 1*January* 1990 (*including the* 1990*component period*).

F33 1990 s.45(8).*Previously*
"fraction"
and
"the relevant profits of a company for an accounting period are the total profits of its life assurance business, less any deduction due under section 76, but before allowing any relief under Chapter II or Chapter IV of Part X"
respectively.

435 Taxation of gains reserved for policy holders and annuitants.

(1) *M20 This section has effect in relation to any accounting period of an insurance company carrying on life assurance business and for the purposes of this section—*

(a) *the life assurance gains are such part of the amount to be included, in accordance with section* 345,*in the company's total profits as is attributable to gains from investments held in connection with the company's life assurance business;*

(b) *the policy holders' share of the life assurance gains or of the relevant reliefs is such fraction thereof as is equal to the fraction of the profits of the company in respect of its life assurance business which, under section* 433,*is excluded from the computation of those profits or would be so excluded if the profits were computed in accordance with the provisions applicable to Case* I*of Schedule D; and*

(c) *the relevant reliefs are such of the sums to be deducted from or set off against the company's profits as are deducted from or set off against the life assurance gains.*

(2) *M21 Corporation tax charged on so much of the policy holders' share of the life assurance gains as remains after setting against it the amounts referred to in subsection* (3)(c)*below shall be calculated on the basis of a rate of corporation tax of* 30*per cent.*

(3) *For the purposes of this section there shall be ascertained the policy holders' share and the remainder* ("*the residual part*")*of the life assurance gains and of the relevant reliefs; and—*

(a) *the residual part of the relevant reliefs shall be set against the residual part of those gains; and*

(b) *if the residual part of the relevant reliefs exceeds the residual part of those gains, the excess* (*or so much of it as does not, together with the policy holders' share of the relevant reliefs, exceed the policy holders' share of those gains*)*shall be added to the policy holders' share of the relevant reliefs; and*

(c) *the policy holders' share of the relevant reliefs, with any addition made under paragraph* (b)*above, shall be set against the policy holders' share of the life assurance gains*. **F34**

Textual Amendments

F34 *Repealed by* 1989 ss.84*and* 187*and* Schs.8 para.5*and* 17 Part IV,*and subject to* s.84(6)*has effect with respect to accounting periods beginning on or after* 1*January* 1990 (*including the* 1990*component period*).

Marginal Citations

M20 Source—1974 s.26(1), (4)

M21 Source—1974 s.26(2), (3); 1987 (No.2) s.75(2), (3)

436 Annuity business and pension business: separate charge on profits.

(1) **M22**Subject to the provisions of this section, profits arising to an insurance company from general annuity business or pension business shall be treated as income within Schedule D, and be chargeable under Case VI of that Schedule, and for that purpose—

(a) the business of each such class shall be treated separately, and

(b) subject to paragraph (a) above, and to subsection (3) below, the profits therefrom shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.

(2) Subsection (1) above shall not apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its ordinary life assurance business.

(3) **M23**In making the computation referred to in subsection (1) above—

(a) **[**F35sections 82 and 83 of the Finance Act 1989**]**shall apply with the necessary modifications and in particular with the omission of all references to policy holders (other than holders of policies referable to pension business) **[**F36and of the words "tax or" in section 82(1)(a)**]**;

(b) *no deduction shall be allowed in respect of any expenses of management deductible under section* 76; **F37**

(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 pension business or general annuity business in any previous accounting period or year of assessment;

(d) where the computation in question is of profits arising to an insurance company from pension business—

[F38(i) group income so far as referable to pension business shall be deducted from the receipts to be taken into account,**]**

(ii) annuities shall be deductible notwithstanding section 337(2);

and the 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 pension business; and

(e) distributions which are not qualifying distributions shall not be taken into account where the computation in question is of the profits arising to an insurance company or overseas life insurance company from general annuity business or pension business.

(4) M24Section 396 shall not be taken to apply to a loss incurred by a company on its general annuity business or pension business.

(5) M25Nothing in section 128 or 399(1) shall affect the operation of this section.

Textual Amendments

F35 1989 s.84*and* Sch.8 para.6*and, subject to* s.84(6)*deemed to have come into force on* 14*March* 1989.*Previously*
"section 433".

F36 1990 s.43(2).*Subject to* 1989 s.84(6)*this amendment has effect with respect to accounting periods beginning on or after* 1*January* 1990.

F37 *Words repealed by* 1989 ss.87(4)*and* 187*and* Sch.17 Part IV*with respect to accounting periods beginning on or after* 1*January* 1990. (See 1989 s.87(5)*in relation to straddling periods*).

F38 1990 s.41*and* Sch.6 para.5*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.*Previously*
"(i) group income shall be not be taken into account as part of those profits, and".

Modifications etc. (not altering text)

C9 *See also* 1989 s.43—*certain Sch.D computations involving emoluments.*

Marginal Citations

M22 Source—1970 s.312(1); 1970(F) Sch.5 Part III 11(3)

M23 Source—1970 s.312(2), 314(5); 1970(F) Sch.5 Part III 11(6)(a)(b); 1972 Sch.18 5(1)(a)

M24 Source—1970 s.312(3); 1970(F) Sch.5 Part III 11(3)

M25 Source—1985 s.72(7)

437 General annuity business.

(1) M26In the case of a company carrying on general annuity business, the annuities paid by the company, so far as referable to that business and so far as they do not exceed the taxed income of the part of the annuity fund so referable, shall be treated as charges on income.

(2) M27In computing under section 436 the profits arising to an insurance company from general annuity business—

[F39(a) taxed income, group income and income attributable to offshore income gains, so far as referable to general annuity business, shall be deducted from the receipts to be taken into account;**]** and

(b) M28of the annuities paid by the company and referable to general annuity business—

(i) those which under subsection (1) above are treated as charges on income shall not be deductible, and

(ii) those which are not so treated shall (notwithstanding section 337(2)) be deductible.

(3) [M29]In subsections (1) and (2) above "taxed income" means income charged to corporation tax otherwise than under section 436, and franked investment income.

(4) [M30]Subject to subsection (5) below, franked investment income which is taken into account under subsection (2) above to enable annuities referable to general annuity business to be treated as charges on income shall not be used under Chapter V of Part VI to frank distributions made by the company.

(5) [M31]For the purposes of subsection (4) above there shall be deducted from the amount of the franked investment income of the company arising in any accounting period and taken into account under subsection (1) above—

(a) the amount of any profit arising in that accounting period to the company from general annuity business and computed under section 436; and

(b) the amount of any group income arising in that accounting period to the company and referable to its general annuity business.

(6) A company which is not resident in the United Kingdom but carries on through a branch or agency there any general annuity business shall not be entitled to treat any part of the annuities paid by it which are referable to that business as paid out of profits or gains brought into charge to income tax.

Textual Amendments

F39 1990 s.41*and* Sch.6 para.6*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12;*Previously*
"(a) taxed income, group income and income attributable to offshore income gains shall not be taken into account as part of those profits;".

Marginal Citations

M26 Source—1970 s.313(1)
M27 Source—1970 s.313(2)(a); 1985 Sch.25 7
M28 Source—1970 s.313(2)(b)
M29 Source—1970 s.313(3)
M30 Source—1970 s.313(4); 1972 Sch.18 3
M31 Source—1970 s.313(5), (6)

438 Pension business: exemption from tax.

(1) [M32]Exemption from corporation tax shall be allowed in respect of income from, and chargeable gains in respect of, investments and deposits of so much of an insurance company's life assurance fund and separate annuity fund, if any, as is referable to pension business.

(2) [M33]The exemption from tax conferred by subsection (1) above shall not exclude any sums from being taken into account as receipts in computing profits or losses for any purpose of the Corporation Tax Acts.

(3) [M34]Subject to subsection (6) below, the exclusion by section 208 from the charge to corporation tax of franked investment income shall not prevent such income being taken into account as part of the profits in computing under section 436 income from pension business.

(4) [M35]If in the case of any company the income referred to in subsection (1) above includes a distribution in respect of which the company is entitled to a tax credit, the company may, subject to subsections (5) and (6) below, claim to have the amount of that credit paid to it.

(5) If the company is resident in the United Kingdom (so that the distribution and the tax credit in question constitute franked investment income of that company), no franked investment income comprising any tax credit which is paid under subsection (4) above shall, subject to subsection (6) below, be used under Chapter V of Part VI to frank the company's distributions.

(6) [M36]If for any accounting period there is, apart from this subsection, a profit arising to an insurance company from pension business and computed under section 436, and the company so elects as respects all or any part of its **[**[F40]relevant**]** franked investment income arising in that period, being an amount of franked investment income not exceeding the amount of that profit, subsections (3) to (5) above shall not apply to the franked investment income to which the election relates.

[[F41](6A) In subsection (6) above "relevant franked investment income" means the shareholders' share of franked investment income within subsection (1) above, and for this purpose "shareholders' share" has the same meaning as for the purposes of section 89 of the Finance Act 1989.**]**

(7) An election under subsection (6) above shall be made by notice given to the inspector not later than two years after the end of the accounting period to which the election relates or within such longer period as the Board may by notice allow.

(8) [M37]Nothing in sections 431(4)(c) or 643(2) of this Act or section 149B(1)(h) of the 1979 Act shall be construed as affording relief in respect of any sums to be brought into account under this section.

Textual Amendments

F40 1990 s.45(9).

F41 1990 s.45(9).

Marginal Citations

M32 Source—1970 s.314(1); 1970(F) Sch.5 Part III 11(3), (6)(c)

M33 Source—1970 s.314(2)

M34 Source—1970 s.314(3)(a); 1970(F) Sch.5 Part III 11(3)

M35 Source—1972 Sch.18 4(1), (2)

M36 Source—1970 s.314(4); 1970(F) Sch.5 Part III 11(3); 1972 Sch.18 4(2)

M37 Source—1987 (No.2) s.39(3)

VALID FROM 02/10/1992

[438A [F42]Pension business: payments on account of tax credits and deducted tax.

Schedule 19AB shall have effect.**]**

Textual Amendments

F42 S. 438A inserted (2.10.1992) by Finance Act 1991 (c. 31, SIF 63:1), **s. 49(1)**; S.I. 1992/1746, **art.2**

439 Restricted government securities.

[[F43](1) For the purposes of this Chapter restricted government securities shall be treated as linked solely to pension business.

(2) In this section**]**

"restricted government securities" means, subject to the following provisions of this section, government securities issued on the condition that, except in such circumstances as may be specified in the conditions of issue, they are to be held by insurance companies against and applied solely towards meeting pension business liabilities.

(6) [M38]Subject to subsection (7) below, the following Treasury Stock, namely—

(a) 2 per cent. Index-linked Treasury Stock 1996;

(b) 2 per cent. Index-linked Treasury Stock 2006;

(c) 2 per cent. Index-linked Treasury Stock 2011;

are not restricted government securities for the purposes of this section.

(7) If any of the index-linked stock referred to in subsection (6) above was on 27th March 1982 held by an insurance company against and applied solely towards meeting the liabilities of the company's pension business, then—

(a) [M39]if and so long as the stock continues to be so held by that company, it shall continue to be treated as restricted government securities for the purposes of this section; and

(b) [M40]if the stock ceases to be restricted government securities otherwise than by virtue of being actually disposed of or redeemed, on the day on which it so ceases the stock shall be deemed for the purposes of corporation tax, including (*subject to subsection* (8)*below*) [F44] corporation tax on chargeable gains, to have been disposed of and immediately re-acquired at its market value on that date.

(8) [M41]*For the purposes of sections* 67*and* 68*of the* 1979*Act* (*gilt-edged securities*)—

(a) *in ascertaining the date on which securities were acquired, no account shall be taken of any deemed disposal and reacquisition resulting from subsection* (7)(b)*above; and*

(b) *so long as any index-linked stock continues, by virtue of subsection* (7)(a)*above, to be treated as restricted government securities for the purposes of this section, it shall be regarded as being stock of a different kind from the*

index-linked stock referred to in subsection (6)*above which is not so treated*.
F44

Textual Amendments

F43 1990 s.41*and* Sch.6 para.7*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.*Previously*
"(1) This section applies where for any accounting period—(a) any division falls to be made between the pension business and any other kind of long-term business of an insurance company, and (b) any of the income or gains or losses of the company for that period relate to restricted government securities; and where this section applies section 431(3) shall have effect subject to the provisions of this section. (2) All income, gains or losses of the company which relate to restricted government securities shall be referred to its pension business. (3) Where the division of the other income, gains or losses of the company is made by reference to the liabilities at any time in the accounting period which are referable to pension business or to two or more kinds of business including pension business, those liabilities shall be treated as reduced by the appropriate amount. (4) In subsection (3) above "the appropriate amount" means—(a) in a case in which the total liabilities of the company at the time in question which are referable to long-term business are less than the market value at that time of the investments and deposits held by the company relating to all such business, such proportion of the market value of the restricted government securities held by the company at that time as those liabilities bear to the market value of those investments and deposits, and (b) in any other case, the market value of the restricted government securities at that time. (5) In this section— "long-term business" has the same meaning as in section 1(1) of the Insurance Companies Act 1982;".

F44 *Repealed by* 1990 s.132*and* Sch.19 Part IV.

Marginal Citations

M38 Source—1982 s.58(1), (3)
M39 Source—1982 s.58(4)
M40 Source—1982 s.58(5)
M41 Source—1982 s.58(6)

[F45440 Transfers of assets etc.

(1) If at any time an asset (or a part of an asset) held by an insurance company ceases to be within one of the categories set out in subsection (4) below and comes within another of those categories, the company shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) for a consideration equal to its market value at that time.

(2) Where—

(a) an asset is acquired by a company as part of the transfer to it of the whole or part of the business of an insurance company ("the transfer") in accordance with a scheme sanctioned by a court under section 49 of the M42Insurance Companies Act 1982, and

(b) the asset (or part of it) is within one of the categories set out in subsection (4) below immediately before the acquisition and is within another of those categories immediately afterwards,

the transferor shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) immediately before the acquisition for a consideration equal to its market value at that time.

(3) Where, apart from this subsection, section 273 or 274 of the 1970 Act (transfers within a group) would apply to a disposal or acquisition by an insurance company of an asset (or part of an asset) which, immediately before the disposal or (as the case may be) immediately after the acquisition, is within one of the categories set out in paragraphs (a) to (d) subsection (4) below, that section shall not apply to the disposal or acquisition.

(4) The categories referred to in subsections (1) to (3) above are—

(a) assets linked solely to basic life assurance business;

(b) assets linked solely to pension business;

(c) assets of the overseas life assurance fund;

(d) assets of the long term business fund not within any of the preceding paragraphs;

(e) other assets.

(5) In this section "market value" has the same meaning as in the 1979 Act.]**]**

Textual Amendments

F45 1990 s.41*and* Sch.6 para.8*on and after* 1*January* 1990*subject to the commencement provisions of* paras.11*and* 12.*But not to affect the operation of the original* s.440*before* 20*March* 1990*or of* subs. (6)*and* (7)*of that section in relation to the disposal of an asset which has not been deemed to be disposed of before the day of the disposal. Previously*

"Identification or exchange of long term assets.**440.**—(1) The provisions of this section apply to any insurance company which carries on or has carried on long term business, and shall have effect for all purposes of the Corporation Tax Acts. (2) Subject to subsection (4) below, a profit or loss shall not be taken to arise in respect of any asset of the company by reason only that at any time after the base date the asset was or is exchanged for other assets of the company so as to become or cease to be part of the long term assets. (3) Subject to subsection (5) below, if an asset of the company which has at any time after 29th April 1975 been exchanged as mentioned in subsection (2) above is—(a) within the period of one year beginning with the date of that exchange ("the relevant exchange") exchanged again for other assets of the company so as to cease to be or, as the case may be, become part of the long term assets; or (b) within the period of six months beginning with the date of the relevant exchange disposed of by the company, then any income arising in respect of the asset after the relevant exchange, and any profit, gain or loss accruing to the company on a disposal of the asset made after the relevant exchange, shall be treated as if the relevant exchange had not taken place. (4) If an insurance company to which this section applies by notice given to the inspector so elects, then, where in the relevant period any relevant asset of the company was or is exchanged as mentioned in subsection (2) above—(a) that subsection shall not apply in relation to that asset as regards that exchange; and (b) the company shall be treated as if the asset had been disposed of at market value by the company at the time of the exchange. In this and the following subsection— "the relevant period", in relation to a notice under this subsection, means the period of six years from the end of the accounting period of the company in which the notice is given; "relevant asset", in relation to an insurance company, means an asset of the company such that, if it were sold, the proceeds would be taken into account in any computation of profits of the company in accordance with the provisions of this Act applicable to Case I of Schedule D. (5) Where an insurance company has given a notice under subsection (4) above, subsection (3) above shall, as regards relevant assets disposed of by the company in the relevant period, have effect as if paragraph (b) and the reference to any profit, gain or loss accruing to the company on a disposal made after the relevant exchange were omitted. (6) If at any time after the base date an insurance company to which this section applies disposed or disposes of an asset which—(a) was or is part of the long term assets at the time of the disposal, but without having been continuously part of those assets since its acquisition by the company; or (b) was or is not

part of the long term assets at the time of the disposal, but without having been continuously not part of those assets since its acquisition by the company, the asset shall be treated, in a case falling within paragraph (a) above, as if it had been continuously part of the long term assets from the time of its acquisition by the company to the time of the disposal, or, in a case falling within paragraph (b) above, as if it had been continuously not part of the long term assets from the time of its acquisition by the company to the time of its disposal; and if the disposal is one as respects which subsection (3) above applies, this subsection shall apply as if the relevant exchange (within the meaning of that subsection) had not taken place. (7) Without prejudice to subsection (6) above, if—(a) an insurance company to which this section applies disposes of an asset which, since its acquisition by the company, has on one or more occasions (whether after the base date or not) been exchanged for other assets of the company; and (b) as regards that occasion or one or more of those occasions the company was assessed to income tax or corporation tax in an amount computed by reference to the value of the asset at the time of the exchange, then, in computing for any purpose of the Corporation Tax Acts the profit, gain or loss (if any) arising on the disposal, the asset shall be deemed to have been acquired by the company on the occasion or latest of the occasions mentioned in paragraph (b) above at a cost equal to the value by reference to which the company was so assessed as regards that occasion. (8) There shall be made such assessments, reductions of assessments or, on a claim in that behalf, repayments of tax as may in any case be required in order to give effect to subsection (3) or (4) above. (9) In this section, unless the context otherwise requires, "asset" includes part of an asset and any reference to a disposal of part of an asset includes a reference to a part disposal of an asset within the meaning of section 19(2)(b) of the 1979 Act; and where part of an asset is exchanged or disposed of as mentioned in any of subsections (2) to (7) above, that subsection shall have effect as if that part of the asset and the part not exchanged or disposed of were separate assets. (10) For the purposes of this section— "the base date", in relation to an insurance company, means the last day of the financial year of the company which ended next after 7th December 1973; "financial year" has the meaning given by section 96 of the Insurance Companies Act 1982; "long term assets", in relation to an insurance company, means assets representing the fund or funds maintained by the company in respect of its long term business; and "long term business" has the meaning given by section 1(1) of the Insurance Companies Act 1982".

Modifications etc. (not altering text)

C10 S. 440(1) excluded (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, **Sch. 7 para. 6(4)**

C11 *See* 1990 s.41*and* Sch.6 para.12(2)—subs.(d)*omitted for period* 1*January* 1990*to* 19*March* 1990*inclusive.*

Marginal Citations

M42 1982 c. 50.

440A [F46Securities.

(1) Subsection (2) below applies where the assets of an insurance company include securities of a class all of which would apart from this section be regarded for the purposes of corporation tax on chargeable gains as one holding.

(2) Where this subsection applies—

(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 the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of basic life assurance business shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,

(b) 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 contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of pension business shall be treated for those purposes as a separate holding linked solely to that business,

(c) so many of the securities as are included in the overseas life assurance fund shall be treated for those purposes as a separate holding which is an asset of that fund,

(d) so many of the securities as are included in the company's long term business fund but do not fall within any of the preceding paragraphs shall be treated for those purposes as a separate holding which is an asset of that fund (but not of any of the descriptions mentioned in those paragraphs, and

(e) any remaining securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.

(3) Subsection (2) above also applies where the assets of an insurance company include securities of a class and apart from this section some of them would be regarded as a 1982 holding, and the rest as a new holding, for the purposes of corporation tax on chargeable gains.

(4) In a case within subsection (3) above—

(a) the reference in any paragraph of subsection (2) above to a separate holding shall be construed, where necessary, as a reference to a separate 1982 holding and a separate new holding, and

(b) the questions whether such a construction is necessary in the case of any paragraph and, if it is, how many securities falling within the paragraph constitute each of the two holdings shall be determined in accordance with paragraph 12 of Schedule 6 to the Finance Act 1990 and the identification rules applying on any subsequent acquisitions and disposals.

(5) Section 66 of the 1979 Act shall have effect where subsection (2) above applies as if securities regarded as included in different holdings by virtue of that subsection were securities of different kinds.

(6) In this section—

"1982 holding" has the meaning given by Part II of Schedule 19 to the Finance Act 1985;

"new holding" has the meaning given by Part III of that Schedule; and

"securities" has the same meaning as in section 65 of the 1979 Act.

Textual Amendments

F46 See commentary text for s.440 (F588) above.

Modifications etc. (not altering text)

C12 *See* 1990 s.41*and* Sch.6 para.12(2)—subs.(d)*omitted for period* 1*January* 1990*to* 19*March* 1990*inclusive.*

C13 *See* 1990 s.41*and* Sch.6 para.12(1), (3), (4), (6), (7)*and* (10)*—application and commencement provisions for*
"1982 holdings"
and
"new holdings".

[F47 441 Overseas life assurance business.

(1) This section and section 441A shall apply for an accounting period of an insurance company resident in the United Kingdom if during the period the company carries on overseas life assurance business.

(2) Subject to the provisions of this section and section 441A, profits arising to the company from the overseas life assurance business shall be treated as income within Schedule D, and the chargeable 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.

(3) Subsection (2) above shall not apply if the company is charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.

(4) In making the computation referred to in subsection (2) 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), and

(b) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from overseas life assurance business in any previous accounting period beginning on or after 1st January 1990.

(5) Section 396 shall not be taken to apply to a loss incurred by a company on overseas life assurance business.

(6) Nothing in section 128 or 399(1) shall affect the operation of this section.

(7) Notwithstanding section 337(2), there shall be deductible in computing the profits arising to a company from overseas life assurance business—

(a) interest payable by the company under a liability of the long term business, so far as referable to overseas life assurance business, and

(b) annuities payable by the company, so far as so referable.

(8) Gains accruing on the disposal by a company of assets of its overseas life assurance fund shall not be chargeable gains.]**]**

Textual Amendments

F47 1990 s.42*and* Sch.7 para.3*for accounting periods beginning on or after* 1*January* 1990 (*see* para.10).*Previously*

"Foreign life assurance funds.**441.**—(1) Corporation tax under Cases IV and V on income arising from investments of the foreign life assurance fund of an insurance company shall be computed as in the case mentioned in section 65(4), that is to say, by reference to the amount of income received in the United Kingdom; and this subsection shall apply notwithstanding that that section relates only to income tax. (2) Where any of the following securities, namely—(a) securities issued by the Treasury with the condition that the interest thereon shall not be liable to income tax so long as it is shown, in manner directed by the Treasury, that the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom; or (b) securities issued by the Treasury with the condition that—(i) so long as the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom, the interest thereon shall be exempt from income tax, and (ii) so long as the securities are in the beneficial ownership of persons who are neither domiciled

nor ordinarily resident in the United Kingdom, neither the capital thereof nor the interest thereon shall be liable to any taxation present or future; or (c) securities to which section 581 applies; for the time being form part of the investments of the foreign life assurance fund of an insurance company, the income arising from those securities, if applied for the purposes of that fund or reinvested so as to form part of that fund, shall not be liable to tax. (3) Where any income arising abroad from the investments of the foreign life assurance fund of an insurance company has been remitted to the United Kingdom and invested, as part of the investments of that fund, in any such securities as are mentioned in subsection (2) above, that income shall not be liable to tax and any tax paid thereon shall, if necessary, be repaid to the company on the making of a claim. (4) Any securities issued by the Treasury in pursuance of the power conferred by section 60(1) of the Finance Act 1940 with a modified form of the condition specified in subsection (2)(b) above shall, save in so far as the terms of the issue otherwise provide, be deemed for the purposes of subsections (2) and (3) above to be such securities as are mentioned in subsection (2) above. (5) Where income arising from the investments of the foreign life assurance fund of an insurance company has been relieved from tax in pursuance of the provisions of this section, a corresponding reduction shall be made—(a) in the relief granted under section 76 in respect of expenses of management; and (b) in any amount on which [in respect of general annuity business only (1989 s.84*and* Sch.8 para.7,*and subject to* s.84(6),*has effect with respect to accounting periods beginning on or after* 1*January* 1990 (*including the* 1990*component period*).)] the company is chargeable to tax by virtue of section 436. (6) In this section "foreign life assurance fund"—(a) means any fund representing the amount of the liability of an insurance company in respect of its life assurance business with policy holders and annuitants residing outside the United Kingdom whose proposals were made to, or whose annuity contracts were granted by, the company at or through a branch or agency outside the United Kingdom; and (b) where such a fund is not kept separately from the life assurance fund, means such part of the life assurance fund as represents the liability of the company under such policies and contracts, such liability being estimated in the same manner as it is estimated for the purpose of the company's periodical return. (7) Where this section has effect in relation to income arising from investments of any part of an insurance company's life assurance fund, it shall have the like effect in relation to chargeable gains accruing from the disposal of any such investments, and losses so accruing shall not be allowable losses. (8) For the purposes of this section, an offshore income gain accruing to an insurance company carrying on life assurance business shall, if it accrues in respect of investments held in connection with that business, be treated as if it were income from investments held in connection with that business. (9) Where any payment is made by the Export Credits Guarantee Department—(a) under any agreement entered into under arrangements made by the Secretary of State in pursuance of section 11 of the Export Guarantees and Overseas Investment Act 1978, and (b) in respect of any income—(i) which cannot be transferred to the United Kingdom, and (ii) which arises from investments of the foreign life assurance fund of an insurance company, then, to the extent of the payment, this section shall apply in relation to the income as if it had been received in the United Kingdom (and accordingly cannot be received again in the United Kingdom)".

441A [F48Section 441: distributions.

(1) Section 208 shall not apply to a distribution in respect of any asset of an insurance company's overseas life assurance fund.

(2) Subject to subsection (3) below, an insurance company shall not be entitled under section 231 to a tax credit in respect of such a distribution.

(3) A company shall be entitled to such a tax credit if and to the extent that, were the recipient an individual resident in the territory in which the relevant branch or agency is situated, he would be entitled to the credit under arrangements having effect by virtue of section 788.

(4) For the purposes of subsection (3) above the relevant branch or agency, in the case of a tax credit in respect of a distribution, is—

(a) where the relevant asset is linked solely to overseas life assurance business—

(i) the branch or agency at or through which the company has effected policies or contracts the benefits under which are to be determined by reference to the value of the asset, or

(ii) in a case where there is more than one such branch or agency, the branches to which different parts of it are allocated by the company in accordance with subsection (5) below;

(b) subject to paragraph (a) above, where the management of the relevant asset is under the control of a person whose normal place of work is at a branch or agency, that branch or agency; and

(c) in any other case, the branch or agency to which it is allocated by the company.

(5) Where policies or contracts the benefits under which are to be determined by reference to the value of an asset within subsection (4)(a) above have been effected at or through more than one branch or agency, different parts of the asset shall be allocated to them so as to secure as far as practicable that the part allocated to each is proportionate to the part of the liabilities in respect of those benefits represented by liabilities under policies or contracts effected at or through it.

(6) Where the overseas life assurance business carried on at or through a branch or agency in a territory includes—

(a) reinsurance business which consists of the reinsurance of liabilities of a person resident in another territory, or

(b) retrocession business,

the amount of any tax credit in relation to which the branch or agency is the relevant branch or agency shall be reduced by the proportion which the liabilities of that reinsurance business bear to all the liabilities of the overseas life assurance business carried on at or through the branch or agency.

(7) Where a company is entitled to an amount of tax credit by virtue of this section the company may claim to have that amount paid to it.

(8) No franked investment income shall be used under Chapter V of Part VI of this Act to frank a company's distributions if the tax credit (or any part of the tax credit) comprised in it is payable to the company under subsection (7) above.

Textual Amendments

F48 See commentary text for s. 441 (F589) above.

Modifications etc. (not altering text)

C14 S. 441A(8) amended (27.7.1993) by 1993 c. 34, **s. 78(7)**

442 Overseas business of U.K. companies.

(1) [M43]Subsections (2) and (3) below apply where a company resident in the United Kingdom carries on insurance business outside the United Kingdom through a branch or agency and—

(a) that business, or part of it, together with the whole assets of the company used for the purposes of that business or part (or together with the whole of those assets other than cash), is transferred to a company not resident in the United Kingdom;

(b) the business or part is so transferred wholly or partly in exchange for shares, or for shares and loan stock, issued by the transferee company to the transferor company; and

(c) the shares so issued, either alone or taken together with any other shares in the transferee company already held by the transferor company, amount in all to not less than one quarter of the ordinary share capital of the transferee company.

(2) In making any computation in accordance with the provisions of this Act applicable to Case I of Schedule D of the profits or losses of the transferor company for the accounting period in which the transfer occurs, there shall be disregarded any profit or loss in respect of any asset transferred which, apart from this subsection, would fall to be taken into account in making that computation.

(3) Where by virtue of subsection (2) above any profit or loss is disregarded in making any computation otherwise than for the purposes of section 76(2) the profit or loss shall be treated for the purposes of the 1979 Act as a chargeable gain or allowable loss accruing to the transferor company on the transfer.

(4) Where at any time a company resident in the United Kingdom—

(a) which carries on insurance business wholly outside the United Kingdom, and

(b) the whole or part of whose ordinary share capital is beneficially owned by one or more companies resident in the United Kingdom,

ceases to be resident in the United Kingdom, the profits or losses of the company in respect of that business for the accounting period ending at that time shall be computed for tax purposes without regard to the whole, or, as the case may be, a corresponding part of any profit or loss in respect of any asset which, apart from this subsection, would fall to be calculated in accordance with section 100(1)(b) and taken into account in making that computation.

Marginal Citations

M43 Source—1977 s.45(1)—(4); 1979(C) Sch.7

443 Life policies carrying rights not in money.

[M44]Where any investments or other assets are or have been, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder on or after 6th April 1967, the policy holder's acquisition of the assets, and the disposal of them to him, shall be deemed to be for a consideration equal to the market value of the assets for the purposes of computing income in accordance with Case I or VI of Schedule D.

Marginal Citations

M44 Source—1970 s.321(1)(b), (2)

444 Life policies issued before 5th August 1965.

(1) [M45]This section applies in relation to policies of life assurance issued before 5th August 1965 by a company carrying on life assurance business, being policies which—

(a) provide for benefits consisting to any extent of investments of a specified description or of a sum of money to be determined by reference to the value of such investments, but

(b) do not provide for the deduction from those benefits of any amount by reference to tax chargeable in respect of chargeable gains.

(2) Where—

(a) the investments of the company's life assurance fund, so far as referable to those policies, consist wholly or mainly of investments of the description so specified, and

(b) on the company becoming liable under any of those policies for any such benefits (including benefits to be provided on the surrender of a policy), a chargeable gain accrues to the company from the disposal, in meeting or for the purpose of meeting that liability, of investments of that description forming part of its life assurance fund, or would so accrue if the liability were met by or from the proceeds of such a disposal,

then the company shall be entitled as against the person receiving the benefits to retain out of those benefits a part not exceeding in amount or value corporation tax, at the rate specified in subsection (3) below, in respect of the chargeable gain referred to in paragraph (b) above, computed without regard to any amount retained under this subsection.

(3) The amount to be retained under subsection (2) above shall, subject to subsection (4) below, be computed by reference to the rate of corporation tax for the time being in force or, if no rate of corporation tax has yet been fixed for the financial year, the rate last in force.

(4) In so far as the chargeable gain represents or would represent a gain belonging or allocated to, or reserved for, policy holders, the amount to be retained shall be computed by reference to a rate of tax not exceeding 37.5 per cent.

Marginal Citations

M45 Source—1970 s.322

[F49444A Transfers of business.

(1) Subject to the following provisions of this section, this section applies where there is a transfer of the whole or part of the long term business of an insurance company ("the transferor") to another company ("the transferee") in accordance with a scheme sanctioned by a court under section 49 of the [M46]Insurance Companies Act 1982.

(2) Any expenses of management which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been deductible by the transferor under sections 75 and 76 in computing profits for an accounting period following the period which ends with the day on which the transfer takes place shall, instead, be treated as expenses of management of the transferee (and deductible in accordance with those sections, as modified in the case of acquisition expenses by

section 86(6) to (9) of the Finance Act 1989 and in the case of expenses to which subsection (6) or (7) of section 87 of that Act applies by that subsection).

(3) Any loss which (assuming the transferor had continued to carry on the business transferred after the transfer)—

(a) would have been available under section 436(3)(c) to be set off against profits of the transferor for the accounting period following that which ends with the day on which transfer takes place, or

(b) where in connection with the transfer the transferor also transfers the whole or part of any overseas life assurance business, would have been so available under section 441(4)(b),

shall, instead, be treated as a loss of the transferee (and available to be set off against profits of the same class of business as that in which it arose).

(4) Where acquisition expenses are treated as expenses of management of the transferee by virtue of subsection (2) above, the amount deductible for the first accounting period of the transferee ending after the transfer takes place shall be calculated as if that accounting period began with the day after the transfer.

(5) Where the transfer is of part only of the transferor's long term business, subsection (2) or (3) above shall apply only to such part of any amount to which it would otherwise apply as is appropriate.

(6) Any question arising as to the operation of subsection (5) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.

(7) Subject to subsection (8) below, this section shall not apply unless the transfer is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to corporation tax.

(8) Subsection (7) above shall not affect the operation of this section in any case where, before the transfer, the Board have, on the application of the transferee, notified the transferee that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any scheme or arrangements such as are mentioned in that subsection; and subsections (2) to (5) of section 88 of the 1979 Act shall have effect in relation to this subsection as they have effect in relation to subsection (1) of that section.**]**

Textual Amendments

F49 1990 s.48*and* Sch.9 para.4*in relation to transfer of business on or after* 1*January* 1990.

Marginal Citations

M46 1982 c. 50.

VALID FROM 01/05/1995

[F50 Classes of life assurance business]

Textual Amendments

F50 Ss. 431B-431F and cross-heading inserted (with effect in accordance with Sch. 8 paras. 55, 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 2**

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 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.

(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.

Modifications etc. (not altering text)

C15 S. 431B modified (23.3.1999 with effect in accordance with reg. 1 of the modifying S.I.) by The Insurance Companies (Capital Redemption Business) (Modification of the Corporation Tax Acts) Regulations 1999 (S.I. 1999/498), **regs. 3**, 6

VALID FROM 19/07/2007

[F51 431BA Meaning of "child trust fund business"

(1) In this Chapter "child trust fund business" means so much of a company's life assurance business as is referable to child trust fund policies (but not including the reinsurance of such business).

(2) In this section "child trust fund policy" means a policy of life insurance which is an investment under a child trust fund (within the meaning of the Child Trust Funds Act 2004).**]**

Textual Amendments

F51 Ss. 431BA, 431BB inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 8** (with Sch. 7 Pt. 2)

VALID FROM 19/07/2007

[F51 431BB Meaning of "individual savings account business"

(1) In this Chapter "individual savings account business" means so much of a company's life assurance business as is referable to individual savings account policies (but not including the reinsurance of such business).

(2) In this section "individual savings account policy" means a policy of life insurance which is an investment of a kind specified in regulations made by virtue of section 695(1) of ITTOIA 2005.**]**

Textual Amendments

F51 Ss. 431BA, 431BB inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 8** (with Sch. 7 Pt. 2)

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.

Modifications etc. (not altering text)

C16 S. 431C modified (with effect in accordance with reg. 1 of the affecting S.I.) by The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730), **reg. 11** (as

amended by: S.I. 1996/1621, **regs. 1**, 5; S.I. 2003/2573, **regs. 1(1)(2)**, 10; S.I. 2007/2087, **regs. 1(1)(2)**, 6)

C17 S. 431C(1) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1**, 5, 8

C18 S. 431C(1) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1**, 4, 6; S.I. 2004/3369, **art. 2(1)**

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).

(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.

Modifications etc. (not altering text)

C19 S. 431D(2)-(8) excluded (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 55(2)(3)**,

C20 S. 431D(1) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1**, 5, 8

431E Overseas life assurance business: regulations.

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

(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.

VALID FROM 19/07/2007

[F52 431EA Meaning of "gross roll-up business"

In this Chapter "gross roll-up business" means business of any of the following kinds—

(a) pension business;

(b) child trust fund business;

(c) individual savings account business;

(d) life reinsurance business; and

(e) overseas life assurance business.**]**

Textual Amendments

F52 S. 431EA inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 10** (with Sch. 7 Pt. 2)

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.

Modifications etc. (not altering text)

C21 S. 431F modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1**, 5, 9

C22 S. 431F modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1**, 4, 7; S.I. 2004/3369, **art. 2(1)**

VALID FROM 01/05/1995

[F53 Separation of different categories of business]

Textual Amendments

F53 Cross-heading before s. 432 inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 51(2)** (with Sch. 8 para. 55(2))

VALID FROM 19/07/2007

[F54 431G Company carrying on life assurance business

(1) This section applies in relation to an insurance company which carries on life assurance business (whether or not it also carries on insurance business of any other kind).

(2) Subject as follows, the profits of the life assurance business for any accounting period shall be charged to tax under the I minus E basis.

(3) Where in the case of an insurance company for an accounting period either—

(a) all of its life assurance business is reinsurance business and none of that business is of a type excluded from this subsection by regulations made by the Board, or

(b) all, or substantially all, of its life assurance business is gross roll-up business,

the profits of that business for the accounting period shall be charged to tax in accordance with Case I of Schedule D and not otherwise.

(4) Where—

(a) the profits of the life assurance business of an insurance company for any accounting period are charged to tax under the I minus E basis, and

(b) had those profits been charged to tax in accordance with Case I of Schedule D, a loss would have arisen to the company from that business for the period,

the loss (after being reduced in accordance with section 434A(2)(a)) may be set-off under section 393A or section 403(1).

(5) The application, in relation to the life assurance business of an insurance company, of any provision of Case I of Schedule D is not to be taken—

(a) to prevent the application of the I minus E basis in relation to that business of the company for any accounting period, or

(b) to affect the operation of the I minus E basis in relation to the that business of the company for any accounting period except as specifically provided by the Corporation Tax Acts.**]**

Textual Amendments

F54 Ss. 431G, 431H and preceding cross-heading substituted for s. 432 and preceding cross-heading (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 4** (with Sch. 8 Pt. 2)

Modifications etc. (not altering text)

C23 S. 431G modified by The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730), **reg. 12** (as amended (13.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Insurance Companies (Taxation of Reinsurance Business) (Amendment) Regulations 2007 (S.I. 2007/2087), **regs. 1(1)**, 8)

VALID FROM 19/07/2007

[F55 431H Company carrying on life assurance business and other insurance business

(1) This section applies in relation to an insurance company which carries on life assurance business and insurance business of any other kind.

(2) For the purposes of the Corporation Tax Acts—

(a) the life assurance business, and

(b) the other insurance business,

are to be treated as separate businesses.

(3) The profits of the other insurance business shall be charged to tax under Case I of Schedule D as the profits of a separate trade.

(4) But subsection (3) above does not apply where that business is mutual business.

(5) As to the profits of the life assurance business, see section 431G.**]**

Textual Amendments

F55 Ss. 431G, 431H and preceding cross-heading substituted for s. 432 and preceding cross-heading (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 4** (with Sch. 8 Pt. 2)

Modifications etc. (not altering text)

C24 S. 431H modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **reg. 7A** (as inserted (14.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2007 (S.I. 2007/2134), **regs. 1(1)**, 7; and as amended by S.I. 2008/1937, **regs. 1(1)(2)**, 5)

VALID FROM 08/01/2007

[F56 432YA Long-term business other than life assurance business — adjustment consequent on change in Insurance Prudential Sourcebook

(1) This section applies in the case of—

(a) a company which is a non-profit company, or

(b) the non-profit fund of a company which is not a non-profit company,

if an amount (other than nil) is shown in paragraph 4(12) of Appendix 9.4 to the periodical return for the company for the first period of account which ends on or after 31st December 2006.

(2) In computing profits of long-term business which is not life assurance business in accordance with the provisions applicable to Case I of Schedule D an amount ("the relevant amount") shall be added—

(a) to the closing long term business provision of the company for the first period of account which ends on or after 31st December 2006, and

(b) to the opening long term business provision of the company for the next period of account.

(3) The relevant amount is, subject to subsection (4), the amount by which B exceeds A. Here—

A is the company's long term business provision in respect of business which is not life assurance business for the first period of account which ends on or after 31st December 2006, calculated after taking into account the company's ability to—

(a) make provision for non-attributable expenses by reference to a homogeneous risk group instead of by reference to individual policies or contracts;

(b) make provision for the voluntary discontinuance of policies or contracts using a prudent lapse rate assumption; and

(c) set negative liabilities against positive liabilities (subject to overall liabilities not being less than nil);

in accordance with the Insurance Prudential Sourcebook; and

B is the company's long term business provision for that period of account in respect of business which is not life assurance business, calculated without taking into account the matters referred to in paragraphs (a) to (c) of the definition of A.

(4) In a case falling within subsection (1)(b)—

(a) the relevant amount shall be reduced (but not below nil) by so much (if any) of the amount shown in paragraph 4(12) of Appendix 9.4 to the periodical return as is reflected in column 1 of line 51 of the Form 14 for that period of account relating to the non-profit fund in question; and

(b) the references in subsection (3) to long term business provision and to liabilities are respectively to long term business provision and to liabilities relating to the non-profit fund in question.

(5) In this section—

"long term business provision" has the same meaning as in Schedule 9A to the Companies Act 1985;

"non-profit company" has the meaning given in section 83YA(8) of the Finance Act 1989; and

"non-profit fund" has the same meaning as in the Insurance Prudential Sourcebook.**]**

Textual Amendments

F56 S. 432YA inserted (8.1.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment No. 2) Order 2006 (S.I. 2006/3387), **arts. 1(1)**, 2

[F57 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.**]**

Textual Amendments

F57 S. 432ZA inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 11(2)** (with Sch. 8 para. 55(2))

VALID FROM 31/07/1998

[F58 432AA Schedule A business or overseas property business.

(1) An insurance company is treated as carrying on separate Schedule A businesses, or overseas property businesses, in accordance with the following rules.

(2) The exploitation of land held as an asset of the company's long term business fund is treated as a separate business from the exploitation of land not so held.

(3) The exploitation of land held as an asset of the company's overseas life assurance fund is treated as a separate business from the exploitation of other land held as an asset of its long term business fund.

(4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—

(a) pension business;
(b) life reinsurance business;
(c) basic life assurance and general annuity business;
(d) long term business other than life assurance business.

(5) Accordingly, the exploitation of land held as an asset of the company's long term business fund otherwise than as mentioned in subsection (3) or (4) is treated as a separate business from any other.

(6) In this section "land" means any estate, interest or rights in or over land.**]**

Textual Amendments

F58 Ss. 432AA, 432AB inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 5 para 39** (with Sch. 5 para. 73)

Modifications etc. (not altering text)

C25 S. 432AA modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **reg. 13A** (as inserted (13.10.1999) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1999 (S.I. 1999/2636), **regs. 1**, 3)

C26 S. 432AA(4) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1**, 5, 11

VALID FROM 31/07/1998

[F58 432A Losses from Schedule A business or overseas property business.

(1) This section applies to any loss arising in a Schedule A business or overseas property business.

(2) A loss arising from any category of business mentioned in section 432A(2) shall be apportioned under that section in the same way as income.

(3) So far as a loss is referable to basic life assurance and general annuity business, it shall be treated as if it were an amount of expenses of management under section 76 disbursed for the accounting period in which the loss arose.

(4) Where a company is treated under section 432AA as carrying on—

(a) more than one Schedule A business, or

(b) more than one overseas property business,

then, in relation to either kind of business, the reference in subsection (3) above to a loss referable to basic life assurance and general annuity business shall be construed as a reference to any aggregate net loss after setting the losses from those businesses which are so referable against any profits from those businesses that are so referable.

(5) The provisions of section 392A or 392B (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.

(6) Where a company is treated under section 432AA as carrying on—

(a) more than one Schedule A business, or

(b) more than one overseas property business,

and, in relation to either kind of business, there are losses and profits referable to business which is not life assurance business, those losses shall be set against those profits before being used under section 392A or 392B.**]**

Textual Amendments

F58 Ss. 432AA, 432AB inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 5 para 39** (with Sch. 5 para. 73)

Modifications etc. (not altering text)

C27 S. 432AB modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **reg. 13B** (as inserted (13.10.1999) by The Friendly Societies

(Modification of the Corporation Tax Acts) (Amendment) Regulations 1999 (S.I. 1999/2636), **regs. 1**, 3)

VALID FROM 08/04/2010

[F59 432C Apportionment of asset value increase where line 51 amount decreases

(1) This section applies where—

(a) an insurance company is not a non-profit company in relation to a period of account ("the current period of account"),

(b) in the case of any business with which an account of the company for the current period of account is concerned ("the relevant business"), an amount is a relevant brought into account amount for that period of account (see subsection (2)),

(c) section 432C applies for determining the extent to which the relevant brought into account amount is referable to life assurance business or to gross roll-up business, and

(d) the line 51 reduction condition is met (see subsection (3)).

(2) An amount is a relevant brought into account amount for a period of account if—

(a) it is brought into account as mentioned in subsection (2)(b) of section 83 of the Finance Act 1989 (increases in value of non-linked assets) for that period,

(b) it is deemed to be brought into account for that period by subsection (2B) of that section in consequence of the transfer of non-linked assets, or

(c) it is taken into account under subsection (2) of that section for that period by virtue of section 444AB as being the relevant amount in relation to non-linked assets.

(3) The line 51 reduction condition is met if—

(a) the amount shown in column 1 of line 51 of Form 14 of the company's periodical return in respect of the relevant business for the current period of account, is less than

(b) the amount so shown for the period of account immediately before it;

and the amount of the difference is "the relevant reduction".

(4) Section 432C applies in relation to so much of the relevant brought into account amount as does not exceed the relevant reduction ("the affected amount") as if it were brought into account as an increase in the value of assets in the case of the relevant business for the applicable appropriate period of account of the company.

(5) A period of account is an "appropriate period of account" if it ended before the current period of account and—

(a) the amount shown in column 1 of line 51 of Form 14 of the company's periodical return in respect of the relevant business for it, was more than

(b) the amount so shown for the period of account immediately before it;

and the amount of the difference is "the relevant increase."

(6) The "applicable" appropriate period of account is the one which ended most recently ("the most recent appropriate period of account").

(7) But if the relevant increase in the case of the most recent appropriate period of account is less than the affected amount, the most recent appropriate period of account is the applicable appropriate period of account in relation to only so much of the affected amount as does not exceed that relevant increase.

(8) In that case, the appropriate period of account which ended most recently before the most recent appropriate period of account is the applicable appropriate period of account in relation to so much of the remainder as does not exceed the relevant increase in the case of that appropriate period of account (and, where necessary, so on until the applicable appropriate period of account is established in relation to all of the affected amount or there are no more appropriate periods of account).

(9) If the current period of account is not the first in relation to which this section has applied in the case of the business concerned, the amount of the relevant increase in the case of any appropriate period of account ("the period in question") is to be treated as reduced by the relevant aggregate.

(10) The "relevant aggregate" is the aggregate of so much of the affected amount for any period or periods of account earlier than the current period of account as was an amount to which section 432C applied as if it were brought into account as mentioned in subsection (4) for the period in question.

(11) For the purposes of this section an insurance company which has elected under section 83YA(9) of the Finance Act 1989 (changes in value of assets brought into account: non-profit companies) to be treated as a non-profit company in relation to a period of account is to be regarded as a non-profit company in relation to the period of account.**]**

Textual Amendments

F59 S. 432CA inserted (with effect in accordance with s. 47(2)-(4) of the amending Act) by Finance Act 2010 (c. 13), **s. 47(1)**

VALID FROM 27/07/2010

[F60 432CB Transfers of business involving excess assets

(1) This section applies where, under an insurance business transfer scheme, there is a transfer of long-term business—

(a) from a non-profit fund of an insurance company ("the transferor") which is not a non-profit company in relation to the relevant period of account,

(b) to another insurance company ("the transferee") to constitute or form part of a non-profit fund of the transferee ("the transferee's non-profit fund"),

("the transfer") and conditions A and B are met.

(2) Condition A is that the fair value of the assets transferred by the transfer exceeds by an amount ("the chargeable excess") the amount of the relevant liabilities transferred by the transfer.

For this purpose "relevant" liabilities are liabilities of a type shown (or treated as shown) in any of lines 14, 17, 21 to 23 and 31 to 38 of Form 14 of a periodical return of an insurance company.

(3) Condition B is that the main purpose, or one of the main purposes, of the transferor or the transferee (or both) in entering into any part of the transfer scheme arrangements is to secure a reduction in tax as a result of section 432C having effect in the case of the transferee, rather than the transferor, in relation to the business transferred by the transfer.

(4) The chargeable excess is to be brought into account by the transferor as mentioned in section 83(2)(b) of the Finance Act 1989 for the relevant period of account.

(5) Where there is no amount shown in relation to the transferee's non-profit fund in column 1 of line 51 of Form 14 of the periodical return of the transferee for the first period of account of the transferee ending on or after the transfer date ("the first post-transfer period of account"), the chargeable excess is to be brought into account by the transferee as mentioned in section 83(2) of the Finance Act 1989 as a decrease in the value of non-linked assets for the first post-transfer period of account.

(6) Where—

(a) there is an amount shown in relation to the transferee's non-profit fund in column 1 of line 51 of Form 14 of the periodical return of the transferee for the first post-transfer period of account, and

(b) the amount so shown in column 1 of line 51 of Form 14 of the periodical return of the transferee for that period of account, or for any other period of account of the transferee ending after the transfer date, (an "affected period of account") is less than the total chargeable excess amount,

the relevant amount is to be brought into account by the transferee as mentioned in section 83(2) of the Finance Act 1989 as a decrease in the value of non-linked assets for the affected period of account.

(7) For this purpose "the relevant amount" is the amount by which—

(a) the amount shown in relation to the transferee's non-profit fund in column 1 of line 51 of Form 14 of the periodical return of the transferee for the affected period of account, is less than

(b) the total chargeable excess amount less any amount brought into account by the transferee as mentioned in section 83(2) of the Finance Act 1989 as a decrease in the value of non-linked assets for any earlier period of account by virtue of the operation of this section in relation to the transferee's non-profit fund.

(8) In subsections (6) and (7) "the total chargeable excess amount" means the aggregate of—

(a) the chargeable excess, and

(b) any amount which is the chargeable excess in relation to any other transfer of business to the transferee's non-profit fund.

(9) In this section "the relevant period of account" means—

(a) the period of account of the transferor ending immediately before the transfer date, or

(b) if no period of account of the transferor so ends, the period of account of the transferor covering the transfer date.

(10) In this section "the transfer scheme arrangements" means the insurance business transfer scheme and any relevant associated operations; and for this purpose "relevant associated operations" means—

(a) any other insurance business transfer scheme,

(b) any contract of reinsurance, or

(c) any reconstruction or amalgamation involving the transferor, a dependant of the transferor which is an insurance undertaking or the transferee,

which is effected in connection with the insurance business transfer scheme.

(11) In subsection (10)—

"dependant", and

"insurance undertaking",

have the same meaning as in the Insurance Prudential Sourcebook.

(12) In this section "the transfer date" means the date on which the insurance business transfer scheme takes effect.

(13) For the purposes of this section an insurance company which has elected under section 83YA(9) of the Finance Act 1989 (changes in value of assets brought into account: non-profit companies) to be treated as a non-profit company in relation to a period of account is to be regarded as a non-profit company in relation to the period of account.**]**

Textual Amendments

F60 S. 432CB inserted (with effect in accordance with s. 9(2) of the amending Act) by Finance (No. 2) Act 2010 (c. 31), **s. 9(1)**

[F61 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.**]**

Textual Amendments

F61 S. 432F inserted (with effect in accordance with Sch. 8 para. 53 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 17(3)** (with Sch. 8 para. 55(2))

Modifications etc. (not altering text)

C28 S. 432F(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1)**, 15; and that modifying reg. 15 is omitted (8.4.2004 with effect in accordance with reg. 1 of the revoking S.I.) by virtue of S.I. 2004/822, **reg. 11**

VALID FROM 01/01/2005

[F62 432G Section 432B: apportionment of business transfer-in

(1) This section applies where an amount falls within section 83(2)(e) of the Finance Act 1989.

(2) Where—

(a) this section applies, and

(b) it is necessary in accordance with section 83 to determine what part of a business transfer-in is referable to life assurance business or any category of life assurance business,

a business transfer-in shall be apportioned to the categories of business of the transferee in the proportions which the amount of the liabilities transferred for each of those categories bear to the whole of the liabilities transferred.**]**

Textual Amendments

F62 S. 432G inserted (1.1.2005 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), **art. 4**

VALID FROM 01/05/1995

[F63 Miscellaneous provisions relating to life assurance business]

Textual Amendments

F63 Cross-heading before s. 434 inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 51(4)** (with Sch. 8 para. 55(2))

VALID FROM 21/07/2009

[F64 434AZA Reduced loss relief for additions to non-profit funds

(1) Where this section applies in the case of a company carrying on life assurance business, relief allowable under section 393A or Chapter 4 of Part 10 in respect of losses incurred by the company in the life assurance business in an accounting period is reduced in accordance with section 434AZB.

(2) This section applies in the case of a company where—

(a) there has been a relevant addition to one or more non-profit funds in a period of account ending no later than the accounting period ("the relevant period of account") (see subsection (3)),

(b) the company is not a non-profit company in relation to the relevant period of account and has not elected under subsection (9) of section 83YA of the Finance Act 1989 to be treated for the purposes of that section as if it were, and

(c) condition A or B is met,

and, if the relevant period of account is not the period of account ending with the accounting period ("the current period of account"), condition C is also met.

(3) For the purposes of subsection (2), there is a relevant addition to a non-profit fund in the relevant period of account if an amount is shown as a transfer from non-technical account in line 32 of the Form 58 of the non-profit fund in the periodical return for that period of account.

(4) Condition A is that there is a relevant book value election in relation to assets of a non-profit fund of the company.

(5) For the purposes of subsection (4), there is a relevant book value election in relation to assets of a non-profit fund if an amount is shown in relation to the non-profit fund as the excess of the value of net admissible assets in line 51 of the Form 14 of the non-profit fund in the periodical return for the current period of account.

(6) Condition B is that the company is party to arrangements the main purpose, or one of the main purposes, of which is to reduce the relevant admissible value of assets of a non-profit fund of the company, other than any structural assets.

(7) For the purposes of subsection (6) (and section 434AZB), the "relevant admissible value" means the value reflected in line 89 of Form 13 of the periodical return for the current period of account.

(8) Condition C is that the surplus arising since the last valuation shown in line 34 of the Form 58 of the non-profit fund, or any of the non-profit funds, in relation to which condition A or B is met in the periodical return for the current period of account is a negative amount.**]**

Textual Amendments

F64 Ss. 434AZA-434AZC inserted (with effect in accordance with Sch. 23 para. 3(2) of the amending Act) by Finance Act 2009 (c. 10), **Sch. 23 para. 3(1)**

VALID FROM 21/07/2009

[F64 434AZB Additions to non-profit funds: amount of loss reduction

(1) The amount of the relief allowable as mentioned in section 434AZA(1) is reduced by whichever of the following is the least—

(a) the amount of the loss,

(b) the amount specified in subsection (2), and

(c) the amount specified in subsection (4).

(2) The amount mentioned in subsection (1)(b) is—

(a) where only condition A in section 434AZA is met, the relevant amount relating to the non-profit fund in relation to which it is met or (where it is met in relation to more than one non-profit fund) the sum of the relevant amounts relating to them,

(b) where only condition B is met, the amount of the relevant reduction relating to the non-profit fund in relation to which it is met or (where it is met in relation to more than one non-profit fund) the sum of the relevant reductions relating to them, and

(c) where both condition A and condition B are met, the aggregate of the amounts in paragraphs (a) and (b).

(3) In subsection (2)—

(a) "relevant amount", in relation to a non-profit fund, means the amount shown in relation to the non-profit fund as the excess of the value of net admissible assets in line 51 of the Form 14 of the non-profit fund in the periodical return for the current period of account (as reduced by any amount which has had effect to reduce relief for losses for a previous accounting period), and

(b) "relevant reduction", in relation to a non-profit fund, means the reduction of the relevant admissible value of assets of the non-profit fund (other than structural assets) which is attributable to the arrangements (as so reduced).

(4) The amount mentioned in subsection (1)(c) is—

(a) if the relevant period of account is the current period of account, the amount referred to in section 434AZA(3) in the case of the non-profit fund, or of each of the non-profit funds, to which there has been a relevant addition in the relevant period of account, and

(b) otherwise, so much of the amount shown in line 31 of the Form 58 of the non-profit fund or non-profit funds in the periodical return for the current period of account as is attributable to the amount so referred to.**]**

Textual Amendments

F64 Ss. 434AZA-434AZC inserted (with effect in accordance with Sch. 23 para. 3(2) of the amending Act) by Finance Act 2009 (c. 10), **Sch. 23 para. 3(1)**

VALID FROM 21/07/2009

[F64 434AZC Sections 434AZA and 434AZB: supplementary

(1) For the purposes of sections 434AZA and 434AZB, a non-profit fund required to support a with-profits fund is to be treated as not being a non-profit fund.

(2) Sections 434AZA and 434AZB apply to a non-profit part of a with-profits fund as if references to something shown in the Form 14 or Form 58 of the non-profit fund in a periodical return were to what would be so shown if there were a Form 14 or Form 58 of the non-profit part of the with-profits fund in the periodical return.

(3) In sections 434AZA and 434AZB—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and

"structural assets" has the same meaning as in section 83XA of the Finance Act 1989 (see subsection (3) of that section and any regulations made under it).**]**

Textual Amendments

F64 Ss. 434AZA-434AZC inserted (with effect in accordance with Sch. 23 para. 3(2) of the amending Act) by Finance Act 2009 (c. 10), **Sch. 23 para. 3(1)**

[F65 434B 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.**]**

Textual Amendments

F65 S. 434B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 21(1)** (with Sch. 8 para. 55(2))

[F66 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.**]**

Textual Amendments

F66 S. 434C inserted (with effect in accordance with Sch. 8 paras. 54, 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 22** (with Sch. 8 para. 55(2))

[F67 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

(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.**]**

Textual Amendments

F67 Ss. 434D, 434E inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 23(1)** (with Sch. 8 para. 55(2))

[F67 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 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.**]**

Textual Amendments

F67 Ss. 434D, 434E inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 23(1)** (with Sch. 8 para. 55(2))

VALID FROM 19/07/2007

[F68436AGross roll-up business: separate charge on profits

(1) Profits arising to an insurance company from gross roll-up business—

(a) are to be treated as income within Schedule D, and

(b) are chargeable under Case VI of that Schedule.

(2) For that purpose—

(a) the gross roll-up business is to be treated separately, and

(b) the profits from it are to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.

(3) In making that computation, sections 82 and 82B to **[F69**83ZA**]** of the Finance Act 1989 apply with the necessary modifications.

(4) If in any accounting period an insurance company incurs a loss, to be computed on the same basis as the profits, arising from its gross roll-up business—

(a) the loss must be set off against the amount of any profits chargeable under this section for any subsequent accounting period, and

(b) accordingly, the amount of the company's profits so charged in any such accounting period is to be treated as reduced by the amount of the loss or so much of that amount as cannot be relieved under this section against profits of an earlier accounting period.

(5) Section 396 does not apply to a loss incurred by an insurance company on its gross roll-up business.

(6) No loss to which section 396 applies may be set off under subsection (4) above against the amount of any profits chargeable under this section.

(7) This section does not apply in relation to an insurance company for an accounting period if the profits of its long-term business for the accounting period are charged to tax under Case I of Schedule D.**]**

Textual Amendments

F68 Ss. 436A, 436B inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 25** (with Sch. 7 Pt. 2)

F69 S. 436A(3): "83ZA" substituted for "83AB" (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 12**; S.I. 2008/379, **art. 2**

Modifications etc. (not altering text)

C29 S. 436A modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **reg. 13A** (as inserted (14.8.2007 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2007 (S.I. 2007/2134), **regs. 1(1)**, 14)

VALID FROM 19/07/2007

[F68 436B Gains referable to gross roll-up business not to be chargeable gains

(1) Gains referable to gross roll-up business are not chargeable gains.

(2) For the purposes of this section "gains referable to gross roll-up business" means gains which—

(a) accrue to an insurance company on the disposal by it of assets of its long-term insurance fund, and

(b) are referable (in accordance with section 432A) to gross roll-up business.**]**

Textual Amendments

F68 Ss. 436A, 436B inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 25** (with Sch. 7 Pt. 2)

VALID FROM 19/03/1997

[F70 437A Meaning of "steep-reduction annuity" etc.

(1) For the purposes of section 437 an annuity is a steep-reduction annuity if—

(a) the amount of any payment in respect of the annuity (but not the term of the annuity) depends on any contingency other than the duration of a human life or lives;

(b) the annuitant is entitled in respect of the annuity to payments of different amounts at different times; and

(c) those payments include a payment ("a reduced payment") of an amount which is substantially smaller than the amount of at least one of the earlier payments in respect of that annuity to which the annuitant is entitled.

(2) Where there are different intervals between payments to which an annuitant is entitled in respect of any annuity, the question whether or not the conditions in subsection (1)(b) and (c) above are satisfied in the case of that annuity shall be determined by assuming—

(a) that the annuitant's entitlement, after the first payment, to payments in respect of that annuity is an entitlement to payments at yearly intervals on the anniversary of the first payment; and

(b) that the amount to which the annuitant is assumed to be entitled on each such anniversary is equal to the annuitant's assumed entitlement for the year ending with that anniversary.

(3) For the purposes of subsection (2) above an annuitant's assumed entitlement for any year shall be determined as follows—

(a) the annuitant's entitlement to each payment in respect of the annuity shall be taken to accrue at a constant rate during the interval between the previous payment and that payment; and

(b) his assumed entitlement for any year shall be taken to be equal to the aggregate of the amounts which, in accordance with paragraph (a) above, are treated as accruing in that year.

(4) In the case of an annuity to which subsection (2) above applies, the reference in section 437(1CB)(a) to the making of a reduced payment shall be construed as if it were a reference to the making of a payment in respect of that annuity which (applying subsection (3)(a) above) is taken to accrue at a rate that is substantially less than the rate at which at least one of the earlier payments in respect of that annuity is taken to accrue.

(5) Where—

(a) any question arises for the purposes of this section whether the amount of any payment in respect of any annuity—

(i) is substantially smaller than the amount of, or

(ii) accrues at a rate substantially less than,

an earlier payment in respect of that annuity, and

(b) the annuitant or, as the case may be, every annuitant is an individual who is beneficially entitled to all the rights conferred on him as such an annuitant,

that question shall be determined without regard to so much of the difference between the amounts or rates as is referable to a reduction falling to be made as a result of the occurrence of a death.

(6) Where the amount of any one or more of the payments to which an annuitant is entitled in respect of an annuity depends on any contingency, his entitlement to payments in respect of that annuity shall be determined for the purposes of section 437(1CA) to (1CC) and this section according to whatever (applying any relevant actuarial principles) is the most likely outcome in relation to that contingency.

(7) Where any agreement or arrangement has effect for varying the rights of an annuitant in relation to a payment in respect of any annuity, that payment shall be taken, for the purposes of section 437(1CA) to (1CC) and this section, to be a

payment of the amount to which the annuitant is entitled in accordance with that agreement or arrangement.

(8) References in this section to a contingency include references to a contingency that consists wholly or partly in the exercise by any person of any option.**]**

Textual Amendments

F70 S. 437A inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), **s. 67(3)**

VALID FROM 06/04/2001

[F71 438B Income or gains arising from property investment LLP

(1) Where an asset held by an insurance company as an asset of its long term business fund is held by the company as a member of a property investment LLP, the policy holders' share of any income arising from, or chargeable gains accruing on the disposal of, the asset which—

(a) is attributable to the company, and

(b) would otherwise be referable by virtue of section 432A to pension business,

shall be treated for the purposes of the Corporation Tax Acts as referable to basic life assurance and general annuity business.

(2) For the purposes of this section the property business of the insurance company for the purposes of which the asset is held shall be treated as a separate business.

"Property business" means a Schedule A business or overseas property 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 or chargeable gains of the company are treated as referable to the business by virtue of subsection (1) above.

(4) A company may be charged to tax by virtue of this section—

(a) notwithstanding section 439A, and

(b) whether or not the income or chargeable gains to which subsection (1) above applies 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) The policy holders' share of income or chargeable gains to which subsection (1) above applies—

(a) shall not be treated as relevant profits for the purposes of section 88 of the Finance Act 1989 (corporation tax on policy holders' fraction of profits), and

(b) shall not be treated as part of the BLAGAB profits for the purposes of section 88A of that Act (lower corporation tax rate on certain profits);

but the whole of the income or gains to which that subsection applies shall be chargeable to tax at the rate provided by section 88 of that Act.

(6) So far as income is brought into account as mentioned in section 83(2) of the Finance Act 1989, sections 432B to 432F (apportionment of receipts brought into account) have effect as if subsection (1) above did not apply.**]**

Textual Amendments

F71 Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, **Sch. 25 para. 5**

VALID FROM 06/04/2001

[F71 438C Determination of policy holders' share for purposes of s.438B

(1) For the purposes of section 438B the policy holders' share of any income or chargeable gains to which subsection (1) of that section applies is what remains after deducting the shareholders' share.

(2) The shareholders' share is found by applying to the whole the fraction—

$$\frac{A}{B}$$

where—

A is the amount of the profits of the company for the period which are chargeable to tax under section 436; and

B is an amount equal to the excess of—

(a) the amount taken into account as receipts of the company in computing those profits (apart from premiums and sums received by virtue of a claim under a reinsurance contract), over

(b) the amounts taken into account as expenses in computing those profits.

(3) Where there is no such excess as is mentioned in subsection (2) above, or where the profits are greater than any excess, the whole of the income or gains is treated as the shareholders' share.

(4) Subject to that, where there are no profits none of the income or gains is treated as the shareholders' share.**]**

Textual Amendments

F71 Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, **Sch. 25 para. 5**

[F72 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.**]**

Textual Amendments

F72 S. 439A inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 26** (with Sch. 8 para. 55(2))

[F73 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 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.**]**

Textual Amendments

F73 S. 439B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 27(1)** (with Sch. 8 para. 55(2))

[F74 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 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.]

Textual Amendments

F74 S. 440B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 28(1)** (with Sch. 8 para. 55(2))

VALID FROM 19/07/2007

[F75 440C Modifications for change of tax basis

(1) Subsection (2) makes provision for a case where—

(a) subsection (4) of section 431G applies in relation to the profits of the life assurance business of an insurance company for any accounting period, but

(b) the profits of that business for a succeeding accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of subsection (3) of that section.

(2) The loss referred to in section 431G(4)(b) (less any loss for the same accounting period set off under section 436A for any intervening accounting period and any amount deducted for any such period in respect of the loss by virtue of section 85A(3)(b) of the Finance Act 1989) may be set off under section 393 against

profits of that succeeding accounting period (without being reduced in accordance with section 434A(2)(a)).

(3) In determining whether any loss has been set off under section 436A for any intervening accounting period, or whether any amount has been deducted for any such period in respect of the loss by virtue of section 85A(3)(b) of the Finance Act 1989, losses of earlier accounting periods are to be assumed to be set off before those of later accounting periods.

(4) Subsection (5) makes provision for a case where—

(a) a loss arises to an insurance company for an accounting period for which the profits of its life assurance business fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3)(b),

(b) the profits of that business for a subsequent accounting period are charged to tax under the I minus E basis, and

(c) had those profits (instead) been charged to tax in accordance with Case I of Schedule D, any of that loss would have been available to be set off against them under section 393.

(5) The loss is to be treated for the purposes of the operation of section 436A in relation to the subsequent accounting period as if it were a loss arising from its gross roll-up business in the accounting period in which it arose.

(6) Subsections (7) and (8) make provision for a case where—

(a) the profits of the life assurance business of an insurance company for an accounting period are charged to tax under the I minus E basis,

(b) the profits of that business for its next accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), and

(c) that prevents the giving of relief in accordance with section 86(8) of the Finance Act 1989 (acquisition expenses relieved in fractions under section 76).

(7) Any relief which would have been so given in—

(a) the next accounting period, or

(b) any subsequent accounting period for which the profits of the company's life assurance business continue to be charged to tax in accordance with Case I of Schedule D,

may be given by set-off against any gains treated as accruing under section 213(1) of the 1992 Act at the end of the accounting period.

(8) But if the profits of the company's life assurance business for a subsequent accounting period are charged to tax under the I minus E basis, any relief not previously given under subsection (7) is to be treated for the purposes of the operation of section 76 in relation to the first subsequent accounting period for which profits are so charged as if it were an amount which is to be relieved under that section by virtue of section 86(8) and (9) of the Finance Act 1989.**]**

Textual Amendments

F75 S. 440C inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 9** (with Sch. 8 Pt. 2)

VALID FROM 27/12/2007

[F76 440D Modifications in relation to BLAGAB group reinsurers

Schedule 19ABA (which makes modifications of this Act in relation to BLAGAB group reinsurers) shall have effect.**]**

Textual Amendments

F76 S. 440D inserted (27.12.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Taxation of Reinsurance Business) (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/3430), **art. 3(2)**

[F77 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.

(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.**]**

Textual Amendments

F77 S. 441B inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 32** (with Sch. 8 para. 55(2))

[F78 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 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.**]**

Textual Amendments

F78 S. 442A inserted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 34** (with Sch. 8 paras. 55(2), 57(2))

Modifications etc. (not altering text)

C30 S. 442A restricted (28.7.1995 with effect in accordance with reg. 1 of the affecting S.I.) by The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730), **regs. 9**, 10

C31 S. 442A(1) modified (20.3.1997 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1)**, 29

VALID FROM 19/02/2008

[F79 444AZA Transfers of life assurance business: Case VI losses of the transferor

(1) This section applies where—

(a) an insurance business transfer scheme has effect to transfer life assurance business from one person ("the transferor") to another ("the transferee"),

(b) assuming the transferor had continued to carry on the business transferred after the transfer, the amount of any profits would have been charged to tax in respect of that business under the I minus E basis,

(c) the profits in respect of the business transferred for the first period of account of the transferee ending after the date on which the transfer takes effect are charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), and

(d) the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to a transfer).

(2) Any loss which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to be set off against profits chargeable under section 436A (a "Case VI loss") shall instead be treated as a loss of the transferee (a "Case I loss") available to be set off against GRBP in relation to a period of account.

(3) For the purposes of subsection (2) above "GRBP", in relation to a period of account, is—

$$P \times \frac{GRBTL}{TL}$$

where—

P is the amount of such profits of the transferee's life assurance business for the period of account as relate to the business transferred (that amount being determined in accordance with section 343(9) and (10), where applicable),

GRBTL is the mean of the opening and closing liabilities of the transferred gross roll-up business for the period of account, and

TL is the mean of the opening and closing liabilities of the transferred life assurance business for the period of account.

(4) Where the transfer is of part only of the transferor's long-term business, subsection (2) above shall apply only to such part of any Case VI loss to which it would otherwise apply as is appropriate.

(5) Any question arising as to the operation of subsection (4) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing.**]**

Textual Amendments

F79 Ss. 444AZA, 444AZB inserted (19.2.2008 with effect in accordance with art. 1(5) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **art. 9**

VALID FROM 19/02/2008

[F79 444AZB Transfers of life assurance business: Case I losses of the transferor

(1) This section applies where—

(a) an insurance business transfer scheme has effect to transfer life assurance business from one person ("the transferor") to another ("the transferee"),

(b) assuming the transferor had continued to carry on the business transferred after the transfer, the amount of any profits would have been charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3),

(c) the profits in respect of the business transferred for the first period of account of the transferee ending after the date on which the transfer takes effect are charged to tax under the I minus E basis, and

(d) the conditions in paragraphs (a) and (b) of section 343(1) are satisfied in relation to the business transferred (construing references to an event as to a transfer).

(2) The relevant fraction of any loss which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to be set off against profits of that business (a "Case I loss") shall instead be treated as a loss of the transferee (a "Case VI loss") available to be set off against the amount of such profits chargeable under section 436A for a period of account as relate to the business transferred (that amount being determined in accordance with section 343(9) and (10), where applicable).

(3) For the purposes of subsection (2) above "the relevant fraction", in relation to a period of account, is—

$$\frac{GRBTL}{TL}$$

where—

GRBTL is the mean of the opening and closing liabilities of the transferred gross roll-up business for the period of account, and

TL is the mean of the opening and closing liabilities of the transferred life assurance business for the period of account.

(4) Where the transfer is of part only of the transferor's long-term business, subsection (2) above shall apply only to such part of the amount of any Case I loss to which it would otherwise apply as is appropriate.

(5) Any question arising as to the operation of subsection (4) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing.**]**

Textual Amendments

F79 Ss. 444AZA, 444AZB inserted (19.2.2008 with effect in accordance with art. 1(5) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **art. 9**

VALID FROM 10/07/2003

[F80 444AA Transfers of business: deemed periodical return

(1) This section applies where an insurance business transfer scheme has effect to transfer the whole of the long-term business of one person ("the transferor").

(2) Where the last period covered by a periodical return of the transferor ends otherwise than immediately before the transfer, there is to be deemed for the purposes of corporation tax to be a periodical return of the transferor covering the period—

(a) beginning immediately after the last period ending before the transfer which is covered by an actual periodical return of the transferor, and

(b) ending immediately before the transfer,

containing such entries as would have been included in an actual periodical return of the transferor covering that period (and so making that period a period of account of the transferor).

(3) Where the last period covered by a periodical return of the transferor (whether or not by virtue of subsection (2) above) ends immediately before the transfer, there is to be deemed for the relevant purpose to be a periodical return of the transferor—

(a) covering the time of the transfer, and

(b) containing such entries as would have been included in an actual periodical return covering the time of the transfer,

(and so making the time of the transfer a period of account of the transferor for the relevant purpose).

(4) Where the last period covered by a periodical return of the transferor ends after the transfer, the periodical return covering that period is to be ignored for all purposes of corporation tax other than the relevant purpose.

(5) In this section "the relevant purpose" means determining for the purposes of section 83(2B) of the Finance Act 1989 whether a transfer is brought into account as part of total expenditure.

(6) For the purposes of this section "insurance business transfer scheme" includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).**]**

Textual Amendments

F80 S. 444AA inserted (with effect in accordance with Sch. 33 para. 18(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 18(1)**

VALID FROM 10/07/2003

[F81 444AB Transfers of business: charge on transferor retaining assets

(1) This section applies where, immediately after an insurance business transfer scheme has effect to transfer long-term business from one person ("the transferor") to one or more others ("the transferee" or "the transferees"), the transferor—

(a) does not carry on long-term business, but

(b) holds assets which, immediately before the transfer, were assets of its long-term insurance fund.

(2) The transferor shall be charged to tax under Case VI of Schedule D in respect of the taxable amount as if it had been received by the transferor during the accounting period beginning immediately after the day of the transfer.

(3) If the transferor was charged to tax on the profits of its life assurance business under Case I of Schedule D for the accounting period ending with the day of the transfer, the taxable amount is the whole of the previously untaxed amount.

(4) Otherwise, the taxable amount is the non-BLAGAB fraction of the previously untaxed amount.

(5) The previously untaxed amount is the lesser of—

(a) the fair value of such of the assets held by the transferor immediately after the transfer as were assets of its long-term insurance fund immediately before the transfer, and

(b) the amount by which the fair value of the assets of the transferor's long-term insurance fund immediately before the transfer exceeds the amount of the relevant pre-transfer liabilities.

(6) In subsection (5) above "fair value", in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.

(7) Subject to subsection (8) below, the amount of the relevant pre-transfer liabilities is the aggregate of the amounts shown in column 1 of lines 14 and 49 of Form

14 in the periodical return of the transferor covering the period of account ending immediately before the transfer.

(8) If the amount of the liabilities transferred exceeds the value of the assets so transferred, as brought into account for the first period of account of the transferee (or any of the transferees) ending after the transfer, the amount of the relevant pre-transfer liabilities is the amount arrived at by deducting the excess from the aggregate of the amounts shown as mentioned in subsection (7) above.

(9) For the purposes of subsection (4) above the non-BLAGAB fraction of the previously untaxed amount is the fraction of which—

(a) the numerator is the amount of the liabilities transferred, apart from those which are liabilities of basic life assurance and general annuity business, and

(b) the denominator is the amount of the liabilities transferred.

(10) References in this section to assets held by the transferor after the transfer do not include any held on trust for the transferee or any of the transferees.

(11) For the purposes of this section "insurance business transfer scheme" includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).**]**

Textual Amendments

F81 S. 444AB inserted (with effect in accordance with Sch. 33 para. 19(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 19(1)**

VALID FROM 22/07/2004

[F82444AB Subsequent charge in certain cases within s.444AB

(1) This section applies where—

(a) section 444AB applies in relation to a transfer in the case of which there are retained liabilities, and

(b) in any accounting period of the transferor beginning after the day of the transfer there is a reduction in the amount of the retained liabilities occasioned otherwise than by the making of a payment in or towards their discharge.

(2) The transferor shall be charged to tax under Case VI of Schedule D in respect of the taxable amount as if it had been received by the transferor in the accounting period in which the reduction occurs.

(3) If the transferor was charged to tax on the profits of its life assurance business under Case I of Schedule D for the accounting period ending with the day of the transfer, the taxable amount is the whole amount of the reduction.

(4) Otherwise the taxable amount is the non-BLAGAB fraction of the amount of the reduction.

(5) The non-BLAGAB fraction of the amount of the reduction is the fraction of which—

(a) the numerator is the amount of the liabilities transferred, apart from those which are liabilities of basic life assurance and general annuity business, and

(b) the denominator is the amount of the liabilities transferred.

(6) Where in any accounting period of the transferor beginning after the transfer there is an increase in the amount of the retained liabilities, this section applies in relation to subsequent accounting periods of the transferor as if the amount of the retained liabilities were reduced by the amount of the increase.

(7) Where an amount is shown as post-transfer reduction liabilities in the transferor's accounts for any accounting period beginning after the transfer, this section applies as if the amount of the retained liabilities at the end of that accounting period (and the beginning of the next) were increased by the amount so shown.

(8) In subsection (7) above "post-transfer reduction liabilities" means liabilities of the transferor to make payments to relevant persons which, in accordance with the terms of the insurance business transfer scheme, have arisen in consequence of a reduction in the amount of the retained liabilities at any time after the transfer.

(9) In subsection (8) above "relevant persons" means—

(a) if the transferor's life assurance business immediately before the transfer was mutual business, persons who were policy holders or annuitants, or members of the transferor, at that time, and

(b) in any other case, persons who were policy holders or annuitants at that time.**]**

Textual Amendments

F82 S. 444ABA inserted (with effect in accordance with Sch. 7 para. 3(2) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 7 para. 3(1)**

VALID FROM 16/12/2010

[F83444ABAA Non-profit fund transferred assets

(1) For the purposes of section 444AB the relevant amount in relation to assets that are non-profit fund transferred assets is—

$$FVA - (ABTO + TL)$$

where—

FVA is the fair value of the assets on the transfer date,

ABTO is any amount brought into account in respect of the assets as a business transfer-out and shown (or treated as shown) in line 32 of Form 40 in the periodical

return of the transferor for the period of account of the transferor including the transfer date, and

TL is the amount of any non-profit fund transferred liabilities which are shown (or treated as shown) in any of lines 17, 21 to 23 and 31 to 38, but not in line 61, in Form 14 in the periodical return for the period of account of the transferor ending (or treated as ending by section 444AA) immediately before the transfer date or, if there is no period of account of the transferor so ending (or treated as so ending), the amount of any liabilities which would be so shown if one did.

(2) In subsection (1) "non-profit fund transferred liabilities" means such of the liabilities of the transferor's long-term insurance fund as are transferred from the transferor to the transferee by the insurance business transfer scheme and were, immediately before their transfer, liabilities of a non-profit fund of the transferor.

(3) See section 444AA for the meaning of "the transfer date" in this section.**]**

Textual Amendments

F83 S. 444ABAA inserted (with effect in accordance with s. 15(11) of the amending Act) by Finance (No. 3) Act 2010 (c. 33), **s. 15(10)**

VALID FROM 19/07/2007

[F84444ABRetained assets

(1) For the purposes of section 444AB the relevant amount in relation to assets that are retained assets is the lesser of FVA and UTA, where—

(a) FVA is the fair value of the assets on the transfer date, and

(b) UTA is the amount by which the fair value of the assets of the long-term insurance fund of the transferor immediately before the transfer date exceeds the amount shown (or treated as shown) in line 32 of Form 40 in the periodical return of the transferor covering the transfer date.

(2) See section 444AA for the meaning of "the transfer date" in this section.**]**

Textual Amendments

F84 Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 4(1)**; S.I. 2008/379, **art. 2**

VALID FROM 19/02/2008

[F85 444ABBA Transfers of business: election for transferee to pay tax of transferor

(1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person ("the transferor") to another ("the transferee").

(2) If the transferor and the transferee jointly elect, the transferee (and not the transferor) is chargeable to any amount of additional corporation tax to which the transferor would otherwise be chargeable by virtue of section 444AB(4) in relation to relevant non-transferred assets.

(3) An election under subsection (2) above—

(a) is to be irrevocable, and

(b) is to be made by notice to an officer of Revenue and Customs no later than the end of the period of 90 days beginning with the day following the transfer date,

and a copy of the notice containing the election must accompany the tax return of the transferee for the first accounting period ending after the transfer. Paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.

(4) Where an election under subsection (2) above has been made, the transferor must inform the transferee of—

(a) the amount of any additional corporation tax to which the transferor considers the election to apply, and

(b) the day on which that tax is due and payable,

no later than the end of the period of 8 months beginning with the day following the transfer date.

(5) Tax chargeable on the transferee by virtue of an election under subsection (2) above—

(a) is due in accordance with section 59D of the Management Act [M47] on the day on which it would have been due if no election had been made, and

(b) for the purposes of that section, is to be treated as tax payable by the transferor (and not as tax payable by the transferee).

(6) See section 444AA for the meaning of "the transfer date" in this section.**]**

Textual Amendments

F85 S. 444ABBA inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **art. 14**

Marginal Citations

M47 1970 c. 9

VALID FROM 19/07/2007

[F86 444ABC Transfer scheme transferring part of business: transferor

(1) This section applies where an insurance business transfer scheme has effect to transfer part (but not the whole or substantially the whole) of the long-term business of a person ("the transferor") to another person ("the transferee") and the condition in subsection (2) below is met.

(2) That condition is that any of the assets of the transferor's long-term insurance fund which are transferred from the transferor to the transferee by the insurance business transfer scheme are not, immediately after their transfer—

(a) if the transferee is an insurance company, assets of the transferee's long-term insurance fund, or

(b) if the transferee is not an insurance company, assets of a with-profits fund of the transferee,

("relevant non-transferred assets").

(3) The relevant amount in relation to the relevant non-transferred assets (see subsection (4) below) is to be taken into account under section 83(2) of the Finance Act 1989 as an increase in value of the assets of the long-term insurance fund of the transferor for the period of account covering the transfer date.

(4) The relevant amount in relation to the relevant non-transferred assets is—

$$FVA - BTO$$

where

FVA is the fair value of the assets on the transfer date, and

BTO is any amount brought into account in respect of the assets as a business transfer-out.

(5) See section 444AA for the meaning of "the transfer date" in this section.**]**

Textual Amendments

F86 Ss. 444AB-444ABC substituted for ss. 444AB, 444ABA (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 4(1)**; S.I. 2008/379, **art. 2**

VALID FROM 19/07/2007

[F87 444ABD Transferor's period of account including transfer

(1) Any profits representing the amount by which—

(a) the value of the liabilities transferred by an insurance business transfer scheme, exceeds

(b) the value of the assets transferred by the insurance business transfer scheme shown (or treated as shown) in line 32 of the periodical return of the transferor for the period of account of the transferor including the transfer date,

are to be taken into account as profits of that period of account.

(2) See section 444AA for the meaning of "the transfer date" in this section.**]**

Textual Amendments

F87 S. 444ABD inserted (with effect in accordance with Sch. 9 para. 17(4) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 5**

VALID FROM 10/07/2003

444AC Transfers of business: modification of s.83(2) FA 1989

(1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person ("the transferor") to another ("the transferee").

(2) If—

(a) the element of the transferee's line 15 figure representing the transferor's long-term insurance fund, exceeds

(b) the amount of the liabilities to policy holders and annuitants transferred to the transferee,

the excess is not to be regarded as other income of the transferee for the purposes of section 83(2)(d) of the Finance Act 1989.

(3) In this section and section 444AD "the element of the transferee's line 15 figure representing the transferor's long-term insurance fund" means so much of—

(a) the amount which is brought into account by the transferee as other income in the period of account of the transferee in which the transfer takes place, as represents

(b) the assets transferred to the transferee.

VALID FROM 19/07/2007

[F88 444ACZA Transfer schemes transferring part of business: reduction in income of transferee

(1) This section applies where an insurance business transfer scheme has effect to transfer part (but not the whole or substantially the whole) of the long-term business of a person ("the transferor") to another person ("the transferee") and the condition in subsection (2) below is met.

(2) The condition is that the transferor did not carry on life assurance business that is mutual business during the period of account of the transferor covering the transfer date.

(3) The amount which (apart from this section) would be regarded as other income of the transferee for the purposes of section 83(2)(e) of the Finance Act 1989 for the period of account of the transferee which includes the transfer date is to be reduced by an amount equal to the transferred surplus.

(4) In subsection (4) above "the transferred surplus" means such part of the amount shown (or treated as shown) in line 13 of Form 14 in the periodical return of the transferor covering the last period of account of the transferor ending before the transfer date as it is just and reasonable to regard as being attributable to the transfer.

(5) See section 444AA for the meaning of "the transfer date" in this section.**]**

Textual Amendments

F88 Ss. 444AC, 444ACZA substituted for s. 444AC (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 6(1)**; S.I. 2008/379, **art. 2**

VALID FROM 20/07/2005

[F89444ACA Transfers of business: transferor shares are assets of transferee's long-term insurance fund etc

(1) This section applies where an insurance business transfer scheme (see section 444AC(11)) has effect to transfer long-term business from one company ("the transferor") to another ("the transferee").

(2) If—

(a) immediately before the transfer, the assets of the long-term insurance fund of the transferee comprise or include relevant shares or an interest in such shares, and

(b) the fair value (see section 444AC(11)) of the relevant shares, or of that interest, is reduced (whether or not to nil) as a result of the transfer,

an amount equal to that reduction in fair value is to be taken into account under section 83(2) of the Finance Act 1989 as a receipt of the transferee of the period of account of the transferee in which the transfer takes place.

(3) But if—

(a) the assets transferred to the transferee under the transfer comprise or include assets ("the relevant assets") which, immediately before the transfer,—

(i) were assets of the transferor, but

(ii) were not assets of the transferor's long-term insurance fund, and

(b) in respect of the transfer of the relevant assets, an amount is—

(i) brought into account by the transferee as other income of the transferee of the period of account of the transferee in which the transfer takes place, and

(ii) taken into account in computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits of the transferee's life assurance business and any category of its life assurance business to which the amount is referable,

the amount taken into account under section 83(2) of the Finance Act 1989 by virtue of subsection (2) above shall be reduced (but not below nil) by an amount equal to the amount referred to in paragraph (b) above.

(4) In subsection (2) above "relevant shares" means—

(a) some or all of the shares in the transferor, or

(b) some or all of the shares in a company (whether or not an insurance company) which owns, directly or indirectly,—

(i) some or all of the shares in the transferor, or

(ii) an interest in some or all of those shares.

(5) In subsection (4) above "shares", in relation to a company, includes any interests in the company possessed by members of the company.**]**

Textual Amendments

F89 S. 444ACA inserted (with effect in accordance with Sch. 9 para. 8(2) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 8(1)**

VALID FROM 10/07/2003

444AD Transfers of business: modification of s.83(2B) FA 1989

(1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person ("the transferor") to another ("the transferee").

(2) If the transferor and the transferee jointly elect, section 83(2B) of the Finance Act 1989 does not apply to the transferor by reason of the transfer as respects so much of the value of the assets to which it would otherwise so apply as does not exceed the amount specified in subsection (4) below.

(3) An election under subsection (2) above—

(a) is irrevocable, and

(b) is to be made by notice to an officer of the Board no later than the end of the period of 28 days beginning with the day following that on which the transfer takes place;

and a copy of the notice containing the election must accompany the tax return of the transferee for the first accounting period ending after the transfer.

Paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes) do not apply to such an election.

(4) The amount referred to in subsection (2) above is the amount by which—

(a) the fair value of the assets of the long-term insurance fund of the transferee immediately after the transfer, is greater than

(b) the element of the transferee's line 15 figure representing the transferor's long-term insurance fund.

(5) In subsection (4) above "fair value", in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount.

VALID FROM 10/07/2003

444AE Transfers of business: modification of s.83ZA FA 1989

(1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person ("the transferor") to another ("the transferee").

(2) If a contingent loan made to the transferor (within the meaning of subsection (1) of section 83ZA of the Finance Act 1989) is transferred to the transferee, that section has effect as if—

(a) the contingent loan had become repayable by the transferor immediately before the transfer, and

(b) the contingent loan were made to the transferee immediately after the transfer.

VALID FROM 19/07/2007

444AEA Transfer schemes: anti-avoidance rule

(1) This section applies where—

(a) as a result of the whole or any part of transfer scheme arrangements involving the transfer of long-term business from one person ("the transferor") to another ("the transferee") a Case I advantage is obtained by the transferor or the transferee (or by both), and

(b) the sole or main purpose, or one of the main purposes, of the whole or any part of the transfer scheme arrangements is the obtaining of that Case I advantage.

(2) In subsection (1) above "transfer scheme arrangements" means an insurance business transfer scheme ("the relevant transfer scheme") together with any relevant associated operations.

(3) If a Case I advantage is obtained by the transferor (see subsection (1) of section 444AEB), the amount of the transferor's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferor for the period of account of the transferor covering the transfer date.

(4) If a Case I advantage is obtained by the transferee (see subsection (1) of section 444AEC), the amount of the transferee's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of

the assets of the long-term insurance fund of the transferee for the first period of account of the transferee ending after the transfer date.

(5) In this section and sections 444AEB and 444AEC "relevant associated operations", in relation to the relevant transfer scheme, means—

(a) any other insurance business transfer scheme,

(b) any contract of reinsurance,

(c) any reconstruction or amalgamation involving the transferor, a dependant of the transferor which is an insurance undertaking or the transferee, or

(d) any surplus-increasing transfer of assets,

which is effected in connection with the relevant transfer scheme.

(6) In subsection (5) above—

"dependant" and "insurance undertaking" have the same meaning as in the Insurance Prudential Sourcebook, and

"surplus-increasing transfer of assets" means a transfer of assets of the transferor's long-term insurance fund to the transferee which is not brought into account for any period of account of the transferee but increases the amount of total surplus shown in line 39 of Form 58 in any periodical return of the transferee.

(7) See section 444AA for the meaning of "the transfer date" in this section.

VALID FROM 19/07/2007

444AEB Case I advantage: transferor

(1) A Case I advantage is obtained by the transferor if—

(a) Case I profits of its life assurance business for a period of account to which this section applies are less than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements, or

(b) Case I losses of its life assurance business for such a period of account are greater than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements.

(2) If a Case I advantage is obtained by the transferor, the amount of the Case I advantage is the aggregate of—

(a) the amounts (if any) by which Case I profits for each period of account to which this section applies are less than they would be but for the transfer scheme arrangements or part, and

(b) the amounts (if any) by which Case I losses for each such period of account are greater than they would be but for the transfer scheme arrangements or part.

(3) This section applies to a period of account if it is—

(a) the period of account of the transferor covering the transfer date,

(b) any earlier period of account of the transferor, or

(c) where any relevant associated operations are effected in any later period of account, that period of account.

(4) In this section and section 444AEC "Case I profits" and "Case I losses" means profits and losses computed in accordance with the provisions of Case I of Schedule D.

(5) See section 444AA for the meaning of "the transfer date", and section 444AEA for the meaning of "relevant associated operations", in this section.

VALID FROM 19/07/2007

444AEC Case I advantage: transferee

(1) A Case I advantage is obtained by the transferee if—

(a) Case I profits of its life assurance business for a period of account to which this section applies are less than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements, or

(b) Case I losses of its life assurance business for such a period of account are greater than they would be but for the transfer scheme arrangements or any part of the transfer scheme arrangements.

(2) If a Case I advantage is obtained by the transferee, the amount of the Case I advantage is—

(a) the amount by which Case I profits for each period of account to which this section applies are less than they would be but for the transfer scheme arrangements or part, or

(b) the amount by which Case I losses for each such period of account are greater than they would be but for the transfer scheme arrangements or part.

(3) This section applies to a period of account if it is—

(a) the first period of account of the transferee ending after the transfer date or after the effecting of the first of any relevant associated operations (if that occurs before the transfer date),

(b) the second period of account of the transferee ending after the transfer date or after the effecting of the last of any relevant associated operations (if that occurs after the transfer date), or

(c) any intervening period of account.

(4) See section 444AA for the meaning of "the transfer date", section 444AEA for the meaning of "relevant associated operations" and section 444AEB for the meaning of "Case I profits" and "Case I losses", in this section.

VALID FROM 19/02/2008

[F90 444AED Cases of transfer scheme arrangements: anti-avoidance rule

(1) This section applies where—

(a) as a result of any part of transfer scheme arrangements involving the transfer of long-term business from one person ("the transferor") to another

("the transferee") a Case I advantage is obtained by the transferor or the transferee (or by both), and

(b) the sole or main purpose, or one of the main purposes, of that part of the transfer scheme arrangements is the obtaining of that Case I advantage.

(2) In subsection (1) above "transfer scheme arrangements" has the same meaning as in section 444AEA.

(3) If a Case I advantage is obtained by the transferor (see subsection (1) of section 444AECB), the amount of the transferor's Case I advantage (see subsection (3) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferor—

(a) to the extent that the advantage is obtained by the transferor in the period of account covering the transfer date or any earlier period of account—

(i) for the period of account of the transferor ending (or treated as ending) immediately before the transfer date, or

(ii) where there is no such period, for the period of account of the transferor including the transfer date, and

(b) to the extent that the advantage is obtained by the transferor in any later period of account of the transferor in which any relevant associated operations are effected, for that later period of account.

(4) If a Case I advantage is obtained by the transferee (see subsection (1) of section 444AECC), the amount of the transferee's Case I advantage (see subsection (2) of that section) is to be taken into account as an increase in value of the assets of the long-term insurance fund of the transferee for the period of account of the transferee in which the advantage is obtained by the transferee.

(5) See section 444AA for the meaning of "the transfer date", and section 444AEA for the meaning of "relevant associated operations", in this section.**]**

Textual Amendments

F90 Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **art. 22**

VALID FROM 19/02/2008

[F90 444AECB Cases of transfer scheme arrangements: Case I advantage transferor

(1) A Case I advantage is obtained by the transferor if—

(a) Case I profits of its life assurance business for a period of account to which this section applies are, or at the relevant time are expected to be, less than they would be but for any part of the transfer scheme arrangements, or

(b) Case I losses of its life assurance business for such a period of account are, or at the relevant time are expected to be, greater than they would be but for any part of the transfer scheme arrangements.

(2) But if any of the relevant associated operations would, by itself, cause the Case I profits to be greater or the Case I losses to be less than they would be but for

that operation, the amount by which those profits would be greater or those losses would be less shall be taken into account in determining whether a Case I advantage is obtained by the transferor.

(3) If a Case I advantage is obtained by the transferor, the amount of the Case I advantage is the aggregate of—

(a) the amounts (if any) by which Case I profits for each period of account to which this section applies are, or at the relevant time are expected to be, less than they would be but for the relevant part of the arrangements, and

(b) the amounts (if any) by which Case I losses for each such period of account are, or at the relevant time are expected to be, greater than they would be but for the relevant part of the arrangements.

(4) This section applies to a period of account if it is—

(a) the period of account of the transferor covering the transfer date,

(b) any earlier period of account of the transferor, or

(c) where any relevant associated operations are effected in any later period of account, that period of account.

(5) In this section and section 444AECC "the relevant part of the arrangements" means, in relation to a Case I advantage, the part of the transfer scheme arrangements as a result of which the Case I advantage is obtained.

(6) See section 444AA for the meaning of "the transfer date", section 444AEA for the meaning of "relevant associated operations" and section 444AEB for the meaning of "Case I profits" and "Case I losses" and "the relevant time", in this section.**]**

Textual Amendments

F90 Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **art. 22**

VALID FROM 19/02/2008

[F90 444AECB Cases of transfer scheme arrangements: Case I advantage transferee

(1) A Case I advantage is obtained by the transferee if—

(a) Case I profits of its life assurance business for a period of account to which this section applies are, or at the relevant time are expected to be, less than they would be but for any part of the transfer scheme arrangements, or

(b) Case I losses of its life assurance business for such a period of account are, or at the relevant time are expected to be, greater than they would be but for the any part of the transfer scheme arrangements.

(2) But if any of the relevant associated operations would, by itself, cause the Case I profits to be greater, or the Case I losses to be less, than they would be but for that operation, the amount by which those profits would be greater or those losses would be less shall be taken into account in determining whether a Case I advantage is obtained by the transferor.

(3) If a Case I advantage is obtained by the transferee, the amount of the Case I advantage is—

(a) the amount by which Case I profits for each period of account to which this section applies are, or at the relevant time are expected to be, less than they would be but for the relevant part of the arrangements, or

(b) the amount by which Case I losses for each such period of account are, or at the relevant time are expected to be, greater than they would be but for the relevant part of the arrangements.

(4) This section applies to a period of account if it is—

(a) the first period of account of the transferee ending after the transfer date or after the effecting of the first of any relevant associated operations (if that occurs before the transfer date),

(b) the second period of account of the transferee ending after the transfer date or after the effecting of the last of any relevant associated operations (if that occurs after the transfer date), or

(c) any intervening period of account.

(5) See section 444AA for the meaning of "the transfer date", section 444AEA for the meaning of "relevant associated operations", section 444AEB for the meaning of "Case I profits" and "Case I losses" and "the relevant time" and section 444AECB for the meaning of "the relevant part of the arrangements", in this section.**]**

Textual Amendments

F90 Ss. 444AECA-444AECC inserted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **art. 22**

VALID FROM 19/07/2007

444AED Clearance: no avoidance or group advantage

(1) Section 444AEA does not apply in relation to the transferor or the transferee if, on an application under this section, the Commissioners for Her Majesty's Revenue and Customs ("the HMRC Commissioners") have given a notice under subsection (2) below.

(2) A notice under this subsection is a notice stating that the HMRC Commissioners are satisfied—

(a) that the obtaining of a Case I advantage by the applicant is not the sole or main purpose of the whole or any part of the transfer scheme arrangements, or

(b) that the transferor and the transferee are members of the same group of companies and that there is no advantage to the group arising from any Case I advantage obtained by the transferor or by the transferee.

(3) For the purposes of this section there is no advantage to a group arising from any Case I advantage obtained by the transferor or by the transferee if—

(a) as a result of transfer scheme arrangements, there is an increase in the liability to corporation tax of one or more companies which are members of the group of companies, and

(b) the amount (or aggregate amount) of that increase is not less than the reduction in the liability to corporation tax of the transferor or the transferee (or both) arising from the obtaining of the Case I advantage.

(4) An application under this section must be in writing and contain particulars of the transfer scheme arrangements.

(5) The HMRC Commissioners may by notice require the applicant to provide further particulars in order to enable them to determine the application.

(6) A requirement may be imposed under subsection (5) above within 30 days of the receipt of the application or of any further particulars required under that subsection.

(7) If a notice under subsection (5) above is not complied with within 30 days or such longer period as the HMRC Commissioners may allow, they need not proceed further on the application.

(8) The HMRC Commissioners must give notice of their decision on an application under this section to the applicant within 30 days of receiving the application or, if they give a notice under subsection (5) above, within 30 days of that notice being complied with.

(9) If the HMRC Commissioners—

(a) give notice to the applicant under subsection (8) above that they are not satisfied as mentioned in subsection (2) above, or

(b) do not comply with subsection (8) above,

the applicant may require them to transmit the application to the Special Commissioners.

(10) A requirement under subsection (9) above must be imposed within 30 days of the giving of the notice or the failure to comply and must be accompanied by any notice given under subsection (5) above and further particulars provided pursuant to any such notice.

(11) Any notice given by the Special Commissioners has effect for the purposes of subsection (1) above as if it were given by the HMRC Commissioners.

(12) If any particulars provided under this section do not fully and accurately disclose all facts and considerations material for the decision of the HMRC Commissioners or the Special Commissioners, any resulting notice that they are satisfied as mentioned in subsection (2) above is void.

(13) For the purposes of this section two companies are members of the same group of companies if they are for the purposes of Chapter 4 of Part 10.

VALID FROM 19/07/2006

[F91 Surpluses of mutual and former mutual businesses

Textual Amendments

F91 Ss. 444AF-444AL and preceding cross-heading inserted (with effect in accordance with Sch. 11 para. 5(2)-(14) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 11 para. 5(1)**

444AF Demutualisation surplus: life assurance business

(1) This section applies in relation to a period of account of an insurance company ("the relevant period") if—

(a) at any time in the relevant period the company carries on life assurance business that is not mutual business,

(b) the company has an amount of undistributed demutualisation surplus for the relevant period (see subsection (7)), and

(c) there is a reduction in the amount of the company's unappropriated surplus over the relevant period (see section 444AI).

(2) Where this section applies in relation to the relevant period, there shall be deemed for the purposes of section 83(2) of the Finance Act 1989 to be brought into account for the relevant period as an increase in the value of the assets of the company's long-term insurance fund whichever of the following amounts is the smallest—

(a) the amount of the reduction mentioned in subsection (1)(c) above;

(b) the amount of the company's undistributed demutualisation surplus for the relevant period;

(c) the amount of the company's relevant receipts reduction for the relevant period (see section 444AJ).

(3) If the company prepares for the relevant period one or more such separate revenue accounts as are mentioned in section 83A(2)(b) of the Finance Act 1989—

(a) subsection (2) above shall apply separately in relation to each separate revenue account which is recognised for the purposes of section 83 of that Act; and

(b) for that purpose, any amount that falls to be determined in order to determine—

(i) whether that subsection applies in relation to any such separate revenue account, and

(ii) if so, the amount to be brought into account under that subsection in relation to that account,

shall be determined using only amounts or items which relate to the separate revenue account concerned.

(4) In applying subsection (2) above in relation to a revenue account or separate revenue account which—

(a) is recognised for the purposes of section 83 of that Act, and

(b) is one in relation to which sections 432C and 432D apply,

that subsection shall have effect as if for "smallest" there were substituted smaller and as if paragraph (c) were omitted.

(5) This section shall have effect—

(a) for the purposes of computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits of the company's life assurance business, and

(b) for the purposes of so computing the profits of any category of the company's life assurance business chargeable to tax under Case VI of Schedule D.

(6) But for the purposes mentioned in subsection (5)(b) above, this section and section 444AG have effect subject to the modification in section 444AH; and the Corporation Tax Acts have effect accordingly (so that there may, in particular, be a difference between—

(a) the amount deemed to be brought into account by virtue of subsection (2) above for a period of account for those purposes, and

(b) the amount so deemed to be brought into account for that period of account for the purposes mentioned in subsection (5)(a) above).

(7) For the purposes of this section, the undistributed demutualisation surplus of an insurance company for the relevant period is—

(a) an amount equal to (UDSP – AD + DTSI – DTSO); or

(b) if that amount is a negative amount, nil.

For this purpose—

UDSP is the undistributed demutualisation surplus of the company for the period of account immediately preceding the relevant period,

AD is any amount deemed under this section to be brought into account for the period of account immediately preceding the relevant period as an increase in the value of the assets of the company's long-term insurance fund,

DTSI is the total amount of any demutualisation transfer surpluses accruing to the company during the relevant period (see section 444AG),

DTSO is the total amount of any demutualisation transfer surpluses accruing to any other company (or companies) during the relevant period on a transfer (or transfers) of life assurance business by the company to that other company (or companies).

444AG Section 444AF: "demutualisation transfer surplus"

(1) For the purposes of section 444AF and this section, a demutualisation transfer surplus accrues to an insurance company where—

(a) life assurance business is transferred to the company by a person ("the transferor"),

(b) after the transfer, the company carries on the transferred business otherwise than as mutual business, and

(c) the condition in subsection (2) below is satisfied in relation to the transfer.

(2) The condition is that—

(a) immediately before the transfer, the transferor carried on the transferred business as mutual business, or

(b) where paragraph (a) above does not apply, some or all of the transferred business was carried on by an insurance company as mutual business at a

time on or after 1st January 1990 and before the transfer ("former mutual business").

(3) The demutualisation transfer surplus accrues to the company on the date of the transfer.

(4) The amount of the demutualisation transfer surplus is given by subsection (5) or (6) below.

(5) Where subsection (2)(a) above applies, the amount of the demutualisation transfer surplus is—

(a) where the whole of the transferor's life assurance business was transferred to the company under the transfer, the aggregate of—

(i) the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer, and

(ii) the amount of any added surplus accruing to the company in connection with the transfer (see subsection (10));

(b) otherwise, a just and reasonable portion of that aggregate amount, having regard to how much of the transferor's life assurance business was transferred to the company under the transfer.

(6) Where subsection (2)(b) above applies, the amount of the demutualisation transfer surplus is—

(a) where the whole of the transferor's life assurance business was transferred to the company under the transfer and all of the transferred business is former mutual business, the former mutual surplus of the transferor on the transfer date (see subsection (7));

(b) otherwise, so much of that former mutual surplus as it is just and reasonable to attribute to the company, having regard in particular to—

(i) how much of the transferor's life assurance business was transferred to the company under the transfer, and

(ii) how much of the transferred business is former mutual business.

(7) For the purposes of subsection (6) above, the former mutual surplus of the transferor on the transfer date is—

(a) the amount given by subsection (8) below, or

(b) if less, the amount given by subsection (9) below.

(8) The amount given by this subsection is the total amount of any demutualisation transfer surpluses accruing to the transferor—

(a) on or after 1st January 1990, and

(b) on or before the date of the transfer.

(9) The amount given by this subsection is the lowest amount of unappropriated surplus of the transferor at the end of any period of account ending—

(a) on or after the date of the last occasion on which a demutualisation transfer surplus accrued to it as mentioned in subsection (8) above, and

(b) on or before the date of the transfer.

(10) For the purposes of this section, added surplus accrues to the company in connection with the transfer if—

(a) an amount of assets is received by the company in connection with the transfer, no later than six months after the date of the transfer,

(b) the amount is not brought into account by the company,

(c) the amount is added to the unappropriated surplus of the company, and

(d) the amount does not derive from any unappropriated surplus of the transferor;

and the amount of the added surplus is the amount referred to in paragraphs (a) to (d) above.

444AH Modification of section 444AG etc for Case VI businesses

(1) The modification in this section has effect for the purposes mentioned in section 444AF(5)(b) only.

(2) In relation to any demutualisation transfer surplus accruing to a company in a post-2002 period of account—

(a) the references in section 444AG(5) to the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer shall be taken to be references to—

(i) the amount of that unappropriated surplus, or

(ii) if less, the unappropriated surplus of the transferor at the end of the period of account immediately preceding the first post-2002 period of account of the transferor; and

(b) the references in sections 444AF and 444AG to the amount of any demutualisation transfer surplus are to have effect accordingly.

(3) In this section "post-2002 period of account", in relation to an insurance company, means a period of account of the company beginning on or after 1st January 2003 and ending on or after 9th April 2003.

444AI Section 444AF: "reduction in company's unappropriated surplus"

(1) For the purposes of section 444AF—

(a) there is a reduction in the amount of the company's unappropriated surplus over the relevant period if CUS is less than (OUS + TSI – TSO);

(b) the amount of that reduction is the amount by which CUS is less than (OUS + TSI – TSO).

(2) In this section—

CUS is the amount of the company's unappropriated surplus at the end of the relevant period,

OUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the relevant period,

TSI is the total amount of any transfer surpluses accruing to the company during the relevant period (see subsections (3) to (7)),

TSO is the total amount of any transfer surpluses accruing to any other company (or companies) during the relevant period on a transfer (or transfers) of life assurance business by the company to that other company (or companies).

(3) For the purposes of this section, a transfer surplus accrues to an insurance company where life assurance business is transferred to the company by a person ("the transferor").

(4) The transfer surplus accrues to the company on the date of the transfer.

(5) The amount of the transfer surplus is equal to so much of the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer as is transferred to the company under the transfer.

(6) But if, immediately before the transfer, the transferor carried on the transferred business as mutual business, the amount of the transfer surplus is the aggregate of—

(a) the amount given by subsection (5) above, and

(b) the amount of any added surplus accruing to the company in connection with the transfer.

(7) Subsection (10) of section 444AG applies for the purposes of subsection (6) above as it applies for the purposes of that section.

444AJ Sections 444AF and 444AK: "relevant receipts reduction"

(1) For the purposes of sections 444AF and 444AK, the amount of the company's relevant receipts reduction for the relevant period is to be calculated by—

(a) determining, in the case of each with-profits fund of the company, the amount given by subsection (2) or (6) below for the relevant period, and

(b) aggregating each of those amounts.

(2) The amount, in the case of a fund other than a policy holder participation fund, is—

(a) where the gross transfer to non-technical account for the fund for the relevant period (see subsections (3) and (4)) is greater than the post-policy holder surplus for the fund for the relevant period (see subsection (5)), the amount of the difference;

(b) otherwise, nil.

(3) In this section "the gross transfer to non-technical account" means the amount shown in line 13 of Form 58 for the fund.

(4) But if—

(a) there is a transfer from a with-profits fund of the company to another fund of the company ("the initial transfer") which is shown in (or included in an amount shown in) line 14 of Form 58 for the with-profits fund,

(b) there is a transfer from a fund of the company (whether or not the other fund mentioned in paragraph (a) above) to the non-technical account which is shown in (or included in an amount shown in) line 13 of Form 58 for that fund, and

(c) the transfer to the non-technical account can reasonably be regarded as connected with the initial transfer,

the amount of the gross transfer to non-technical account for the relevant period given by subsection (3) above in the case of the with-profits fund is to be increased by the amount transferred to the non-technical account.

(5) In this section "post-policy holder surplus" means an amount equal to—

$$SA - TAP$$

where—

SA is—

(a) the amount shown in line 34 of Form 58 for the fund (surplus arising since last valuation), or

(b) if that amount is a negative amount, nil;

TAP is the amount shown in line 46 of Form 58 for the fund (total allocated to policy holders).

(6) The amount, in the case of a policy holder participation fund, is—

(a) where TAP is greater than SA, the amount of the difference;

(b) otherwise, nil;

and for this purpose "SA" and "TAP" have the same meaning as in subsection (5) above.

(7) References in this section to Form 58 are references to that Form in the periodical return of the company for the relevant period.

(8) In this section "policy holder participation fund" means a fund in the case of which an amount equal to the amount shown in line 34 of Form 58 for the fund is allocated to policy holders for the relevant period.

444AK Mutual surplus: Case VI categories of life assurance business

(1) This section applies if at any time in a period of account of an insurance company ("the relevant period")—

(a) the company carries on life assurance business as mutual business, and

(b) the company carries on one or more categories of life assurance business chargeable to tax under Case VI of Schedule D.

(2) If there is a reduction in the amount of the company's unappropriated surplus over the relevant period, there shall be deemed for the purposes of section 83(2) of the Finance Act 1989 to be brought into account for the relevant period as an increase in the value of the assets of the company's long-term insurance fund—

(a) the amount of that reduction, or

(b) if less, the amount of the company's relevant receipts reduction for the relevant period (see section 444AJ).

(3) But subsection (2) above shall have effect only for the purposes of computing in accordance with the provisions of this Act applicable to Case I of Schedule D the profits for the relevant period of any category of the company's life assurance business chargeable to tax under Case VI of Schedule D.

(4) If the company prepares for the relevant period one or more such separate revenue accounts as are mentioned in section 83A(2)(b) of the Finance Act 1989—

(a) subsection (2) above shall apply separately in relation to each separate revenue account which is recognised for the purposes of section 83 of that Act; and

(b) for that purpose, any amount that falls to be determined in order to determine—

(i) whether that subsection applies in relation to any such separate revenue account, and

(ii) if so, the amount to be brought into account under that subsection in relation to that account,

shall be determined using only amounts or items which relate to the separate revenue account concerned.

(5) In applying subsection (2) above in relation to a revenue account or separate revenue account which—

(a) is recognised for the purposes of section 83 of that Act, and

(b) is one in relation to which sections 432C and 432D apply,

that subsection shall have effect as if paragraph (b) and the word "or" before it were omitted.

(6) For the purposes of this section, there is a reduction in the amount of the company's unappropriated surplus over the relevant period if—

(a) CUS is less than OUS, and

(b) CUS is less than UUS.

(7) The amount of that reduction is—

(a) the amount by which CUS is less than OUS, or

(b) if OUS is greater than UUS, the amount by which CUS is less than UUS.

(8) In this section—

CUS is the amount of the company's unappropriated surplus at the end of the relevant period,

OUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the relevant period,

UUS is the amount of the company's unappropriated surplus at the end of the period of account immediately preceding the first period of account of the company to begin on or after 1st January 2003 and to end on or after 9th April 2003.

444AL Interpretation of sections 444AF to 444AK

(1) This section applies for the purposes of sections 444AF to 444AK.

(2) References to mutual business, in relation to any time, include business which at that time is treated for the purposes of section 432E as mutual business.

(3) "Unappropriated surplus", in relation to a period of account of an insurance company, means an unappropriated surplus on valuation as shown in the periodical return of the company for the period of account.

(4) References to the unappropriated surplus of the transferor at the end of the period of account of the transferor ending immediately before the transfer are, where a period of account of the transferor does not end at that time, references to the unappropriated surplus on valuation that would have been shown in a periodical return of the transferor for that period had such a return been drawn up.**]**

VALID FROM 27/07/1993

[F92 Provisions applying in relation to overseas life insurance companies]

Textual Amendments

F92 S. 444B and cross heading inserted (27.7.1993) by 1993 c.34, **s. 97(1)**

F93 444B Modification of Act in relation to overseas life insurance companies.

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

Textual Amendments

F93 S. 444B and cross heading inserted (27.7.1993) by 1993 c. 34, **s. 97(1)**

[F94 444C Modification of section 440.

(1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 shall have effect with the modifications in subsections (2) and (3) below.

(2) Subsection (4) shall be treated as if—

(a) paragraph (c) were omitted;

(b) in paragraphs (a), (b), (d) and (e), the words "UK assets" were substituted for the word "assets"; and

(c) at the end there were inserted the following paragraphs—

(f) section 11C assets;

(g) non-UK assets."

(3) The following subsection shall be treated as inserted at the end of the section—

(6) For the purposes of this section—

(a) UK assets are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) section 11C assets are assets—

(i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or

(ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;

(c) non-UK assets are assets which are not UK assets or section 11C assets;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(4) Where one or each of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) and (4) shall have effect as if for "categories", in each place where the word occurs, there were substituted "paragraphs".

(5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in subsections (2) and (3) above.

(6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in subsections (2) and (3) above.**]**

Textual Amendments

F94 S. 444C inserted (27.7.1993 with effect as mentioned in s. 98(2)(3) of the ameding Act) by 1993 c. 34, **s. 98(1)(2)(3)**

[F95 444D Qualifying distributions, tax credits, etc.

(1) Subsection (2) below applies where—

(a) an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom; and

(b) the distribution (or part of the distribution)—

(i) would fall within paragraph (a), (aa) or (ab) of section 11(2) (as section 11(2) has effect by virtue of Schedule 19AC) but for the exclusion contained in that paragraph; and

(ii) is referable to life assurance business.

(2) Where this subsection applies the recipient shall be treated for the purposes of the Corporation Tax Acts as entitled to such a tax credit in respect of the distribution (or part of the distribution) as it would be entitled to under section 231 if it were resident in the United Kingdom.

(3) Where part only of a qualifying distribution would fall within paragraph (ab) of section 11(2) (as section 11(2) has effect by virtue of Schedule 19AC) but for the exclusion contained in that paragraph, the tax credit to which the recipient shall be treated as entitled by virtue of subsection (2) above is the proportionate part of the tax credit to which the recipient would be so treated as entitled in respect of the whole of the distribution.

(4) In this section "UK distribution income" means income of an overseas life insurance company which consists of a distribution (or part of a distribution) in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution (or part) and the amount of that credit).

(5) An overseas life insurance company may, on making a claim for the purpose, require that any UK distribution income for an accounting period shall for all or any of the purposes mentioned in subsection (6) below be treated as if it were a like amount of profits chargeable to corporation tax; and where it does so—

(a) the provisions mentioned in subsection (6) below shall apply to reduce the amount of the UK distribution income; and

(b) the company shall be entitled to have paid to it the amount of the tax credits comprised in the amount of UK distribution income which is so reduced.

(6) The purposes for which a claim may be made under subsection (5) above are those of—

(a) the setting of trading losses against total profits under section 393A(1);

(b) the deduction of charges on income under section 338 or paragraph 5 of Schedule 4;

(c) the deduction of expenses of management under section 76;

(d) the setting of certain capital allowances against total profits under section 145(3) of the 1990 Act.

(7) Subsections (3), (4) and (8) of section 242 shall apply for the purposes of a claim under subsection (5) above as they apply for the purposes of a claim under that section.**]**

Textual Amendments

F95 S. 444D inserted (27.7.1993 with effect for the accounting period beginning after 31.12.1992) by 1993 c. 34, **s. 99(1)(3)**

[F96 444E Income from investments attributable to BLAGAB, etc.

(1) In computing the income from the investments of an overseas life insurance company attributable to the basic life assurance and general annuity business of the branch or agency in the United Kingdom through which the company carries on life assurance business, any interest, dividends and other payments whatsoever to which section 48 or 123(4) extends shall be included notwithstanding the exemption from tax conferred by those sections.

(2) Where in computing the income referred to in subsection (1) above any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue of those securities regulating the treatment of the interest on them for tax purposes, the relief under section 76 shall be reduced so that it bears to the amount of relief which would be granted apart from this subsection the same proportion as the amount of that income excluding that interest bears to the amount of that income including that interest.**]**

Textual Amendments

F96 S. 444E inserted (27.7.1993 with effect for the accounting periods beginning after 31.12.1992) by 1993 c. 34, **s. 100(1)(3)**

VALID FROM 29/04/1996

I[F97] Equalisation reserves

Textual Amendments

F97 Ss. 444BA-444BD and preceding cross-heading inserted (29.4.1996) by Finance Act 1996 (c. 8), s. 166, **Sch. 32 para. 1**

444BA Equalisation reserves for general business.

(1) Subject to the following provisions of this section and to sections 444BB to 444BD, the rules in subsection (2) below shall apply in making any computation, for the purposes of Case I or V of Schedule D, of the profits or losses for any accounting period of an insurance company whose business has at any time been or included business in respect of which it was required, by virtue of section 34A regulations, to maintain an equalisation reserve.

(2) Those rules are—

(a) that amounts which, in accordance with section 34A regulations, are transferred into the equalisation reserve in respect of the company's business for the accounting period in question are to be deductible;

(b) that amounts which, in accordance with any such regulations, are transferred out of the reserve in respect of the company's business for that period are to be treated as receipts of that business; and

(c) that it must be assumed that all such transfers as are required by section 34A regulations to be made into or out of the reserve in respect of the company's business for any period are made as required.

(3) Where an insurance company having any business in respect of which it is required, by virtue of section 34A regulations, to maintain an equalisation reserve ceases to trade—

(a) any balance which exists in the reserve at that time for the purposes of the Tax Acts shall be deemed to have been transferred out of the reserve immediately before the company ceases to trade; and

(b) that transfer out shall be deemed to be a transfer in respect of the company's business for the accounting period in which the company so ceases and to have been required by section 34A regulations.

(4) Where—

(a) an amount is transferred into an equalisation reserve in respect of the business of an insurance company for any accounting period,

(b) the rule in subsection (2)(a) above would apply to the transfer of that amount but for this subsection,

(c) that company by notice in writing to an officer of the Board makes an election in relation to that amount for the purposes of this subsection, and

(d) the notice of the election is given not more than two years after the end of that period,

the rule mentioned in subsection (2)(a) above shall not apply to that transfer of that amount and, instead, the amount transferred (the "unrelieved transfer") shall be carried forward for the purposes of subsection (5) below to the next accounting period and (subject to subsection (6) below) from accounting period to accounting period.

(5) Where—

(a) in accordance with section 34A regulations, a transfer is made out of an equalisation reserve in respect of an insurance company's business for any accounting period,

(b) the rule in subsection (2)(b) above would apply to the transfer but for this subsection, and

(c) the accounting period is one to which any amount representing one or more unrelieved transfers has been carried forward under subsection (4) above,

that rule mentioned in subsection (2)(b) above shall not apply to that transfer except to the extent (if any) that the amount of the transfer exceeds the aggregate of the amounts representing unrelieved transfers carried forward to that period.

(6) Where in the case of any company—

(a) any amount representing one or more unrelieved transfers is carried forward to an accounting period in accordance with subsection (4) above, and

(b) by virtue of subsection (5) above the rule in subsection (2)(b) above does not apply to an amount representing the whole or any part of any transfer out of an equalisation reserve in respect of the company's business for that period,

the amount mentioned in paragraph (a) above shall not be carried forward under subsection (4) above to the next accounting period except to the extent (if any) that it exceeds the amount mentioned in paragraph (b) above.

(7) To the extent that any actual or assumed transfer in accordance with section 34A regulations of any amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes—

(a) the rule in subsection (2)(a) above shall not apply to that transfer; and

(b) the making of that transfer shall be disregarded in determining, for the purposes of the Tax Acts, whether and to what extent there is subsequently any requirement to make a transfer into or out of the reserve in accordance with section 34A regulations;

and this subsection applies irrespective of whether the insurance company in question is a party to the arrangements.

(8) For the purposes of this section the transfer of an amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes to the extent that the arrangements to which it is attributable are arrangements—

(a) the sole or main purpose of which is, or

(b) the sole or main benefit accruing from which might (but for subsection (7) above) be expected to be,

the reduction by virtue of this section of any liability to tax.

(9) Where—

(a) any transfer made into or out of an equalisation reserve maintained by an insurance company is made in accordance with section 34A regulations in respect of business carried on by that company over a period ("the equalisation period"), and

(b) parts of the equalisation period are in different accounting periods,

the amount transferred shall be apportioned for the purposes of this section between the different accounting periods in the proportions that correspond to the number of days in the equalisation period that are included in each of those accounting periods.

(10) The Treasury may by regulations provide in relation to any accounting periods ending on or after 1st April 1996 for specified transitional provisions contained in section 34A regulations to be disregarded for the purposes of the Tax Acts in determining how much is required, on any occasion, to be transferred into or out of any equalisation reserve in accordance with the regulations.

(11) In this section and sections 444BB to 444BD "section 34A regulations" means regulations made under section 34A of the [M48]Insurance Companies Act 1982 (equalisation reserves in respect of general business).

Modifications etc. (not altering text)

C32 S. 444BA modified (23.12.1996 with effect in accordance with reg. 1 of the modifying S.I.) by The Insurance Companies (Reserves) (Tax) Regulations 1996 (S.I. 1996/2991), **regs. 4-12**

Marginal Citations

M48 1982 c. 50.

444BB Modification of s. 444BA for mutual or overseas business and for non-resident companies.

(1) The Treasury may by regulations make provision modifying section 444BA so as, in cases mentioned in subsection (2) below—

(a) to require—

(i) sums by reference to which the amount of any transfer into or out of an equalisation reserve falls to be computed, or

(ii) the amount of any such transfer,

to be apportioned between different parts of the business carried on for any period by an insurance company; and

(b) to provide for the purposes of corporation tax for the amounts taken to be transferred into or out of an equalisation reserve to be computed disregarding any such sum or, as the case may be, any such part of a transfer as is attributed, in accordance with the regulations, to a part of the business described for the purpose in the regulations.

(2) Those cases are cases where an insurance company which, in accordance with section 34A regulations, is required to make transfers into or out of an equalisation reserve in respect of any business carried on by that company for any period is carrying on, for the whole or any part of that period—

(a) any business the income and gains of which fall to be disregarded in making a computation of the company's profits in accordance with the rules applicable to Case I of Schedule D, or

(b) any business by reference to which double taxation relief is afforded in respect of any income or gains.

(3) Section 444BA shall have effect (subject to any regulations under subsection (1) above) in the case of an equalisation reserve maintained by an insurance company which—

(a) is not resident in the United Kingdom, and

(b) carries on business in the United Kingdom through a branch or agency,

only if such conditions as may be prescribed by regulations made by the Treasury are satisfied in relation to that company and in relation to transfers into or out of that reserve.

(4) Regulations under this section prescribing conditions subject to which section 444BA is to apply in the case of any equalisation reserve maintained by an insurance company may—

(a) contain conditions imposing requirements on the company to furnish the Board with information with respect to any matters to which the regulations relate, or to produce to the Board documents or records relating to any such matters; and

(b) provide that, where any prescribed condition is not, or ceases to be, satisfied in relation to the company or in relation to transfers into or out of that reserve, there is to be deemed for the purposes of the Tax Acts to have been a transfer out of that reserve of an amount determined under the regulations.

(5) Regulations under this section may—

(a) provide for apportionments under the regulations to be made in such manner, and by reference to such factors, as may be specified or described in the regulations;

(b) make different provision for different cases;

(c) contain such supplementary, incidental, consequential and transitional provision as the Treasury may think fit;

(d) make provision having retrospective effect in relation to accounting periods beginning not more than one year before the time when the regulations are made;

and the powers conferred by this section in relation to transfers into or out of any reserve shall be exercisable in relation to both actual and assumed transfers.

(6) In this section "double taxation relief" means—

(a) relief under double taxation arrangements which takes the form of a credit allowed against corporation tax, or

(b) unilateral relief under section 790(1) which takes that form;

and "double taxation arrangements" here means arrangements having effect by virtue of section 788.

444BC Modification of s. 444BA for non-annual accounting etc.

(1) The Treasury may by regulations make provision modifying the operation of section 444BA in relation to cases where an insurance company has, for the purpose of preparing the documents it is required to prepare for the purposes of section 17 of the [M49]Insurance Companies Act 1982, applied for any period an accounting method described in paragraph 52 or 53 of Schedule 9A to the [M50]Companies Act 1985 (accounting on a non-annual basis).

(2) Subsection (5) of section 444BB applies for the purposes of this section as it applies for the purposes of that section.

Marginal Citations

M49 1982 c. 50.

M50 1985 c. 6.

444BD Application of s. 444BA rules to other equalisation reserves.

(1) The Treasury may by regulations provide for section 444BA to have effect, in such cases and subject to such modifications as may be specified in the regulations, in relation to any equivalent reserves as it has effect in relation to equalisation reserves maintained by virtue of section 34A regulations.

(2) For the purposes of this section a reserve is an equivalent reserve if—

(a) it is maintained, otherwise than by virtue of section 34A regulations, either—

(i) by an EC company carrying on business in the United Kingdom through a branch or agency, or

(ii) in respect of any insurance business (within the meaning of the Insurance Companies Act 1982) which is carried on outside the United Kingdom by a company resident in the United Kingdom;

and

(b) the purpose for which, or the manner in which, it is maintained is such as to make it equivalent to an equalisation reserve maintained by virtue of section 34A regulations.

(3) For the purposes of this section a reserve is also an equivalent reserve if it is maintained in respect of any credit insurance business in accordance with requirements imposed either—

(a) by or under any enactment, or

(b) under so much of the law of any territory as secures compliance with the requirements of Article 1 of the credit insurance directive (equalisation reserves for credit insurance).

(4) Without prejudice to the generality of subsection (1) above, the modifications made by virtue of that subsection may—

(a) provide for section 444BA to apply in the case of an equivalent reserve only where such conditions as may be specified in the regulations are satisfied in relation to the company maintaining the reserve or in relation to transfers made into or out of it; and

(b) contain any other provision corresponding to any provision which, in the case of a reserve maintained by virtue of section 34A regulations, may be made under sections 444BA to 444BC.

(5) Subsections (4) and (5) of section 444BB shall apply for the purposes of this section as they apply for the purposes of that section.

(6) Without prejudice to the generality of section 444BB(5), the transitional provision which by virtue of subsection (5) above may be contained in regulations under this section shall include—

(a) provision for treating the amount of any transfers made into or out of an equivalent reserve in respect of business carried on for any specified period as increased by the amount by which they would have been increased if no transfers into the reserve had been made in respect of business carried on for an earlier period; and

(b) provision for excluding from the rule in section 444BA(2)(b) so much of any amount transferred out of an equivalent reserve as represents, in pursuance of an apportionment made under the regulations, the transfer out of that reserve of amounts in respect of which there has been no entitlement to relief by virtue of section 444BA(2)(a).

(7) In this section—

"credit insurance business" means any insurance business falling within general business class 14 of Schedule 2 to the [M51]Insurance Companies Act 1982 that is not reinsurance business;

"the credit insurance directive" means Council Directive 87/343/EEC of 22nd June 1987 amending, as regards credit insurance and suretyship insurance, First Directive 73/239 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance; and

"EC company" has the same meaning as in the [M52]Insurance Companies Act 1982.**]**

Marginal Citations

M51 1982 c. 50.

M52 1982 c. 50.

Provisions applying only to overseas life insurance companies

445 Charge to tax on investment income.

(1) [M53]Any income of an overseas life insurance company from the investments of its life assurance fund (excluding the pension fund and general annuity fund, if any), wherever received, shall, to the extent provided in this section, be deemed to be profits comprised in Schedule D and shall be charged to corporation tax under Case III of Schedule D.

(2) [M54]In subsection (1) above "income" shall not include—

(a) distributions which are not qualifying distributions or income attributable to offshore income gains; or

(b) annual profits or gains chargeable to tax by virtue of section 714(2) or 716(3).

(3) [M55]Qualifying distributions received from companies resident in the United Kingdom shall be brought into account under this section notwithstanding their exclusion from the charge to corporation tax.

(4) [M56]A portion only of the income from the investments of the life assurance fund (excluding the pension fund and general annuity fund, if any) shall be charged in accordance with subsection (1) above, and for any accounting period that portion shall be determined by the formula—

$$\frac{\mathrm{Ay}B}{C}$$

where—

A is the total income from those investments for that period;

B is the average of the liabilities for that period to policy holders resident in the United Kingdom and to policy holders resident abroad whose proposals were made to the company at or through its branch or agency in the United Kingdom; and

C is the average of the liabilities for that period to all the company's policy holders;

but any reference in this subsection to liabilities does not include liabilities in respect of general annuity and pension business.

(5) [M57]For the purposes of subsection (4) above the average of any liabilities for an accounting period shall be taken as one half of the aggregate of the liabilities at the beginning and end of the valuation period which coincides with that accounting period or in which that accounting period falls.

(6) *For the purposes of this section the liabilities of an insurance company attributable to any business at any time shall be ascertained by reference to the net liabilities of the company as valued by an actuary for the purposes of the relevant periodical return*. [F98]

(7) Section 73 shall not apply to tax in respect of income to which subsection (1) above applies.

(8) In the case of an overseas life insurance company—

(a) [M58]in computing for the purposes of this section the income from the investments of the life assurance fund of the company, any interest, dividends and other payments whatsoever to which section 48 or 123(4) extends shall be included notwithstanding the exemption from tax conferred by those sections respectively; and

(b) where in computing that income 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 as to bear to the amount of relief which would be granted but for the provisions of this paragraph the same proportion as the amount of that income, excluding that interest, bears to the amount of that income including that interest.

Textual Amendments

F98 Repealed by 1990 s. 132 and Sch. 19 Part IV

Modifications etc. (not altering text)

C33 *See* 1970(M) s.31(3)—*appeals under* s.445*to go to Special Commissioners.*

Marginal Citations

M53 Source—1970 s.316(1); 1970(F) Sch.5 Pt.III 11(6)(d)

M54 Source—1970 s.316(1A); 1972 Sch.18 5(1)(b); 1985 Sch.23 20(1), Sch.25 8

M55 Source—1970 s.316(2), 1972 Sch.18 5(2)
M56 Source—1970 s.316(3); 1970(F) Sch.5 Pt.III 11(6)(d)(e)
M57 Source—1970 s.316(4)—(6)
M58 Source—1970 s.328(3).

446 Annuity business.

(1) [M59]Nothing in the Corporation Tax Acts shall prevent the qualifying distributions of companies resident in the United Kingdom from being taken into account as part of the profits in computing, under section 436, the profits arising from pension business and general annuity business to an overseas life insurance company.

(2) [M60]Any charge to tax under section 436 for any accounting period on profits arising to an overseas life insurance company from general annuity business shall extend only to a portion of the profits arising from that business and that portion shall be determined by the formula—

$$\frac{\mathrm{A}y B}{C}$$

where—

A is the total amount of those profits;

B is the average of the liabilities attributable to that business for the relevant accounting period in respect of contracts with persons resident in the United Kingdom or contracts with persons resident abroad whose proposals were made to the company at or through its branch or agency in the United Kingdom; and

C is the average of the liabilities attributable to that business for that accounting period in respect of all contracts.

(3) For the purposes of subsection (2) above, the average of any liabilities for an accounting period shall be taken as one half of the aggregate of the liabilities at the beginning and end of the valuation period which coincides with that accounting period or in which that accounting period falls.

(4) *For the purposes of this section the liabilities of an insurance company attributable to general annuity business at any time shall be ascertained by reference to the net liabilities of the company as valued by an actuary for the purposes of the relevant periodical return*. [F99]

Textual Amendments
F99 *Repealed by* 1990 s.132*and* Sch.19 Part IV.

Marginal Citations
M59 Source—1970 s.318(1), 1970(F) Sch.5 Part III 11(3); 1972 Sch.18 5(2).
M60 Source—1970 s.318(2)—(4)

447 Set-off of income tax and tax credits against corporation tax.

(1) [M61]For the purposes of subsection (3) of section 11 as it applies to life insurance companies, the amount of the income tax referred to in that subsection which shall be available for set-off under that subsection in an accounting period shall be limited in accordance with subsections (2) to (4) below.

(2) If the company is chargeable to corporation tax for an accounting period in accordance with section 445 in respect of the income from the investments of its life assurance fund, the amount of income tax available for set-off against any corporation tax assessed for that period on that income shall not exceed an amount equal to income tax at the basic rate on the portion of income from investments which is chargeable to corporation tax by virtue of subsection (4) of that section.

(3) If the company is chargeable to corporation tax for an accounting period in accordance with section 446 on a proportion of the total amount of the profits arising from its general annuity business, the amount of income tax available for set-off against any corporation tax assessed for that period on those profits shall not exceed an amount equal to income tax at the basic rate on the like proportion of the income from investments included in computing those profits.

(4) [M62]Where an overseas life insurance company receives a distribution in respect of which it is entitled to a tax credit the company may claim to have that credit set off against any corporation tax assessed on the company under section 445 or 446 for the accounting period in which the distribution is received, but the restriction in subsections (2) and (3) above on the amount of income tax that may be set off against corporation tax so assessed shall apply to the aggregate of that income tax and of the tax credit that can be so set off by virtue of this subsection.

Marginal Citations
M61 Source—1970 s.319; 1971 Sch.6 39
M62 Source—1972 Sch.18 6

448 Qualifying distributions and tax credits.

(1) [M63]Where an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom and relief in respect of the distribution is not available or is not claimed under arrangements specified in an Order in Council made under section 788, the overseas life insurance company shall be deemed for the purposes of sections 76(3) and (4), 434(8), 436, 438 and 445 to 447 to be entitled to such a tax credit in respect of the distribution as it would be entitled to under section 231 if it were resident in the United Kingdom; and accordingly the distribution shall be treated for the purposes of those provisions as representing income equal to the aggregate of the amount or value of the distribution and the amount of that credit.

(2) Where under subsection (1) above an overseas life insurance company is deemed to be entitled to a tax credit in respect of a distribution, it may claim to have the income represented by the distribution set, subject to subsection (3) below, against its profits chargeable to tax under section 436 or against its income chargeable to tax in accordance with section 445 or partly against the one and partly against the other; but to the extent that any income is so set the tax credit included in it shall not be payable and shall not be set against corporation tax under section 447(4).

(3) The amounts that an overseas life insurance company may by virtue of subsection (2) above set against profits or income of any description shall not exceed the amount of the profits or income of that description and shall be further limited as follows—

(a) the amount set against profits arising from general annuity business shall not exceed a portion of the company's income from investments referable to that business, and that portion shall be determined by the same formula as determines under section 446 the portion of those profits which is chargeable to tax; and

(b) the amount set against profits from pension business shall not exceed such of its income referable to that business as is represented by distributions in respect of which the company is deemed to be entitled to a tax credit by virtue of this section, and shall not reduce any other income.

(4) Where by virtue of a set-off under this section income or profits of any description are reduced by any amount, that amount shall be left out of account in determining the amount of income tax which is available for set-off against corporation tax under section 11(3).

(5) A claim under this section in respect of a distribution shall not prevent the making of a subsequent claim for relief in respect of that distribution under arrangements specified in an Order in Council made under section 788; but where such a subsequent claim is made the claim under this section shall be deemed never to have been made, and no adjustment (whether by additional assessments or otherwise) to which the subsequent claim gives rise shall be out of time if it is made within 12 months after the making of the subsequent claim.

Marginal Citations

M63 Source—1973 s.40(2)—(6)

449 Double taxation agreements.

(1) [M64]This section applies to an overseas life insurance company if, by virtue of arrangements specified in an Order in Council made under section 788, no charge to corporation tax under Case III of Schedule D arises under section 445 in respect of any income of the company from the investments of its life assurance fund (excluding the pension fund and general annuity fund, if any).

(2) For the purposes of section 242 so much of any relevant distributions as is received in any year of assessment by an overseas life insurance company to which this section applies in respect of the portion of the investments of its life assurance fund (excluding the pension fund and general annuity fund, if any) attributable to the business of its branch or agency in the United Kingdom shall be deemed to be franked investment income of that company, and accordingly the company may make a claim under subsection (1) of section 242 for any of the purposes specified in subsection (2) of that section.

(3) In subsection (2) above "relevant distributions" means distributions in respect of which the company receiving them is entitled to a tax credit.

Marginal Citations

M64 Source—1970 s.320; 1972 Sch.18 5(2); 1970(F) Sch.5 Part III 6(d)

Underwriters

450 Assessment, set-off of losses and reinsurance.

(1) [M65]Income tax, for any year of assessment, on the profits or gains arising from a member's underwriting business or from assets forming part of a premiums trust fund shall be computed on the profits or gains of that year of assessment; but for this purpose and all other purposes of the Income Tax Acts—

(a) the profits or gains arising in any year of assessment from a member's underwriting business shall be taken to be those arising in the corresponding underwriting year; and

(b) the profits or gains arising from assets forming part of a premiums trust fund shall be taken to be those allocated under the rules or practice of Lloyd's to the corresponding underwriting year.

[[F100](2) The aggregate for any year of assessment of—

(a) the profits or gains arising to a member from his underwriting business; and

(b) the profits or gains arising to him from assets forming part of a premiums trust fund,

shall be chargeable to tax under Case I of Schedule D; but nothing in this subsection shall affect the manner in which the amount of those profits or gains is to be computed.

(2A) Schedule 19A shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with this section.**]**

(3) [M66]Relief under section 380 in respect of a loss sustained by a member in his underwriting business in any year of assessment shall not be given under subsection (2) of that section but may, if the member so claims and he was a member in the preceding year of assessment, be given against his income for that preceding year, so far as it cannot be given against the income for the year in which the loss was sustained and can be given after any relief for a loss sustained in that preceding year.

(4) [M67]In any case where a member has taken out an insurance against losses in his underwriting business—

(a) any premium paid by him on that insurance shall be deducted as an expense in computing the profits or gains arising from that business; and

[[F101](b) any insurance money payable to him under that insurance in respect of a loss shall be taken into account as a trading receipt in computing those profits or gains for the year of assessment which corresponds to the underwriting year in which the loss arose;**]**

[[F102](5) Subsection (5A) below applies where—

(a) in accordance with the rules or practice of Lloyd's, and in consideration of the payment of a premium, one member agrees with another to meet liabilities arising from the latter's business for an underwriting year so that the accounts of the business for that year may be closed; and

(b) the member by whom the premium is payable is a continuing member, that is, a member not only of the syndicate as a member of which he is liable to pay the premium ("the reinsured syndicate") but also of the syndicate as a member of which the other member is entitled to receive it ("the reinsurer syndicate").

(5A) In any case where this subsection applies—

(a) in computing for the purposes of income tax the profits or gains of the continuing member's business as a member of the reinsured syndicate, the amount of the premium shall be deductible as an expense of his only to the extent that it is shown not to exceed a fair and reasonable assessment of the value of the liabilities in respect of which it is payable; and

(b) in computing for those purposes the profits or gains of his business as a member of the reinsurer syndicate, those profits or gains shall be reduced by an amount equal to any part of a premium which, by virtue of paragraph (a) above, is not deductible as an expense of his as a member of the reinsured syndicate;

and the assessment referred to above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does not accrue to the member to whom the premium is payable but that he does not suffer a loss.**]**

(6) **M68**The cost of acquisition and the consideration for the disposal of assets forming part of a premiums trust fund shall be left out of account in computing the profits or gains or losses of a member's underwriting business for the purposes of Schedule D (and accordingly shall not be excluded for the purposes of capital gains tax under section 31 or 33 of the 1979 Act).

Textual Amendments

F100 1988(F) s.58(1) (*which also amends* 1973 s.39*and* Sch.16*for* 1986-87*and* 1987-88).*Previously*
"(2) Income tax on the profits or gains arising to a member from assets forming part of a premiums trust fund may be assessed on the underwriting agent through whom his business is carried on.".

F101 1988(F) s.59(1)*for* 1988-89*and subsequent years. Previously*
"(b) any insurance money paid to him under that insurance shall be taken into account as a trading receipt in computing those profits or gains for the year of assessment for which the premium was allowed as a deduction.".*And see* 1988(F) s.59*for amendments to* 1973 Sch.16 para.4*for* 1985-86*to* 1987-88.

F102 1988(F) s.60(1), (3)*in relation to premiums payable for underwriting years ending in* 1988-89*or subsequent years. Previously*
"(5) Where, in accordance with the rules or practice of Lloyd's, and in consideration of the payment of a premium, one member agrees with another to meet liabilities arising from the latter's business for an underwriting year so that the accounts of the business for that year may be closed—(a) in computing for the purposes of income tax the profits or gains of his business, the amount of the premium shall be deductible as an expense of the member by whom it is payable only to the extent that it is shown not to exceed a fair and reasonable assessment of the value of the liabilities in respect of which it is payable; and (b) any part of a premium which, by virtue of paragraph (a) above, is not deductible as an expense of the member by whom it is payable, shall be disregarded in computing for the purposes of income tax the profits or gains of the business of the member to whom it is payable; and the assessment referred to above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does not accrue to the member to whom the premium is payable but that he does not suffer a loss. This subsection has effect in relation to premiums payable in connection with the closing of the accounts of a member's business for an underwriting year ending in

the year of assessment 1985-86 or any later year of assessment.".*And see* 1988(F) s.60*for amendments to* 1987 (No.2) s.70*for* 1985-86*to* 1987-88.

Marginal Citations

M65 Source—1973 Sch.16 2

M66 Source—1973 Sch.16 3

M67 Source—1973 Sch.16 4

M68 Source—1973 Sch.16 5; 1979(C) Sch.7.

451 Regulations.

(1) The Board may by regulations provide—

[F103(a) for the assessment and collection of tax charged in accordance with section 450 (so far as not provided for by Schedule 19A);

(aa) for making, in the event of any changes in the rules or practice of Lloyd's, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;**]**

(b) M69for modifying the provisions of section 450 in relation to syndicates continuing for more than two years after the end of an underwriting year;

(c) for giving credit for foreign tax.

[F104(1A) Regulations under subsection (1) above may make provision **[**F105with respect to any year or years of assessment; and the year (or any of the years) may be the one in which the regulations are made or any year falling before or after the year.**]**.**]**

[F106(1B) But the regulations may not make provision with respect to any year of assessment which precedes the next but one preceding the year of assessment in which the regulations are made.**]**

(2) M70The Treasury may by regulations modify any of the provisions specified in paragraphs (a) to (c) below in their application to companies permitted by the Council of Lloyd's to act as underwriting agents at Lloyd's—

(a) section 11 of the Management Act (return of profits);

(b) section 87A of that Act (interest on overdue corporation tax); and

(c) section 10(1) of this Act.

(3) Regulations under subsection (2) above shall not have effect with respect to accounting periods ending on or before such day, not being earlier than 31st March 1992, as the Treasury may by order appoint for the purposes of that subsection.

(4) M71Regulations made under paragraph 17(1)(b) of Schedule 16 to the Finance Act 1973 which are in force immediately before the coming into operation of this Act shall continue in force notwithstanding the repeal of that paragraph by this Act, and shall be deemed to have been made under this section.

Textual Amendments

F103 1988(F) s.61(1)(b)*for* 1988-89*and subsequent years. And see* 1988(F) s.61(4)*for amendments to* 1973 Sch.16 para.17(1)(a).

F104 1988(F) s.61(1)(c)*for* 1988-89*and subsequent years.*

F105 1989 s.92(1).*Previously*

"with respect to the year of assessment next but one preceding the year of assessment in which they are made".

F106 1989 s.92(2).

Modifications etc. (not altering text)

C34 *For regulations see* Part III Vol.5

Marginal Citations

M69 Source—1973 Sch.16 17(1)(a), (c), (e)

M70 Source—1987 (No.2) Sch.6, 8

M71 Source—1973 Sch.16 17(1)(b)

452 Special reserve funds.

(1) [M72]If in the case of Lloyd's—

(a) arrangements are made for the setting up in relation to each underwriting member of such a special reserve fund as is referred to in the following provisions of this section and sections 453 to 456; and

(b) the arrangements comply with the requirements of this section and sections 453 to 455, are approved by the Board and are certified by the Secretary of State to be in the public interest;

then, subject to section 456(4), the provisions of this section and sections 453 to 456 relating to taxation shall have effect in relation to any underwriting member.

(2) [M73]The arrangements must provide for the setting up, in relation to the underwriter, of a special reserve fund vested in trustees who have control over it and power to invest the capital thereof and to vary the investments.

(3) Where part of the business of the underwriter is carried on through an underwriting agent and part is not so carried on, or where different parts of his business are carried on through different underwriting agents, the arrangements may provide for separate special reserve funds being constituted in relation to the different parts of his business.

(4) The arrangements must provide—

(a) [M74]for the income arising from the investments of the underwriter's special reserve fund or funds being held on trust for the underwriter, his personal representatives or assigns; and

(b) [M75]that, on the underwriter ceasing to carry on his business, the capital of his special reserve fund or funds, so far as not required for giving effect to the requirements of section 453, shall be paid over to the underwriter or his personal representatives or assigns.

(5) [M76]The arrangements must be such as to secure that if, for an underwriting year corresponding to a year of assessment during the whole or any part of which the underwriter continues to carry on his business (subject to section 456(4)), the underwriter makes a profit from his business, he has the right to make, into his special reserve fund or funds, payments ("permissible payments") the gross amount of which is not in the aggregate greater than £7,000 or 50 per cent. of the profit, whichever is the less, or such less sum as may be specified in the arrangements.

(6) [M77]The amount of any permissible payment shall be notified to the inspector not later than 12 months after the date at which the accounts of the business for that underwriting year are deemed by the Board to be closed for the purposes of the

arrangements, and no permissible payment shall be made more than 30 days after the date on which the inspector has notified his agreement in writing or, if later, 30 days after the expiration of those 12 months.

(7) [M78]Where the underwriter carries on his business during part only of the year of assessment referred to in subsection (5) above, the maximum gross amount of the permissible payments shall be reduced by the application thereto of the proportion which the part of that year of assessment for which he is entitled to profits from the business bears to a full year.

(8) [M79]In subsection (5) above "profit" means a profit computed in the manner in which the profits or gains of the business of the underwriting year in question would fall to be computed under **[**[F107]in accordance with section 450**]** if—

(a) income arising from *the investments forming part of the premiums trust fund of the underwriter*[F108] his special reserve fund or funds and any other fund required or authorised by the rules of Lloyd's or required by the underwriting agent through whom the business or any part thereof is carried on, to be kept in connection with the business fell to be taken into account; and

(b) all shares of the profits of the business and all charges related to those profits or to the income mentioned in paragraph (a) above, being shares and charges payable to persons other than the underwriter and not otherwise taken into account, fell to be deducted.

[[F109]In paragraph (a) above "income" includes—

(a) annual profits or gains chargeable to tax by virtue of section 714(2) or 716(3),

(b) amounts treated as income chargeable to tax by virtue of paragraph 4 of Schedule 4, and

(c) [F110]amounts treated as income chargeable to tax by virtue of paragraph 5 of Schedule 11 to the Finance Act 1989**]**.

Textual Amendments

F107 1988(F) s.61(1)(d)*for* 1988-89*and subsequent years. Previously*
"Case I of Schedule D".

F108 *Repealed by* 1988(F) s.61(1)(d)*for* 1988-89*and subsequent years.*

F109 1989 s.96(1)*on and after* 14*March* 1989*in relation to certain deep discount securities and deep gain securities. Previously*
"In paragraph (a) above "income" includes annual profits or gains chargeable to tax by virtue of section 714(2) or 716(3)."

F110 *See* 1988(F) s.61(2)*for amendment of* 1970 Sch.10 para.7(3)*for* 1986-87*and* 1987-88.

Modifications etc. (not altering text)

C35 Ss. 450-456 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 209(1)**, 289 (with ss. 60, 101(1), 171, 201(3))

Marginal Citations

M72 Source—1970 Sch.10 1

M73 Source—1970 Sch.10 5

M74 Source—1970 Sch.10 6

M75 Source—1970 Sch.10 10

M76 Source—1970 Sch.10 7(1), (2)

M77 Source—1970 Sch.10 7(1)(a); 1973 Sch.16 8, 10

M78 Source—1970 Sch.10 7(1)(b)

M79 Source—1970 Sch.10 7(3)

453 Payments into premiums trust fund on account of losses.

(1) [M80]The arrangements must be such as to secure that, if it is certified that the underwriter has sustained a loss in his business for an underwriting year subsequent to that which corresponds to the first year of assessment to which section 452(5) applies, there shall be made into his premiums trust fund, out of the capital of his special reserve fund or funds, payments the gross amount of which is equal in the aggregate to the certified amount of the loss.

(2) If the capital of the underwriter's special reserve fund or funds, reduced by so much thereof as represents sums paid into it or them as a consequence of a profit for a year later than the year of the loss, is less than the net amount of the payments required to be made by subsection (1) above, those payments shall be reduced so that the net amount thereof is equal to the capital of the fund or funds as so reduced.

(3) In this section—

[M81](a) "loss" means a loss computed in the manner in which the profits or gains of the business of the underwriting year in question would fall to be computed under section 452(8); and

(b) where, under any arrangement between the underwriter and another person which provides for the sharing of losses, any amount is paid to the underwriter by that person as that person's share of a loss for that year, the loss (as so computed) shall be reduced by that amount.

(4) In this section "certified" means certified by a certificate of the inspector, but—

(a) no certificate shall be given by the inspector until 30 days have elapsed from the date on which he has given notice to the underwriter or his personal representatives stating his intention to give a certificate and stating the amount which he proposes to specify as the amount of the loss;

(b) the underwriter or his personal representatives may, on giving notice to the inspector within that 30 day period, appeal to the Special Commissioners;

(c) where notice is so given by the underwriter or his personal representatives, the inspector shall not without the consent of the underwriter or his personal representatives give any certificate until after the hearing of the appeal; and

(d) on the hearing of the appeal, the Special Commissioners may direct the inspector not to give a certificate or to give it with such an amount specified as the amount of the loss as may be specified in the direction.

(5) [M82]The arrangements may authorise the making of payments pursuant to subsection (1) above on a provisional basis before the amount of the loss has been finally ascertained and certified by the inspector.

(6) The amount so withdrawn shall not exceed such proportion of the estimated loss as may be specified in the arrangements.

(7) When the amount of the loss has been certified by the inspector such adjustments shall be made by repayment to the underwriter's special reserve fund or funds, or by further withdrawal of sums for payment into the underwriter's premiums trust fund, as will secure that the net amount withdrawn from the underwriter's special reserve fund or funds in respect of the loss is that required pursuant to subsection (1) above; and no

tax consequences shall ensue on the withdrawal of sums in respect of a loss until the amount of the loss has been so certified and any such adjustments have been made.

Modifications etc. (not altering text)

C36 ss. 450-456 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 209(1)**, 289 (with ss. 60, 101(1), 171, 201(3))

Marginal Citations

M80 Source—1970 Sch.10 8(1)
M81 1970 Sch.10 8(2), (3)
M82 Source—1970 Sch.10 9

454 Income tax consequences on payments into and out of special reserve fund.

(1) [M83]Where such a payment as is mentioned in section 452(5) is made into a special reserve fund of an underwriter by reason of the making by him of a profit for an underwriting year—

(a) subject to subsection (2) below, the payment shall be deemed to be an annual payment chargeable to income tax by way of deduction and payable and paid in the year of assessment corresponding to that underwriting year; and

(b) the sum actually paid shall be deemed for the purposes of sections 452 to 456 and for all income tax purposes to be a net amount corresponding to a gross amount from which income tax has been duly deducted.

(2) [M84]Subsection (1)(a) above—

(a) shall not reduce any income other than income derived from the underwriter's underwriting business or from any deposit made or assets held on trust in connection with that business; and

(b) subject to paragraph (a) above, shall reduce income other than investment income before reducing investment income.

(3) [M85]Where such a payment as is mentioned in section 453(1) is made out of a special reserve fund of an underwriter into a premiums trust fund of his by reason that he has sustained a loss for an underwriting year then, subject to section 453(7)—

(a) the payment shall be deemed for all income tax purposes—

(i) to be an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to income tax; and

(ii) to have been payable and paid to the underwriter; and

(iii) to have been payable and paid to him on the last day of the year of assessment corresponding to that underwriting year or, if he ceased to carry on his business before that day, on the last day on which he carried on his business; and

(b) the sum actually paid shall be deemed for the purposes of sections 452 to 456 and for all income tax purposes to be a net amount corresponding to a gross amount from which income tax has been duly deducted for the year of assessment in which the payment is so deemed to have been payable and paid.

(4) [M86] Where such a payment as is mentioned in section 453(1) is made out of a special reserve fund of an underwriter by reason that he has sustained a loss, relief in respect

of the loss shall, so far as possible, be given by treating the loss as reducing the income represented by the payment.

(5) [M87]Where the underwriter ceases to carry on his business before his death and under so much of the arrangements as gives effect to section 452(4)(b) a sum is paid to him or his personal representatives or assigns—

(a) the payment shall be deemed for all income tax purposes—

(i) to be an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to income tax; and

(ii) to have been payable and paid to the underwriter; and

(iii) to have been payable and paid to him on the last day on which he carried on his business; and

(b) the sum actually paid shall be deemed for the purposes of sections 452 to 456 and for all income tax purposes to be a net amount corresponding to a gross amount from which income tax has been duly deducted.

(6) [M88]Neither the arrangements, nor any disposition, trust, covenant, agreement or arrangement entered into for the purposes of the arrangements, shall be treated as included in the expression "settlement" for the purposes of Chapter III or IV of Part XV.

Modifications etc. (not altering text)

C37 Ss. 450-456 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 209(1)**, 289 (with ss. 60, 101(1), 171, 201(3))

Marginal Citations

M83 Source—1970 Sch.10 11(1)(a), (b)

M84 Source—1970 Sch.10 11(1), (ii); 1973 Sch.16 8, 11

M85 Source—1970 Sch.10 11(2)

M86 Source—1970 Sch.10 11(2A); 1973 Sch.16 8, 12

M87 Source—1970 Sch.10 11(3)

M88 Source—1970 Sch.10 11(4)

455 Income tax consequences on death of underwriter.

(1) [M89]In this section "the lower limit" means the limit which would be imposed by section 452(5) if the words "£5,000 or 35 per cent. of that profit, whichever is the less" stood in that subsection in place of the words "£7,000 or 50 per cent. of that profit, whichever is the less.".

(2) Where an underwriter dies while carrying on his business and, after giving effect to the requirements of section 453, his special reserve fund or funds include an amount which represents an excess in the payments made into the fund or funds for any underwriting year over the lower limit—

(a) he shall be deemed for all income tax purposes to have received in the year of assessment corresponding to that underwriting year a payment of that amount—

(i) which was an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to income tax, and

(ii) which was payable in the year of assessment in which it is deemed to have been paid, and

(b) the payment (to that actual amount) shall be deemed for the purposes of sections 452 to 456 and for all income tax purposes to be a net amount corresponding to a gross amount from which tax has been duly deducted.

(3) Where, to give effect to the requirements of section 453 as to the meeting of a loss, any withdrawal was made at any time from the capital of the underwriter's special reserve fund or funds, the amount withdrawn shall be regarded for the purposes of subsection (2) above—

(a) as having been met out of payments made into the fund or funds for underwriting years before that in which the loss was incurred, and as having been met before any withdrawal to meet a loss for a later underwriting year; and

(b) as having been met out of so much of the payments made for any underwriting year as was not in excess of the lower limit, rather than out of such part of the payments made for any underwriting year as was in excess of the lower limit; and

(c) subject to that, as having been met out of payments in excess of the lower limit for a later year rather than out of payments in excess of the lower limit for an earlier year;

and, where payments have been made into the underwriter's special reserve fund or funds for any underwriting year in excess of the lower limit, his fund or funds shall be deemed at all subsequent times to include an amount representing that excess except to the extent that any withdrawal is, under the provisions of this subsection, to be regarded as having been met out of that amount.

(4) Any tax chargeable by virtue of this section shall be assessed and charged upon the underwriter's personal representatives and tax so charged shall be a debt due from and payable out of his estate; and, notwithstanding section 34(1) of the Management Act (which requires assessments to be made not later than six years after the end of the year to which they relate), assessments in respect of tax so chargeable may be made at any time not later than three years after the end of the year of assessment in which the underwriter died.

(5) References in this section to payments made into a special reserve fund or funds for any underwriting year are references to payments made, as described in section 452(5), by reference to the profits made for that underwriting year.

Modifications etc. (not altering text)

C38 Ss. 450-456 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 209(1)**, 289, (with ss. 60, 101(1), 171, 201(3))

Marginal Citations

M89 Source—1970 Sch.10 12

456 Unearned income, variation of arrangements and cancellation of approval etc.

(1) [M90]So much of an underwriter's income as is attributable to payments from his special reserve fund or to such an excess as is mentioned in section 455 shall (so far as

remaining after allowing for any relief by which it is reduced) be treated as unearned income if, but only if, his income from his underwriting business falls to be so treated.

(2) Where, as a result of a change in the circumstances in which an underwriting business is carried on, an underwriter's income from the business falls to be treated as unearned income, the change shall be disregarded for the purposes of subsection (1) above except to the extent that the special reserve fund represents payments made into it after the change; and for this purpose any amount withdrawn after the change to give effect to the requirements of section 453 shall, so far as possible and notwithstanding section 455(3), be regarded as having been met by payments into the fund made after the change.

(3) [M91]The arrangements may from time to time be varied with the consent of the Board and the Secretary of State.

(4) [M92]If, after giving notice of their intention so to do to the Council of Lloyd's, the Board or the Secretary of State cancel the approval or certificate which they have or he has given with respect to the arrangements, section 452(5) to (9) shall not apply, in the case of any underwriter, to any year of assessment after the year of assessment in which the approval or certificate is cancelled.

Modifications etc. (not altering text)

C39 Ss. 450-456 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 209(1)**, 289 (with ss. 60, 101(1), 171, 201(3))

Marginal Citations

M90 Source—1970 Sch.10 12A, 1973 Sch.16 8, 13

M91 Source—1970 Sch.10 13.

M92 Source—1970 Sch.10 14(b)

457 Interpretation of sections 450 to 456.

(1) [M93]In sections 450 to 456—

"arrangements" means any such arrangements as are referred to in section 452(1);

"business", in relation to an underwriter, means his underwriting business as a member of Lloyd's, whether carried on personally or through an underwriting agent, and does not include any other business carried on by him, and in particular, where he is himself an underwriting agent, does not include his business as such an agent;

"member" means an underwriting member of Lloyd's;

"net amount" and "gross amount", in relation to any payment, mean respectively the sum actually paid and the sum which, after deduction of income tax, is equal to the sum actually paid;

"premiums trust fund" means such a trust fund as is referred to in section 83 of the [M94]Insurance Companies Act 1982;

"underwriting year" means the calendar year.

(2) For the purpose of construing any reference in sections 450 to 456 to the year of assessment which corresponds to an underwriting year or to the underwriting year which corresponds to a year of assessment, an underwriting year and a year of

assessment shall be deemed to correspond to each other if the underwriting year ends in the year of assessment.

Modifications etc. (not altering text)

C40 *See*—1988 Sch.4 para.18—*application of definition to underwriter's deep discount securities.*1989 Sch.10 para.18—*deep discount securities.*1990 Sch.10 para.18—*convertible securities.*

C41 *See*—1988 Sch.4 para.18—*application of definition to underwriter's deep discount securities.*1989 Sch.10 para.18—*deep discount securities.*1990 Sch.10 para.18—*convertible securities.*

Marginal Citations

M93 Source—1970 Sch.10 16; 1973 Sch.16 1, 14; 1987 Sch.15 2(22)

M94 1982 c. 50.

Capital redemption business

458 Capital redemption business.

(1) [M95]Where any person carries on capital redemption business in conjunction with business of any other class, the capital redemption business shall, for the purposes of the Corporation Tax Acts (including the provisions about corporation tax on chargeable gains) and the Income Tax Acts, be treated as a separate business from any other class of business carried on by that person.

(2) In ascertaining whether and to what extent any person has incurred a loss on his capital redemption business for the purposes of section 380 or sections 393 and 394—

(a) any profits derived from investments held in connection with the capital redemption business (including franked investment income of a company resident in the United Kingdom) shall be treated as part of the profits of that business, and

(b) in determining whether any, and if so what, relief can be given under section 385(4) in the case of capital redemption business, the loss which may be carried forward under subsection (1) of that section shall be similarly computed.

(3) In this section "capital redemption business" means the business (not being life assurance business or industrial assurance business) of effecting and carrying out contracts of insurance, whether effected by the issue of policies, bonds or endowment certificates or otherwise, whereby, in return for one or more premiums paid to the insurer, a sum or a series of sums is to become payable to the insured in the future.

(4) This section shall not apply to any capital redemption business in so far as it consists of carrying out contracts of insurance effected before 1st January 1938.

Marginal Citations

M95 Source—1970 s.324

VALID FROM 29/04/1996

[F111 458A Capital redemption business: power to apply life assurance provisions.

(1) The Treasury may by regulations provide for the life assurance provisions of the Corporation Tax Acts to have effect in relation to companies carrying on capital redemption business as if capital redemption business were, or were a category of, life assurance business.

(2) Regulations under this section may provide that the provisions applied by the regulations are to have effect as respects capital redemption business with such modifications and exceptions as may be provided for in the regulations.

(3) Regulations under this section may—

(a) make different provision for different cases;

(b) include such incidental, supplemental, consequential and transitional provision (including provision modifying provisions of the Corporation Tax Acts other than the life assurance provisions) as the Treasury consider appropriate; and

(c) include retrospective provision.

(4) In this section references to the life assurance provisions of the Corporation Tax Acts are references to the following—

(a) the provisions of this Chapter so far as they relate to life assurance business or companies carrying on such business; and

(b) any other provisions of the Corporation Tax Acts making separate provision by reference to whether or not the business of a company is or includes life assurance business or any category of insurance business that includes life assurance business.

(5) In this section "capital redemption business" has the same meaning as in section 458.**]**

Textual Amendments

F111 S. 458A inserted (29.4.1996) by Finance Act 1996 (c. 8), **s. 168(3)**

CHAPTER II

FRIENDLY SOCIETIES, TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

Unregistered friendly societies

459 Exemption from tax.

M96 An unregistered friendly society whose income does not exceed £160 a year shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains).

Marginal Citations

M96 Source—1970 s.331

Registered friendly societies

460 Exemption from tax in respect of life or endowment business.

(1) M97Subject to subsection (2) below, a registered friendly society shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits arising from life or endowment business.

(2) Subsection (1) above—

(a) M98shall not, subject to section 462, exempt a friendly society registered after 31st December 1957 which at any time in the period of three months ending 3rd May 1966 entered into any transaction in return for a single premium, being a transaction forming part of its life or endowment business;

(b) M99shall not apply to profits arising from pension business;

(c) M100shall not apply to profits arising from life or endowment business consisting—

(i) where the profits relate to contracts made after 31st August 1987, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed **[**F112£150**]** or of the granting of annuities of annual amounts exceeding £156;

[F113(ia) where the profits relate to contracts made after 31st August 1987 but before 1st September 1990, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £100.**]**

(ii) where the profits relate to contracts made after 13th March 1984 but before 1st September 1987, of the assurance of gross sums exceeding £750 or of the granting of annuities of annual amounts exceeding £156;

(iii) where the profits relate to contracts made before 14th March 1984, of the assurance of gross sums exceeding £500 or of the granting of annuities of annual amounts exceeding £104; and

(d) M101as respects other life or endowment business ("tax exempt life or endowment business"), has effect subject to the following provisions of this Chapter.

(3) M102In determining for the purposes **[**F114of subsection 2(c)(i) or (ia)**]** above the total premiums payable in any period of 12 months—

(a) where those premiums are payable more frequently than annually, there shall be disregarded an amount equal to 10 per cent. of those premiums; and

(b) so much of any premium as is charged on the ground that an exceptional risk of death **[**F115or disability**]** is involved shall be disregarded;

and in applying the limit of £156 in subsection (2)(c)(i) above, any bonus or addition declared upon an annuity shall be disregarded.

(4) In applying the limits referred to in subsection (2)(c)(ii) and (iii) above, any bonus or addition which either is declared upon an assurance of a gross sum or annuity

or accrues upon such an assurance by reference to an increase in the value of any investments shall be disregarded.

(5) [M103]A registered friendly society is within this subsection if its rules make no provision for it to carry on life or endowment business consisting of the assurance of gross sums exceeding £2,000 or of the granting of annuities of annual amounts exceeding £416.

(6) [M104]In the case of a registered friendly society within subsection (5) above—

(a) subsection (2)(c)(iii) above shall have effect with the substitution of references to £2,000 and £416 respectively for the references to £500 and £104; and

(b) references in this Chapter to tax exempt life or endowment business shall be construed accordingly.

(7) [M105]Where at any time a registered friendly society within subsection (5) above amends its rules so as to cease to be within that subsection, any part of its life or endowment business consisting of business which—

(a) relates to contracts made before that time; and

(b) immediately before that time was tax exempt life or endowment business,

shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.

(8) Where at any time a registered friendly society not within subsection (5) above amends its rules so as to bring itself within that subsection, any part of its life or endowment business consisting of business which—

(a) related to contracts made before that time; and

(b) immediately before that time was not tax exempt life or endowment business,

shall thereafter continue not to be tax exempt life or endowment business for the purposes of this Chapter.

(9) Where at any time a registered friendly society not within subsection (5) above acquires by way of transfer of engagements or amalgamation from another registered friendly society any life or endowment business consisting of business which—

(a) relates to contracts made before that time; and

(b) immediately before that time was tax exempt life or endowment business,

that business shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.

(10) Where at any time a registered friendly society within subsection (5) above acquires by way of transfer of engagements or amalgamation from another registered friendly society any life or endowment business consisting of business which—

(a) relates to contracts made before that time; and

(b) immediately before that time was not tax exempt life or endowment business,

that business shall thereafter continue not to be tax exempt life or endowment business for the purposes of this Chapter.

[[F116](10A) Where at any time there is a transfer of the whole or part of the long term business of an insurance company to a friendly society in accordance with a scheme sanctioned by a court under section 49 of the [M106]Insurance Companies Act 1982, any life or endowment business which relates to contracts included in the transfer **[**[F117], other than any to which subsection (11) or (12) below applied immediately before the transfer had

effect,**]** shall not thereafter be tax exempt life or endowment business for the purposes of this Chapter.**]**

(11) [M107]Where at any time a registered friendly society ceases by virtue of section 84 of the [M108]Friendly Societies Act 1974 or by virtue of section 72 of the [M109]Friendly Societies Act (Northern Ireland) 1970 (conversion into company) to be registered under that Act, any part of its life or endowment business consisting of business which—

(a) relates to contracts made before that time; and

(b) immediately before that time was tax exempt life or endowment business,

shall **[**[F118]continue to be exempt from corporation tax (whether on income or chargeable gains) on profits arising from it.**]**

(12) [M110]For the purposes of the Corporation Tax Acts any part of a company's business which continues to be tax exempt life or endowment business by virtue of subsection (11) above shall be treated as a separate business from any other business carried on by the company.

Textual Amendments

F112 1990 s.49(1)(a).*Previously*
"£100".

F113 1990 s.49(1)(b).

F114 1990 s.49(2).*Previously*
"of subsection 2(c)(i)".

F115 Words in s. 460(3)(b) inserted (retrospectively) by Finance Act 2003 (c. 14), **s. 172(5)(6)**

F116 1990 s.48*and* Sch.9 para.6*in relation to transfers of business on or after* 1*January* 1990.

F117 Words in s. 460(10A) inserted (retrospectively for specified purposes, and otherwise with effect in accordance with Sch. 12 para. 6(3) of the amending Act) by Finance Act 2007 (c. 11), Sch. 12 paras. 1(2), **6(1)(3)**

F118 Words in s. 460(11) substituted (retrospectively) by Finance Act 2007 (c. 11), Sch. 12 paras. 1(3), **6(1)**

Marginal Citations

M97 Source—1970 s.332(1). 1974 s.27(1)(a)

M98 Source—1970 s.333(1)

M99 Source—1970 s.332(2)(aa); 1987 (No.2) Sch.2 2(1)

M100 Source—1970 s.332(2)(a); 1984 s.73(2); 1987 s.30(2)

M101 Source—1970 s.332(2)(b)

M102 Source—1970 s.332(3); 1987 s.30(3)

M103 Source—1970 s.332(4); 1975 (No.2) s.52(1); 1980 s.57(1)

M104 Source—1970 s.332(5); 1975 (No.2) s.52(1); 1984 s.73(3)

M105 Source—1970 s.332(6)—(9); 1975 (No.2) s.52(1)

M106 1982 c. 50.

M107 Source—1970 s.332(10); 1976 s.48(1)

M108 1974 c. 46.

M109 1970 c. 31 (N.I.).

M110 Source—1970 s.332(12)(a); 1976 s.48(1)

461 Taxation in respect of other business.

(1) [M111]Subject to the following provisions of this section, a registered friendly society other than a society to which subsection (2) below applies shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income

or chargeable gains) on its profits other than those arising from life or endowment business.

(2) [M112]This subsection applies to any society registered after 31st May 1973 unless—

(a) its business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by the registrar; or

(b) it was registered before 27th March 1974 and its rules limit the aggregate amount which may be paid by a member by way of contributions and deposits to not more than £1 per month or such greater amount as the registrar may authorise for the purposes of this section;

and also applies to any society registered before 1st June 1973 with respect to which a direction under subsection (8) below is in force.

(3) [M113]If a society to which subsection (2) above applies, after 26th March 1974 or such later date as may be specified in a direction under this section, makes a payment to a member in respect of his interest in the society and the payment is made otherwise than in the course of life or endowment business and exceeds the aggregate of any sums paid by him to the society by way of contributions or deposits, after deducting from that aggregate the amount of—

(a) any previous payment so made to him by the society after that date, and

(b) any earlier repayment of such sums paid by him,

the excess shall be treated for the purposes of corporation tax and income tax as a qualifying distribution.

(4) [M114]Where a registered friendly society—

(a) at any time ceases by virtue of section 84 of the [M115]Friendly Societies Act 1974 or by virtue of section 72 of the [M116]Friendly Societies Act (Northern Ireland) 1970 (conversion into company) to be registered under that Act; and

(b) immediately before that time was exempt from income tax or corporation tax on profits arising from any business carried on by it other than life or endowment business,

the company into which the society is converted shall be so exempt on its profits arising from any part of that business which relates to contracts made before that time so long as there is no increase in the scale of benefits which it undertakes to provide in the course of carrying on that part of its business.

(5) For the purposes of the Corporation Tax Acts any part of a company's business in respect of the profits from which the company is exempt by virtue of subsection (4) above shall be treated as a separate business from any other business carried on by the company.

(6) [M117]If—

(a) a friendly society registered before 1st June 1973 begins after 26th March 1974 to carry on business other than life or endowment business or, in the opinion of the registrar, begins to carry on business other than life or endowment business on an enlarged scale or of a new character; and

(b) it appears to the registrar, having regard to the restrictions imposed by this section on friendly societies registered later, that for the protection of the revenue it is expedient to do so;

he may serve a notice on the society referring to the provisions of this subsection and stating that he is considering the question whether, for the protection of the revenue, it is expedient to give a direction that subsection (2) above shall apply to the society as from the date of the notice.

(7) The registrar shall consider any representations or undertakings made or offered to him by the society within the period of one month from service of the notice, and if the society so requests shall afford it an opportunity of being heard by him not later than three weeks after the end of that period.

(8) If, after consideration of any such representations or undertakings, the registrar remains of the opinion that it is expedient to do so, he shall direct that subsection (2) above shall apply to the society as from the date of the notice, but subject to any further direction given by him cancelling that direction.

(9) A friendly society may, within one month from the giving of a direction under subsection (8) above, appeal against it to the court to which or person to whom it might appeal under section 92 of the Friendly Societies Act 1974 or section 81 of the Friendly Societies Act (Northern Ireland) 1970 against cancellation of its registration.

(10) For the purposes of this section a registered friendly society formed on the amalgamation of two or more friendly societies shall be treated as registered before 1st June 1973 if at the time of the amalgamation subsection (2) above did not apply to any of the societies amalgamated, but otherwise shall be treated as registered at that time.

Marginal Citations

M111 Source—1970 s.332(1); 1974 s.27(1)(a)
M112 Source—1974 s.27(2)
M113 Source—1974 s.27(1)(b)
M114 Source—1970 s.332(11), (12)(b); 1976 s.48(1)
M115 1974 c. 46.
M116 1970 c. 31 (N.I.).
M117 Source—1974 s.27(3)—(7); 1985 s.41(10); 1987 Sch.15 6

VALID FROM 19/02/1993

[461A [F119]Taxation in respect of other business: incorporated friendly societies qualifying for exemption.

(1) For the purposes of sections 461B and 461C, a "qualifying society" is an incorporated friendly society which—

(a) immediately before its incorporation, was a registered friendly society to which section 461(2) did not apply,

(b) was formed otherwise than by the incorporation of a registered friendly society or the amalgamation of two or more friendly societies and satisfies subsection (2) below, or

(c) was formed by the amalgamation of two or more friendly societies and satisfies subsection (3) below,

and in respect of which no direction under section 461C(5) is in force.

(2) A society satisfies this subsection if its business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by the Friendly Societies Commission.

(3) If at the time of the amalgamation referred to in subsection (1)(c) above—

(a) section 461(2) applied to none of the registered friendly societies being amalgamated (if any), and

(b) all of the incorporated friendly societies being amalgamated (if any) were qualifying societies,

the society formed by the amalgamation satisfies this subsection.**]**

Textual Amendments

F119 Ss. 461A-461C inserted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para.7**; S.I. 1993/236, **art.2**

VALID FROM 19/02/1993

[F120]461B Taxation in respect of other business: incorporated friendly societies etc.

(1) Subject to the following provisions of this section, a qualifying society shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits other than those arising from life or endowment business.

(2) Subsection (1) above shall not apply to any profits arising or accruing to the society from, or by reason of its interest in, a body corporate which is a subsidiary (within the meaning of the Friendly Societies Act 1992) of the society or of which the society has joint control (within the meaning of that Act).

(3) If an incorporated friendly society which is not a qualifying society makes a payment to a member in respect of his interest in the society and the payment is made otherwise than in the course of life or endowment business and exceeds the aggregate of any sums paid by him to the society by way of contributions or deposits, after deducting from that aggregate the amount of—

(a) any previous payment so made to him by the society, and

(b) any earlier repayment of such sums paid by him,

the excess shall be treated for the purposes of corporation tax and income tax as a qualifying distribution.

(4) In relation to an incorporated friendly society which, immediately before its incorporation, was a registered friendly society to which section 461(2) applied—

(a) the references in subsection (3) above to sums paid to the society shall include sums paid to the registered friendly society,

(b) the reference in subsection (3)(a) above to any payment made by the society shall include any payment made by the registered friendly society after 26 March 1974 or such later date as was specified in any direction under section 461(8) relating to it, and

(c) the reference in subsection (3)(b) above to any repayment shall include any repayment made by the registered friendly society.

(5) Where a qualifying society at any time ceases by virtue of section 91 of the Friendly Societies Act 1992 (conversion into company) to be registered under that Act, the company into which the society is converted shall be exempt from income tax or corporation tax on its profits arising from any part of its business, other than life or endowment business, which relates to contracts made before that time.

(6) Subsection (5) above shall apply so long as there is no increase in the scale of benefits which the company undertakes to provide in the course of carrying on the relevant part of its business.

(7) Any part of a company's business to which an exemption under subsection (5) above relates shall be treated for the purposes of the Corporation Tax Acts as a separate business from any other business carried on by the company.

Textual Amendments

F120 Ss. 461A-461C inserted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para.7**; S.I. 1993/236, **art. 2**

VALID FROM 19/02/1993

F121 461C Taxation in respect of other business: withdrawal of "qualifying" status from incorporated friendly society.

(1) Subject to subsection (2) below, subsections (3) to (5) below apply where a qualifying society—

(a) begins to carry on business other than life or endowment business, or

(b) in the opinion of the Friendly Societies Commission, begins to carry on business other than life or endowment business on an enlarged scale or of a new character.

(2) Subsections (3) to (5) below do not apply if—

(a) the society's business is limited to the provision, in accordance with the rules of the society, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of section 461 or 461A by the Friendly Societies Commission, or

(b) the society's rules limit the aggregate amount which may be paid by a member by way of contributions and deposits to not more than £1 per month or such greater amount as is authorised for the purposes of section 461.

(3) If it appears to the Commission, having regard to the restrictions imposed by section 461 on registered friendly societies registered after 31st May 1973, that for the protection of the revenue it is expedient to do so, the Commission may serve a notice on the society—

(a) referring to the provisions of this section, and

(b) stating that the Commission is considering the question whether, for the protection of the revenue, it is expedient to give a direction that the society shall cease to be a qualifying society as from the date of the notice.

(4) The Commission shall consider any representations or undertakings made or offered to the Commission by the society within the period of one month from service of the notice and, if the society so requests, shall afford it an opportunity of being heard by the Commission not later than three weeks after the end of that period.

(5) If, after consideration of any such representations or undertakings, the Commission remains of the opinion that it is expedient to do so, the Commission shall direct that the society shall cease to be a qualifying society as from the date of the notice, but subject to any further direction given by the Commission cancelling that direction.

(6) A friendly society may, within one month from the giving of a direction under subsection (5) above, appeal against it to a tribunal constituted in accordance with section 59(2) of the Friendly Societies Act 1992.

(7) The Treasury may by regulations provide for sections 58 to 61 of that Act to have effect in relation to appeals under subsection (6) above subject to such modifications as may be prescribed by the regulations.

Textual Amendments

F121 Ss. 461A-461C inserted (19.2.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, **Sch. 9 para.7**; S.I. 1993/236, **art. 2**

VALID FROM 21/07/2008

[F122 461D Transfers of other business

(1) Where—

(a) at any time a friendly society ("the transferee") acquires by way of transfer of engagements or amalgamation from another friendly society ("the transferor") any business, other than life or endowment business, consisting of business which relates to contracts made before that time, and

(b) immediately before that time the transferor was exempt from corporation tax on profits arising from that business,

the transferee is so exempt after that time.

(2) But if during an accounting period of the transferee there is an increase in the scale of benefits which it undertakes to provide in the course of carrying on that business, the transferee shall not be exempt from corporation tax by virtue of subsection (1) above for that or any subsequent accounting period.

(3) Where—

(a) at any time a friendly society ("the transferee") acquires by way of transfer of engagements or amalgamation from another friendly society ("the transferor") any business, other than life or endowment business, consisting of business which relates to contracts made before that time, and

(b) immediately before that time the transferor was not exempt from corporation tax on profits arising from that business,

the transferee is not so exempt after that time.

(4) The Treasury may by regulations provide that, where any business of a friendly society is exempt from corporation tax by virtue of subsection (1) above, or not so exempt by virtue of subsection (3) above, the Corporation Tax Acts have effect subject to such modifications (or exceptions) as the Treasury consider appropriate.

(5) Regulations under subsection (4) above—

(a) may make different provision for different cases,

(b) may include any incidental, supplementary, consequential or transitional provisions which the Treasury consider appropriate, and

(c) may include retrospective provision.**]**

Textual Amendments

F122 S. 461D inserted (with effect in accordance with Sch. 18 para. 3(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 18 para. 3(1)**

462 Conditions for tax exempt business.

(1) [M118]Subject to subsections (2) to (4) below, section 460(1) shall not apply to so much of the profits arising from tax exempt life or endowment business as is attributable to a policy which, by virtue of paragraph 6(2) of Schedule 15—

(a) is not a qualifying policy; and

(b) would not be a qualifying policy if all policies with other friendly societies were left out of account.

(2) [M119]Section 460(2)(a) and subsection (1) above shall not withdraw exemption under section 460(1) for profits arising from any part of a life or endowment business relating to contracts made not later than 3rd May 1966.

(3) If, with respect to a policy issued in respect of an insurance made on or after 1st June 1984 and before 19th March 1985 for the assurance of a gross sum, there is or has been an infringement of any of the conditions in paragraph 3(2) to (11) of Schedule 15, section 460(1) shall not apply to so much as is attributable to that policy of the profits of the registered friendly society or branch concerned which arise from tax exempt life or endowment business.

(4) Nothing in subsection (3) above shall be taken to affect the status of a policy as a qualifying policy.

Marginal Citations

M118 Source—1970 s.334(1); 1985 s.41(6)

M119 Source—1970 s.336; 1985 Sch.10 Part II

VALID FROM 25/07/1991

[462A F123Election as to tax exempt business.

(1) Where a registered friendly society has tax exempt life or endowment business which includes contracts—

(a) made before 20th March 1991, and

(b) expressed at the outset not to be made in the course of such business,

the society may by notice to the inspector elect that section 460(1) shall not apply to so much of the profits arising from such business as is attributable to such contracts.

(2) Where a registered friendly society has tax exempt life or endowment business which includes contracts falling within subsection (3) below, the society may by notice to the inspector elect that section 460(1) shall not apply to so much of the profits arising from such business as is attributable to such contracts.

(3) A contract falls within this subsection if—

(a) at the outset, it is neither expressed to be made in the course of tax exempt life or endowment business nor expressed not to be so made but is assumed by the society not to be so made, and

(b) the policy issued in pursuance of it falls within paragraph 21(1)(b) of Schedule 15.

(4) An election under subsection (2) above shall only be valid if the society satisfies the inspector (or the Commissioners on appeal) that it is possible to identify all the contracts to which the election relates.

(5) If the inspector decides that he is not satisfied as mentioned in subsection (4) above, he shall give notice of his decision to the society; and section 42(3), (4) and (9) of, and paragraph 1(1) to (1E) of Schedule 2 to, the Management Act shall apply in relation to such a decision as they apply in relation to a decision of an inspector on a claim.

(6) An election under subsection (1) or (2) above shall have effect for accounting periods ending on or after the day on which the Finance Act 1991 was passed.

(7) No election under subsection (1) or (2) above may be made after 31st July 1992.

(8) Where a friendly society has made an election under subsection (1) or (2) above, then, for any accounting period for which the election has effect—

(a) section 460(1) shall apply to profits arising from life or endowment business which would have been included in the society's tax exempt life or endowment business had no account been taken of the contracts to which the election relates, and

(b) section 462(1), in its application to the society, shall have effect with the insertion after "societies" of "and all policies issued in pursuance of contracts to which an election under section 462A(1) or (2) relates".**]**

Textual Amendments

F123 S. 462A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 50, **Sch. 9 para. 2**

463 Life or endowment business: application of the Corporation Tax Acts.

(1) [M120]Subject to section 460(1), the Corporation Tax Acts shall apply to the life or endowment business carried on by registered friendly societies in the same way as they apply to mutual life assurance business carried on by insurance companies, so however that the Treasury may by regulations provide that those Acts as so applied shall have effect subject to such modifications and exceptions as may be prescribed by the regulations, and those regulations may in particular require any part of any business to be treated as a separate business.

[[F124](2) The provisions of the Corporation Tax Acts which apply on the transfer of the whole or part of the long term business of an insurance company shall apply in the same way—

(a) on the transfer of the whole or part of the business of a friendly society to another friendly society (and on the amalgamation of friendly societies), and

(b) on the transfer of the whole or part of the business of a friendly society to a company which is not a friendly society (and on the conversion of a friendly society into such a company),

so however that the Treasury may by regulations provide that those provisions as so applied shall have effect subject to such modifications and exceptions as may be prescribed by the regulations.

(3) The Treasury may by regulations provide that the provisions of the Corporation Tax Acts which apply on the transfer of the whole or part of the long term business of an insurance company to another company shall have effect where the transferee is a friendly society subject to such modifications and exceptions as may be prescribed by the regulations.

(4) Regulations under this section may make different provision for different cases and may include provision having retrospective effect.**]**

Textual Amendments
F124 1990 s.50(2).

Modifications etc. (not altering text)
C42 *See* 1990 s.50(1)—s.463*was renumbered as* s.463(1).
C43 *For regulations see* Part III Vol.5 (*under* "*Friendly Societies*").

Marginal Citations
M120 Source—1970 s.335(1)

464 Maximum benefits payable to members.

(1) [M121]Subject to subsections (2) and (3) below, a member of a registered friendly society or branch shall not be entitled to have at any time outstanding contracts with any one or more such societies or branches (taking together all such societies or branches throughout the United Kingdom) for the assurance of—

(a) more than £750 by way of gross sum under tax exempt life or endowment business;

(b) more than £156 by way of annuity under tax exempt life or endowment business.

In any case where the member's outstanding contracts were all made before 14th March 1984 this subsection shall have effect with the substitution for "£750" and "£156" of " £2,000 " and " £416 " respectively.

(2) Subsection (1)(a) above shall not apply as respects sums assured under contracts made after 31st August 1987.

(3) With respect to contracts for the assurance of gross sums under tax exempt life or endowment business, a member of a registered friendly society or branch shall not be entitled to have outstanding with any one or more such societies or branches (taking together all such societies or branches throughout the United **[**F125Kingdom)—

(a) contracts under which the total premiums payable in any period of 12 months exceed £150; or

(b) contracts made before 1st September 1990 under which the total premiums payable in any period of 12 months exceed £100,

unless all those contracts were made before 1st September 1987.**]**

(4) In applying the **[**F125limits**]** in subsection (3) above, the premiums under any contract for an annuity which was made before 1st June 1984 by a new society shall be brought into account as if the contract were for the assurance of a gross sum.

(5) In applying the limits in this section there shall be disregarded—

(a) any bonus or addition which either is declared upon assurance of a gross sum or annuity or accrues upon such an assurance by reference to an increase in the value of any investments;

(b) any approved annuities as defined in section 620(9) or any policy of insurance or annuity contract by means of which the benefits to be provided under an occupational pension scheme as defined in section 51(3)(a) of the M122Social Security Act 1973 are secured;

(c) any increase in a benefit under a friendly society contract, as defined in section 6 of the M123Decimal Currency Act 1969, resulting from the adoption of a scheme prescribed or approved in pursuance of subsection (3) of that section; and

(d) so far as concerns the total premiums payable in any period of 12 months—

(i) 10 per cent. of the premiums payable under any contract under which the premiums are payable more frequently than annually; and

(ii) £10 of the premiums payable under any contract made before 1st September 1987 by a society which is not a new society; and

(iii) so much of any premium as is charged on the ground that an exceptional risk of death is involved.

(6) In applying the limits in this section in any case where a member has outstanding with one or more society or branch one or more contracts made after 13th March 1984 and one or more contracts made on or before that date, any contract for an annuity which was made before 1st June 1984 by a new society shall be regarded not only as a contract for the annual amount concerned but also as a contract for the assurance of a gross sum equal to 75 per cent. of the total premiums which would be payable under the contract if it were to run for its full term or, as the case may be, if the member concerned were to die at the age of 75 years.

(7) A registered friendly society or branch may require a member to make and sign a statutory declaration that the total amount assured under outstanding contracts entered

into by that member with any one or more registered friendly societies or branches (taking together all such societies or branches throughout the United Kingdom) does not exceed the limits applicable by virtue of this section and that the total premiums under those contracts do not exceed those limits.

Textual Amendments

F125 1990 s.49(3), (4).*Previously*

"Kingdom) contracts under which the total premiums payable in any period of 12 months exceed £100 unless all those contracts were entered into before 1st September 1987"

and

"limit"

respectively.

Marginal Citations

M121 Source—FSA 1974 s.64(1), (2), (2A), (6); 1985 s.41(1), (2); 1984 s.73(5), (6); 1976/598; FSA 1984 s.2; 1987 s.30(4), (5), (7)

M122 1973 c. 38.

M123 1969 c. 19.

465 Old societies.

(1) [M124]In this section "old society" means a friendly society which is not a new society.

(2) This section applies if, on or after 19th March 1985, an old society—

(a) begins to carry on tax exempt life or endowment business; or

(b) in the opinion of the Board begins to carry on such business on an enlarged scale or of a new character.

(3) If it appears to the Board, having regard to the restrictions placed on qualifying policies issued by new societies by paragraphs 3(1)(b) and (c) and 4(3)(b) of Schedule 15, that for the protection of the revenue it is expedient to do so, the Board may give a direction to the old society under subsection (4) below.

(4) A direction under this subsection is that (and has the effect that) the old society to which it is given is to be treated for the purposes of this Act as a new society with respect to business carried on after the date of the direction.

(5) An old society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—

(a) it has not begun to carry on business as mentioned in subsection (2) above; or

(b) that the direction is not necessary for the protection of the revenue.

Marginal Citations

M124 Source—1985 Sch.10 Part III

VALID FROM 19/02/1993

[465A F126 Assets of branch of registered friendly society to be treated as assets of society after incorporation.

(1) This section applies where any assets of a branch of a registered friendly society have been identified in a scheme under section 6(5) of the Friendly Societies Act 1992 (property, rights etc. excluded from transfer to the society on its incorporation).

(2) In relation to any time after the incorporation of the society, the assets shall be treated for the purposes of the Tax Acts as assets of the society (and, accordingly, any tax liability arising in respect of them shall be a liability of the society rather than of the branch).

(3) Where, by virtue of this section, tax in respect of any of the assets becomes chargeable on and is paid by the society, the society may recover from the trustees in whom those assets are vested the amount of the tax paid.**]**

Textual Amendments

F126 S. 465A inserted (19.12.1993) by Finance (No. 2) Act 1992 (c. 48), s. 56, Sch. 9 para.13, **22**; S.I. 1993/236, **art.2**

466 Interpretation of Chapter II.

(1) M125 In this Chapter "life or endowment business" means any business within any of paragraphs (1), (2), (4) and (5) of Schedule 1 to the M126 Friendly Societies Act 1974 or paragraphs 1, 2, 4 and 5 of Schedule 1 to the M127 Friendly Societies Act (Northern Ireland) 1970, any pension business and any other life assurance business, but—

(a) shall not include the issue of a policy affording provision for sickness or other infirmity (whether bodily or mental) unless—

(i) it also affords assurance for a gross sum independent of sickness or other infirmity; and

(ii) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and

(iii) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum;

(b) shall not include the assurance of any annuity the consideration for which consists of sums obtainable on the maturity, or on the surrender, of any other policy of assurance issued by the friendly society, being a policy of assurance forming part of the tax exempt life or endowment business of the friendly society.

(2) In this Chapter—

"life assurance business" means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life, not being industrial assurance business;

"new society" means a friendly society which was registered after 3rd May 1966 or which was registered in the period of three months ending on that date

but which at no time earlier than that date carried on any life or endowment business;

"pension business" shall be construed in accordance with section 431;

"policy", in relation to life or endowment business, includes an instrument evidencing a contract to pay an annuity upon human life;

"registrar" means the Chief Registrar of Friendly Societies or, in the application of this Chapter to Scotland, the assistant registrar for Scotland or, in the application of this Chapter to Northern Ireland, the Registrar of Friendly Societies for Northern Ireland;

"tax exempt life or endowment business" has, subject to subsections (7) to **[**F127(10A)**]** of section 460, the meaning given by subsection (2)(d) of that section, that is to say, it means (subject to those subsections) life or endowment business other than business profits arising from which are excluded from subsection (1) of that section by subsection (2)(b) or (c) of that section (read, where appropriate, with subsection (6) of that section);

and references in sections 460 to 465 and this subsection to a friendly society include references to any branch of that friendly society.

(3) M128It is hereby declared that for the purposes of this Chapter (except where provision to the contrary is made) a registered friendly society formed on the amalgamation of two or more friendly societies is to be treated as different from the amalgamated societies.

(4) A registered friendly society formed on the amalgamation of two or more friendly societies shall, for the purposes of this Chapter, be treated as registered not later than 3rd May 1966 if at the time of the amalgamation—

(a) all the friendly societies amalgamated were registered friendly societies eligible for the exemption conferred by section 460(1); and

(b) at least one of them was not a new society;

or, if the amalgamation took place before 19th March 1985, the society was treated as registered not later than 3rd May 1966 by virtue of the proviso to section 337(4) of the 1970 Act.

Textual Amendments

F127 S. 466(2): word in definition of "tax exempt life or endowment business" substituted (retrospectively) by Finance Act 2007 (c. 11), Sch. 12 paras. 3, **6(1)**

Marginal Citations

M125 Source—1970 ss.337(1)—(3), 335(5); 1974 s.27(8); 1985 s.41(7)(b)—(e); FSA 1974 s.64(8), Sch.9 23; 1987 (No.2) Sch.2 2(2); 1975 (No.2) s.52(2)

M126 1974 c. 46.

M127 1970 c. 31 (N.I.).

M128 Source—1970 s.337(4); 1985 s.41(7)(e)

Trade unions and employers' associations

467 Exemption for trade unions and employers' associations.

(1) [M129]A trade union which is precluded by Act of Parliament or by its rules from assuring to any person a sum exceeding £3,000 by way of gross sum or £625 by way of annuity shall on making a claim be entitled—

(a) to exemption from income tax and corporation tax in respect of its income which is not trading income and which is applicable and applied for the purpose of provident benefits;

(b) to exemption from tax in respect of chargeable gains which are applicable and applied for the purpose of provident benefits.

(2) In this section "provident benefits" includes any payment, expressly authorised by the rules of the trade union, which is made to a member during sickness or incapacity from personal injury or while out of work, or to an aged member by way of superannuation, or to a member who has met with an accident, or has lost his tools by fire or theft, and includes a payment in discharge or aid of funeral expenses on the death of a member or the **[**[F128]spouse**]** of a member or as provision for the children of a deceased member.

(3) In determining for the purposes of this section whether a trade union is by Act of Parliament or its rules precluded from assuring to any person a sum exceeding £625 by way of annuity, there shall be disregarded any approved annuities (as defined in section 620(9)).

(4) In this section "trade union" means—

(a) [M130]any trade union the name of which is entered in the list of trade unions maintained by the Registrar of Friendly Societies under section 8 of the [M131]Trade Union and Labour Relations Act 1974;

(b) [M132]any employers' association the name of which is entered in the list of employers' associations maintained by the Registrar of Friendly Societies under section 8 of the Trade Union and Labour Relations Act 1974 and which on 30th September 1971 was a registered trade union for the purposes of section 338 of the 1970 Act; and

(c) [M133]the Police Federation for England and Wales, the Police Federation for Scotland, the Police Federation for Northern Ireland and any other organisation of persons in police service which has similar functions.

Textual Amendments

F128 1988(F) s.35*and* Sch.3 para.17*for chargeable period beginning on or after* 6*April* 1990.*Previously* "wife".

Modifications etc. (not altering text)

C44 *See* 1970 s.338*for amounts applicable in earlier years.*

C45 *See*Employment Protection Act 1975 (c.71) ss.7, 125(1)*and* Sch.16 Part III para.1—*list now maintained by the Certification Officer.*

Marginal Citations

M129 Source—1970 s.338(1)—(3); 1982 s.36(1); 1974 s.28(1)(b); 1987 s.31

M130 Source—1974 s.28(1)(a)

M131 1974 c. 52.

M132 Source—1975 (No.2) s.53
M133 Source—1977 s.47

CHAPTER III

UNIT TRUST SCHEMES, DEALERS IN SECURITIES ETC.

Unit trust schemes

468 Authorised unit trusts.

(1) [M134]In respect of income arising to the trustees of an authorised unit trust, and for the purposes of the provisions relating to relief for capital expenditure, the Tax Acts shall have effect as if—

(a) the trustees were a company resident in the United Kingdom; and

(b) the rights of the unit holders were shares in the company.

(2) The Tax Acts shall also have effect as if the aggregate amount shown in the accounts of the trust as income available for payment to unit holders or for investment were dividends on the shares referred to in subsection (1) above paid to them in proportion to their rights, the date of payment, in the case of income not paid to unit holders, being taken to be—

(a) the date or latest date provided by the terms of the authorised unit trust for any distribution in respect of the distribution period in question;

(b) if no date is so provided, the last day of the distribution period.

This subsection shall not apply to any authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).

(3) References in the Corporation Tax Acts to a body corporate shall be construed in accordance with subsections (1) and (2) above, and section 234(3) and (4) shall apply with any necessary modifications.

(4) Section 75 shall apply in relation to an authorised unit trust whether or not it is an investment company within the meaning of section 130; and sums periodically appropriated for managers' remuneration shall be treated for the purposes of section 75 as sums disbursed as expenses of management.

(5) Subsection (1) above shall not apply in relation to an authorised unit trust under the terms of which the funds of the trust cannot be invested in such a way that income can arise to the trustees which will be chargeable to tax in the hands of the trustees otherwise than—

(a) under Schedule C as profits arising from United Kingdom public revenue dividends, or

(b) under Case III of Schedule D;

and in this subsection "United Kingdom public revenue dividends" means public revenue dividends payable in the United Kingdom (whether they are also payable outside the United Kingdom or not) out of the public revenue of the United Kingdom.

(6) In this section—

"authorised unit trust" means, as respects an accounting period, a unit trust scheme in the case of which an order under section 78 of the [M135]Financial Services Act 1986 is in force during the whole or part of that accounting period;

"distribution period" means a period beginning on or after 1st April 1987 over which income from the investments subject to the trusts is aggregated for the purposes of ascertaining the amount available for distribution to unit holders;

"unit holder" means a person entitled to a share of the investments subject to the trusts of a unit trust scheme; and

"unit trust scheme" has the same meaning as in section 469.

Modifications etc. (not altering text)

C46 *See*—1989 s.80—*subs.*(5)*not to apply to gilt unit trusts.*1990 ss.52(2), (3)*and* 132*and* Sch.19 Part IV—subs.(5)*not to apply as regards a distribution period beginning after* 31*December* 1990.*And see* 1990 s.52(3), (4)*for assessment of trustees' income under* Case III Sch.D*for the last distribution period.*

C47 *Definition employed for the purposes of* s.46(7)*—insurance companies: annual deemed disposal of holdings of unit trusts etc.*

Marginal Citations

M134 Source—1970 ss.354, 358; 1980 s.60; 1987 s.38, 40(1); 1987 (No.2) s.40(1)

M135 1986 c. 60.

[F129 468AA Authorised unit trusts: futures and options.

(1) Trustees shall be exempt from tax under Case I of Schedule D in respect of income if—

(a) the income is derived from transactions relating to futures contracts or options contracts, and

(b) the trustees are trustees of a unit trust scheme which is an authorised unit trust as respects the accounting period in which the income is derived.

(2) For the purposes of subsection (1) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.

(3) In this section—

"authorised unit trust" has the same meaning as in section 468, and

"unit trust scheme" has the same meaning as in section 469.]

Textual Amendments

F129 S. 468AA inserted by Finance Act 1990 (c. 29), **s. 81(1)(5)**

Modifications etc. (not altering text)

C48 S. 468AA modified (28.4.1997) by The Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154), **regs. 1**, 9, 11

[F130 468A Certified unit trusts.

F131 . . . . . .]

Textual Amendments

F130 Ss. 468A-468C inserted by Finance Act 1989 (c. 26), **s. 78**

F131 Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, **Sch. 19 Pt. 4**, Note 7

F132 468B Certified unit trusts: corporation tax.

F133 . . . . . .

Textual Amendments

F132 Ss. 468A-468C inserted by Finance Act 1989 (c. 26), **s. 78**

F133 Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, **Sch. 19 Pt. 4**, Note 7

F134 468C Certified unit trusts: distributions.

F135 . . . . . .

Textual Amendments

F134 Ss. 468A-468C inserted by Finance Act 1989 (c. 26), **s. 78**

F135 Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, **Sch. 19 Pt. 4**, Note 7

[F136 468D Funds of funds: distributions.

F137 . . . . . .]

Textual Amendments

F136 S. 468D inserted by Finance Act 1989 (c. 26), **s. 79**

F137 Ss. 468A-468D repealed by Finance Act 1990 (c. 29), s. 52, **Sch. 19 Pt. 4**, Note 7

[F138 468E Authorised unit trusts: corporation tax.

(1) This section has effect as regards an accounting period of the trustees of an authorised unit trust ending after 31st December 1990.

(2) Subject to subsection (3) below, the rate of corporation tax for a financial year shall be deemed to be the rate at which income tax at the basic rate is charged for the year of assessment which begins on 6th April in the financial year concerned.

(3) Where the period begins before 1st January 1991, subsection (2) above shall only apply for the purpose of computing corporation tax chargeable for so much of the period as falls in the financial year 1991 and subsection (4) below shall apply for the purpose of computing corporation tax chargeable for so much of the period as falls in the financial year 1990.

(4) So much of the period as falls after 31st December 1990 and before 1st April 1991 shall be deemed to fall in a financial year for which the rate of corporation tax is the rate at which income tax at the basic rate is charged for the year 1990-91.

(5) Subsections (3) and (4) above shall not apply where the authorised unit trust concerned is a certified unit trust as respects the period.

(6) Where the period begins after 31st December 1990, section 338 shall have effect as if any reference to interest of any description were a reference to interest of that description on borrowing of a relevant description.

(7) Where the authorised unit trust concerned is a certified unit trust as respects the period, subsection (6) above shall have effect without the words preceding "section 338".

(8) For the purposes of subsection (6) above borrowing is of a relevant description if it is borrowing in respect of which there has been no breach during the accounting period of the duties imposed on the manager of the scheme by regulations under section 81 of the [M136]Financial Services Act 1986 with respect to borrowing by the trustees of the scheme.

(9) The Treasury may by regulations provide that for subsection (8) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of what constitutes borrowing of a relevant description for the purposes of subsection (6) above.

(10) Regulations under subsection (9) above may contain such supplementary, incidental, consequential or transitional provision as the Treasury think fit.

(11) In this section "certified unit trust" means, as respects an accounting period, a unit trust scheme in the case of which—

(a) an order under setion 78 of the Financial Services Act 1986 is in force during the whole or part of that accounting period, and

(b) a certificate under section 78(8) of that Act, certifying that the scheme complies with the conditions necessary for it to enjoy the rights conferred by the UCITS directive, has been issued before or at any time during that accounting period.

(12) In this section—

"authorised unit trust" has the same meaning as in section 468,

[M137] "the UCITS directive" means the directive of the Council of the European Communities, dated 20th December 1985, on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (no.85/611/EEC), and

"unit trust scheme" has the same meaning as in section 469.]**]**

Textual Amendments

F138 1990 s.51.

Marginal Citations

M136 1986 c. 60.

M137 Source—O.J.85/L375/3.

VALID FROM 03/05/1994

[F139 468E Corporation tax: cases where lower rate applies.

(1) Where this subsection applies, the rate of corporation tax for the financial year shall be deemed to be the rate at which income tax at the lower rate is charged for the year of assessment which begins on 6th April in that financial year.

(2) Subsection (1) above only applies—

(a) for the financial year 1994 and subsequent financial years; and

(b) where, on a claim made within the period of twelve months from the end of the accounting period which or part of which falls in the financial year concerned, it is shown to the satisfaction of the inspector that throughout that accounting period the condition in subsection (3) below is fulfilled by the investments subject to the trusts of the authorised unit trust.

(3) The condition in this subsection is fulfilled by the investments if the market value of such of those investments as are qualifying investments does not exceed 60 per cent. of the market value of all those investments.

(4) For the purposes of subsection (3) above "qualifying investments" means any of the following investments—

(a) any money placed at interest;

(b) any security—

(i) including any loan stock or similar security whether of the Government of the United Kingdom or of any other government or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured, but

(ii) excluding shares in a company;

(c) any shares in a building society; and

(d) an entitlement to a share in the investments subject to the trusts of another authorised unit trust, unless, throughout the relevant period, the condition in subsection (5) below is fulfilled by the investments subject to the trusts of that other authorised unit trust.

(5) The condition in this subsection is fulfilled by the investments if the market value of such of the investments as fall within paragraphs (a) to (c) of subsection (4) above does not exceed 60 per cent. of the market value of all those investments.

(6) In subsection (4)(d) above "the relevant period" means the accounting period in relation to which by virtue of subsection (2)(b) above the question whether the entitlement is a "qualifying investment" falls to be determined.

(7) For the purposes of this section "investment" does not include cash awaiting investment.

(8) The Treasury may by order amend this section so as to extend or restrict the meaning of qualifying investments for the purposes of subsection (3) above.

(9) An order under subsection (8) above may contain such transitional provision as the Treasury think necessary or expedient.**]**

Textual Amendments

F139 S. 468EE inserted (3.5.1994) by Finance Act 1994 (c. 9), **s. 111(2)**

468F [F140Authorised unit trusts: distributions.

(1) Subsection (2) below applies where—

(a) as regards a distribution period ending after 31st December 1990 a dividend is treated by virtue of section 468(2) as paid to a unit holder (whether or not income is in fact paid to the unit holder),

(b) the dividend is treated as paid by the trustees of a unit trust scheme which is an authorised unit trust as respects the accounting period in which the distribution period falls, and

(c) on the date of payment the unit holder is within the charge to corporation tax and not a dual resident.

(2) For the purpose of computing corporation tax chargeable in the case of the unit holder the payment shall be deemed—

(a) to be an annual payment, and not a dividend or other distribution, and

(b) to have been received by the unit holder after deduction of income tax at the basic rate, for the year of assessment in which the date of payment falls, from a corresponding gross amount.

(3) Subsection (2) above shall have effect subject to the following provisions of this section and to section 468G.

(4) Subsection (2) above shall not apply where the rights in respect of which the dividend is treated as paid are held by the trustees of a unit trust scheme which is an authorised unit trust as respects the accounting period (of that scheme) in which the date of payment falls.

(5) Where the unit holder is on the date of payment the manager of the scheme, subsection (2) above shall not apply in so far as the rights in respect of which the dividend is treated as paid are rights held by him in the ordinary course of his business as manager of the scheme.

(6) Subsection (2) above shall not apply to so much of the payment as is attributable to income of the trustees arising before 1st January 1991.

(7) Subsection (6) above shall not apply where—

(a) the payment is treated as made as regards a distribution period falling in an accounting period as respects which the authorised unit trust is a certified unit trust, or

(b) the authorised unit trust is on the date of payment a fund of funds.

(8) In this section—

"authorised unit trust" has the same meaning as in section 468,

"certified unit trust" has the same meaning as in section 468E,

"distribution period" has the same meaning as in section 468,

"dual resident" means a person who is resident in the United Kingdom and falls to be regarded for the purposes of any arrangements having effect by virtue of section 788 as resident in a territory outside the United Kingdom,

"fund of funds" means a unit trust scheme the sole object of which is to enable the unit holders to participate in or receive profits or income arising from the acquisition, holding, management or disposal of units in unit trust schemes, and

"unit trust scheme" has the same meaning as in section 469.]

Textual Amendments
F140 1990 s.51.

468G [F141Dividends paid to investment trusts.

(1) Section 468F(2) shall not apply in a case where—

(a) the first condition set out below is fulfilled, and

(b) if one or more of the second to fourth conditions set out below applies, the condition (or each of the conditions) which applies is fulfilled.

(2) The first condition is that—

(a) the unit holder is a company which is an investment trust as respects the accounting period of the company that includes 20th March 1990, and

(b) immediately before the end of 20th March 1990, not less than 90 per cent. by value of the company's investments consisted of units in a unit trust scheme which (or units in different unit trust schemes each of which) was an authorised unit trust on 20th March 1990.

(3) The second condition applies if the date of payment is included in an accounting period of the company which falls after the company's accounting period that includes 20th March 1990; and the condition is that the company is an investment trust as respects—

(a) the accounting period of the company that includes the date of payment, and

(b) each (if any) accounting period of the company which falls after the company's accounting period that includes 20th March 1990 and before the company's accounting period that includes the date of payment.

(4) The third condition applies if the company makes an investment after 20th March 1990, and on or before the date of payment, in units in a unit trust scheme which is an authorised unit trust on the date of payment; and the condition is that, immediately before the end of the date of payment, each unit held by the company in a unit trust scheme which is an authorised unit trust on that date is a unit in a unit trust scheme—

(a) in which the company held units immediately before the end of 20th March 1990, and

(b) which was an authorised unit trust on 20th March 1990.

(5) The fourth condition applies if—

(a) the third condition applies, and

(b) immediately before the end of 20th March 1990 the company held units in more than one unit trust scheme which was an authorised unit trust on that date;

and the condition is that the investments made by the company after 20th March 1990, and on or before the date of payment, were made in accordance with the requirements applicable to the investment of funds of the company on 20th March 1990.

(6) For the purposes of this section—

(a) "authorised unit trust" has the same meaning as in section 468,

(b) "unit trust scheme" has the same meaning as in section 469, and

(c) a unit trust scheme is an authorised unit trust on a particular date if it is an authorised unit trust as respects the accounting period of the scheme that includes that date.

Textual Amendments

F141 Ss. 468E-468G inserted by Finance Act 1990 (c. 29), **s. 51**

469 Other unit trusts.

(1) This section applies to—

(a) a [M138]ny unit trust scheme that is not an authorised unit trust; and

(b) any authorised unit trust to which, by virtue of subsection (5) of section 468, that section does not apply,

except where the trustees of the scheme are not resident in the United Kingdom.

(2) Income arising to the trustees of the scheme shall be regarded for the purposes of the Tax Acts as income of the trustees (and not as income of the unit holders); and the trustees (and not the unit holders) shall be regarded as the persons to or on whom allowances or charges are to be made under the provisions of those Acts relating to relief for capital expenditure.

(3) For the purposes of the Tax Acts the unit holders shall be treated as receiving annual payments (made by the trustees under deduction of tax) in proportion to their rights.

This subsection shall not apply to any authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).

(4) The total amount of those annual payments in respect of any distribution period shall be the amount which, after deducting income tax at the basic rate in force for the year of assessment in which the payments are treated as made, is equal to the aggregate amount shown in the accounts of the scheme as income available for payment to unit holders or for investment.

(5) The date on which the annual payments are treated as made shall be the date or latest date provided by the terms of the scheme for any distribution in respect of the distribution period in question, except that, if—

(a) the date so provided is more than 12 months after the end of the period; or

(b) no date is so provided,

the date on which the payments are treated as made shall be the last day of the period.

[F142(5A) Subsection (5B) below applies where for any year of assessment—

(a) the trustees are (or, apart from this subsection, would be) chargeable under section 350 with tax on payments treated as made by them under subsection (3) above, and

(b) there is an uncredited surplus in the case of the scheme.

(5B) Where this subsection applies, the amount on which the trustees would otherwise be so chargeable shall be reduced—

(a) if the surplus is greater than that amount, to nil, or

(b) if it is not, by an amount equal to the surplus.

(5C) For the purposes of subsections (5A) and (5B) above whether there is an uncredited surplus for a year of assessment in the case of a scheme (and, if so, its amount) shall be ascertained by—

(a) determining, for each earlier year of assessment in which the income on which the trustees were chargeable to tax by virtue of subsection (2) above exceeded the amount treated by subsection (3) above as annual payments received by the unit holders, the amount of the excess,

(b) aggregating the amounts determined in the case of the scheme under paragraph (a) above, and

(c) deducting from that aggregate the total of any reductions made in the case of the scheme under subsection (5B) above for earlier years of assessment.

(5D) The references in subsection (5C)(a) above to subsections (2) and (3) above include references to subsections (2) and (3) of section 354A of the 1970 Act.**]**

(6) In this section "distribution period" has the same meaning as in section 468, but—

(a) if the scheme does not make provision for distribution periods, then for the purposes of this section its distribution periods shall be taken to be successive periods of 12 months the first of which began with the day on which the scheme took effect; and

(b) if the scheme makes provision for distribution periods of more than 12 months, then for the purposes of this section each of those periods shall be taken to be divided into two (or more) distribution periods, the second succeeding the first after 12 months (and so on for any further periods).

(7) In this section "unit trust scheme" has the same meaning as in the [M139]Financial Services Act 1986, except that the Treasury may by regulations provide that any scheme of a description specified in the regulations shall be treated as not being a unit trust scheme for the purposes of this section.

(8) Regulations under this section may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.

(9) Sections 686 and 687 shall not apply to a scheme to which this section applies.

(10) Section 720(5) shall not apply in relation to profits or gains treated as received by the trustees of a scheme to which this section applies if or to the extent that those profits or gains represent accruals of interest (within the meaning of Chapter II of Part XVII) which are treated as income in the accounts of the scheme.

(11) This section shall have effect in relation to distribution periods beginning on or after 6th April 1987.

Textual Amendments

F142 1988(F) s.71.

Modifications etc. (not altering text)
C49 S. 469 extended (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 22(1)(2)**
C50 For regulations see Part III Vol. 5

Marginal Citations
M138 Source—1970 s.354A; 1987 s.39; 1987 (No.2) s.40(1)
M139 1986 c. 60.

470 Transitional provisions relating to unit trusts.

(1) Any transitional provisions contained in an order made under section 40(5) of the [M140]Finance Act 1987 appointing a day for the coming into force of subsections (1) and (2) of that section and made in connection therewith shall after the coming into force of this section have effect for the purposes of this Act as they had effect for the purposes of that section, with such modifications if any as may be necessary.

(2) If such an order as is mentioned in subsection (1) above has not been made before the coming into force of this Act, section 468 shall have effect with the substitution for the definition of "authorised unit trust" contained in subsection (6) of the following definition—

> "authorised unit trust" means, as respects any accounting period, a unit trust scheme in the case of which an order under section 17 of the [M141]Prevention of Frauds (Investments) Act 1958 or under section 16 of the [M142]Prevention of Frauds (Investments) Act (Northern Ireland) 1940 is in force during the whole or some part of that accounting period;

and sections 468 and 832 shall have effect with the omission of the definition of "unit trust scheme".

(3) If such an order as is mentioned in subsection (1) above has not been made before the coming into force of this Act, subsection (2) above shall cease to have effect on such day as the Board may by order appoint; and an order under this subsection may contain such transitional provisions as appear to the Board to be necessary or expedient.

Modifications etc. (not altering text)
C51 S.I. 1988 No.745 (*not reproduced*)—*appointed day* 29*April* 1988.

Marginal Citations
M140 1987 s.40(5)
M141 1958 c. 45.
M142 1940 c. 9 (N.I.).

VALID FROM 03/05/1994

I[F143] Distributions of authorised unit trusts: general

Textual Amendments

F143 Ss. 468H-468R and cross-headings inserted (with effect in accordance with Sch. 14 para. 7 of the amending Act) by Finance Act 1994 (c. 9), **Sch. 14 para. 2**

468H Interpretation.

(1) This section has effect for the interpretation of sections 468I to 468R.

(2) The making of a distribution by an authorised unit trust to a unit holder includes investing an amount on behalf of the unit holder in respect of his accumulation units.

(3) In relation to an authorised unit trust—

(a) "distribution period" means a period by reference to which the total amount available for distribution to unit holders is ascertained; and

(b) "distribution accounts" means accounts showing how that total amount is computed.

(4) The distribution date for a distribution period of an authorised unit trust is—

(a) the date specified by or in accordance with the terms of the trust for any distribution for that distribution period; or

(b) if no date is so specified, the last day of that distribution period.

(5) In this Chapter references to foreign income dividends shall be construed in accordance with Chapter VA of Part VI.

(6) Sections 468I to 468R do not apply to an authorised unit trust which is also an approved personal pension scheme (within the meaning of Chapter IV of Part XIV).

468I Distribution accounts.

(1) The total amount shown in the distribution accounts as available for distribution to unit holders shall be shown as available for distribution in one of the ways set out below.

(2) It may be shown as available for distribution as dividends which are not foreign income dividends.

(3) It may be shown as available for distribution as foreign income dividends.

(4) It may be shown as available for distribution as yearly interest.

(5) It may be divided into—

(a) a part shown as available for distribution as dividends which are not foreign income dividends; and

(b) a part shown as available for distribution as foreign income dividends.

(6) Amounts deriving from income under Schedule A may not be included in any amount shown in the distribution accounts as available for distribution as yearly interest.

(7) Where distribution accounts show an amount as available for distribution to unit holders in the way set out in subsection (5) above there shall not be any discrimination between unit holders having accumulation units and other unit holders (or between unit holders on other grounds).

VALID FROM 03/05/1994

Dividend and foreign income distributions

468J Dividend distributions.

(1) Subsection (2) below applies where the total amount or a part of the total amount shown in the distribution accounts as available for distribution to unit holders is shown as available for distribution as dividends which are not foreign income dividends.

(2) The Tax Acts shall have effect as if the total amount or, as the case may be, the part were dividends on shares paid on the distribution date by the company referred to in section 468(1) to the unit holders in proportion to their rights.

(3) The trustees of an authorised unit trust may not make an election under section 246A in respect of dividends paid by virtue of this section.

(4) In the following provisions of this Chapter "a dividend distribution" means a dividend treated as paid by virtue of subsection (2) above.

468K Foreign income distributions.

(1) Subsection (2) below applies where the total amount or a part of the total amount shown in the distribution accounts as available for distribution to unit holders is shown as available for distribution as foreign income dividends.

(2) The Tax Acts shall have effect (subject to what follows) as if the total amount or, as the case may be, the part were foreign income dividends on shares paid on the distribution date by the company referred to in section 468(1) to the unit holders in proportion to their rights.

(3) In relation to the paying of foreign income dividends by authorised unit trusts Chapter VA of Part VI shall have effect as if the following provisions were omitted—

(a) sections 246A and 246B (provisions with respect to election to pay foreign income dividends);

(b) sections 246K to 246M (special provisions for subsidiaries); and

(c) sections 246S to 246W (international headquarters companies).

(4) In the following provisions of this Chapter "a foreign income distribution" means a foreign income dividend treated as paid by virtue of subsection (2) above.

VALID FROM 03/05/1994

Interest distributions

468L Interest distributions.

(1) Subsection (2) below applies where the total amount shown in the distribution accounts as available for distribution to unit holders is shown as available for distribution as yearly interest.

(2) The Tax Acts shall have effect (subject to what follows) as if the total amount were payments of yearly interest made on the distribution date by the company referred to in section 468(1) to the unit holders in proportion to their rights.

(3) In the following provisions of this Chapter "an interest distribution" means a payment of yearly interest treated as made by virtue of subsection (2) above.

(4) The obligation under section 349(2) to deduct a sum in its application to an interest distribution is subject to sections 468M and 468N (and, in its application to an interest distribution to a unit holder in respect of his accumulation units, is an obligation to deduct a sum out of the amount being invested on the unit holder's behalf).

(5) Interest distributions shall not be a charge on income for the purposes of section 338(1) but any interest distributions for a distribution period which are interest distributions with respect to which the obligation under section 349(2) (if and to the extent that it applies) is complied with shall be allowed as a deduction against the profits of the authorised unit trust for the accounting period in which the last day of that distribution period falls.

(6) The deduction mentioned in subsection (5) above may be made—

(a) in computing the total profits for the accounting period, after the deduction of any expenses deductible in computing profits apart from section 75 and either before or after the deduction under that section of sums disbursed as expenses of management; or

(b) against total profits as reduced by any other relief from tax or against total profits not so reduced.

(7) Where in any accounting period the amount deductible by virtue of subsection (5) above exceeds the amount from which the deduction is made—

(a) the excess may be carried forward to the succeeding accounting period; and

(b) the amount so carried forward shall be treated as if it were deductible in that succeeding accounting period by virtue of subsection (5) above.

468M Deduction of tax (simple case).

(1) Subsection (2) below applies where—

(a) an interest distribution is made for a distribution period to a unit holder; and

(b) the gross income entered in the distribution accounts for the purpose of computing the total amount available for distribution to unit holders derives from eligible income entirely.

(2) Where this subsection applies, the obligation to deduct under section 349(2) shall not apply to the interest distribution to the unit holder if the residence condition is on the distribution date fulfilled with respect to him.

(3) Section 468O makes provision with respect to the circumstances in which the residence condition is fulfilled with respect to a unit holder.

(4) Subject to subsection (5) below, in this Chapter "eligible income" means—

(a) any interest on a security which falls within paragraph 5(5)(d) of Schedule 19AA;

(b) any interest on a security which is a quoted Eurobond for the purposes of section 124;

(c) any dividends falling within section 17(1)3;

(d) any proceeds or other realisation falling within section 17(1)4;

(e) any amount taxable by virtue of section 123;

(f) any other amount, if it is not subject to income tax by deduction.

(5) "Eligible income" does not include—

(a) franked investment income;

(b) income under Schedule A;

(c) any foreign income dividend;

(d) any amount afforded relief from taxation imposed under the laws of a territory outside the United Kingdom under arrangements having effect by virtue of section 788 in relation to that territory.

468N Deduction of tax (mixed funds).

(1) Subsection (2) below applies where—

(a) an interest distribution is made for a distribution period to a unit holder; and

(b) the gross income entered in the distribution accounts for the purposes of computing the total amount available for distribution to unit holders does not derive from eligible income entirely.

(2) Where this subsection applies, the obligation to deduct under section 349(2) shall not apply to the relevant amount of the interest distribution to the unit holder if the residence condition is on the distribution date fulfilled with respect to him.

(3) Section 468O makes provision with respect to the circumstances in which the residence condition is fulfilled with respect to a unit holder.

(4) This is how to calculate the relevant amount of the interest distribution—

$$R = A \text{ x } \frac{B}{C}$$

Where—

R = the relevant amount;

A = the amount of the interest distribution before deduction of tax to the unit holder in question;

B = such amount of the gross income as derives from eligible income;

C = the amount of the gross income.

(5) In subsection (4) above the references to the gross income are references to the gross income entered as mentioned in subsection (1)(b) above.

468O Residence condition.

(1) For the purposes of sections 468M and 468N, the residence condition is fulfilled with respect to a unit holder if—

(a) there is a valid declaration made by him that he is not ordinarily resident in the United Kingdom; or

(b) he holds the rights as a personal representative of a unit holder and—

(i) before his death the deceased made a declaration valid at the time of his death that he was not ordinarily resident in the United Kingdom; or

(ii) the personal representative has made a declaration that the deceased, immediately before his death, was not ordinarily resident in the United Kingdom.

(2) For the purposes of sections 468M and 468N, the residence condition is also fulfilled with respect to a unit holder if the unit holder is a company and there is a valid declaration made by the company that it is not resident in the United Kingdom.

(3) The Board may by regulations make such provision as appears to them to be necessary or expedient modifying the application of this section and section 468P in relation to interest distributions made to or received under a trust.

(4) Regulations under subsection (3) above 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.

Modifications etc. (not altering text)

C52 Ss. 468O, 468P applied (with modifications) (27.9.1994) by The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 1994 (S.I. 1994/2318), **regs. 1**, 3-6

468P Residence declarations.

(1) A declaration made for the purposes of section 468O must—

(a) be in such form as may be required or authorised by the Board;

(b) be made in writing to the trustees of the authorised unit trust in question; and

(c) contain any details or undertakings required by subsections (2) to (4) below.

(2) A declaration made as mentioned in section 468O(1)(a) or (b)(i) must contain—

(a) the name and principal residential address of the person making it; and

(b) an undertaking that he will notify the trustees if he becomes ordinarily resident in the United Kingdom.

(3) A declaration made as mentioned in section 468O(1)(b)(ii) must contain the name of the deceased and his principal residential address immediately before his death.

(4) A declaration made as mentioned in section 468O(2) must contain—

(a) the name of the company making it and the address of its registered or principal office; and

(b) an undertaking that the company will notify the trustees if it becomes resident in the United Kingdom.

(5) For the purposes of determining whether an interest distribution should be made with or without any deduction, the trustees may not treat a declaration as valid if—

(a) they receive a notification in compliance with an undertaking under subsection (2) or (4) above that the person in question has become ordinarily resident or, as the case may be, resident in the United Kingdom; or

(b) they come into possession of information by some other means which indicates that the person in question is or may be ordinarily resident or, as the case may be, resident in the United Kingdom;

but, subject to that, they are entitled to treat the declaration as valid.

(6) The trustees shall, on being required to do so by a notice given by an officer of the Board, make available for inspection by such an officer any declarations made to them under this section or any specified declaration or description of declarations.

(7) Where a notice has been given to the trustees under subsection (6) above, the declarations shall be made available within such time as may be specified in the notice and the person carrying out the inspection may take copies of or extracts from them.

(8) The Board may by regulations make provision for giving effect to this section, including in particular provision requiring trustees and managers of authorised unit trusts to supply information and make available books, documents and other records for inspection on behalf of the Board.

(9) Regulations under subsection (8) above 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.

Modifications etc. (not altering text)

C53 Ss. 468O, 468P applied (with modifications) (27.9.1994) by The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 1994 (S.I. 1994/2318), **regs. 1**, 3-6

VALID FROM 10/07/2003

[F144 468PS ection 468O(1A): consequences of reasonable but incorrect belief

Where—

(a) an interest distribution is made to a unit holder by the trustees of an authorised unit trust,

(b) the trustees, in reliance on the reputable intermediary condition being fulfilled with respect to the unit holder, do not comply with the

obligation under section 349(2) to make a deduction from the interest distribution,

(c) that obligation would apply but for that condition being so fulfilled, and

(d) (contrary to the belief of the trustees) the unit holder is in fact ordinarily resident in the United Kingdom,

section 350 and Schedule 16 have effect as if that obligation applied.**]**

Textual Amendments

F143 Ss. 468H-468R and cross-headings inserted (with effect in accordance with Sch. 14 para. 7 of the amending Act) by Finance Act 1994 (c. 9), **Sch. 14 para. 2**

F144 Ss. 468PA, 468PB inserted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), **s. 203(9)**

Modifications etc. (not altering text)

C54 Ss. 468M, 468O, 468PA applied (with modifications) (7.8.2003 with effect in accordance with reg. 1(2) of the affecting S.I.) by The Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 2003 (S.I. 2003/1830), **regs. 1(1)**, 7

VALID FROM 10/07/2003

[F144 468PB Regulations supplementing sections 468M to 468PA

(1) The Board may by regulations make provision for giving effect to sections 468M to 468PA.

(2) The regulations may, in particular, include provision modifying the application of those sections in relation to interest distributions made to or received under a trust.

(3) The regulations may, in particular, include provision for the giving by officers of the Board of notices requiring trustees of authorised unit trusts to supply information and make available books, documents and other records for inspection on behalf of the Board.

(4) The regulations may—

(a) make provision in relation to times before they are made,

(b) make different provision for different cases, and

(c) make such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.**]**

Textual Amendments

F143 Ss. 468H-468R and cross-headings inserted (with effect in accordance with Sch. 14 para. 7 of the amending Act) by Finance Act 1994 (c. 9), **Sch. 14 para. 2**

F144 Ss. 468PA, 468PB inserted (with effect in accordance with s. 203(14) of the amending Act) by Finance Act 2003 (c. 14), **s. 203(9)**

VALID FROM 03/05/1994

Distributions to corporate unit holder

468Q Dividend distribution to corporate unit holder.

(1) Subsection (2) below applies where—

(a) a dividend distribution for a distribution period is made to a unit holder by the trustees of an authorised unit trust; and

(b) on the distribution date for that distribution period the unit holder is within the charge to corporation tax.

(2) For the purpose of computing corporation tax chargeable in the case of the unit holder the unfranked part of the dividend distribution shall be deemed—

(a) to be an annual payment and not a dividend distribution, a foreign income distribution or an interest distribution; and

(b) to have been received by the unit holder after deduction of income tax at the lower rate for the year of assessment in which the distribution date falls, from a corresponding gross amount.

(3) This is how to calculate the unfranked part of the dividend distribution—

$$U = \left(\left(A + B \right) x \frac{C}{D} \right) - B$$

Where—

U = the unfranked part of the dividend distribution to the unit holder;

A = the amount of the dividend distribution;

B = the amount of any foreign income distribution for the distribution period for which that dividend distribution is made to the unit holder;

C = such amount of the gross income as does not derive from franked investment income;

D = the amount of the gross income.

(4) If the calculation in accordance with subsection (3) above produces a value of U that is less than O, it shall be assumed for the purposes of this section that no part of the dividend distribution is unfranked.

(5) Where the unit holder is on the distribution date the manager of the scheme, subsection (2) above shall not apply in so far as the rights in respect of which the dividend distribution is made are held by him in the ordinary course of his business as manager of the scheme.

(6) For the purposes of this section the references to the gross income are references to the gross income entered in the distribution accounts for the purpose of computing the total amount available for distribution to unit holders for the distribution period in question.

468R Foreign income distribution to corporate unit holder.

(1) Subsection (2) below applies where—

(a) a foreign income distribution for a distribution period is made to a unit holder by the trustees of an authorised unit trust; and

(b) on the distribution date for that distribution period the unit holder is within the charge to corporation tax.

(2) The provisions of subsections (2) to (6) of section 468Q shall have effect, with the necessary modifications, in relation to the foreign income distribution as they have effect in relation to a dividend distribution, and in particular as if for the provisions of subsection (3) of that section there were substituted the provisions of subsection (3) below.

(3) This is how to calculate the unfranked part of the foreign income distribution—

$$U = \left(\left(A + B \right) x \frac{E}{D} \right) - A$$

Where—

U = the unfranked part of the foreign income distribution to the unit holder in question;

A = the amount of any dividend distribution for the distribution period for which that foreign income distribution is made to the unit holder;

B = the amount of that foreign income distribution;

E = such amount of the gross income as does not derive from foreign income dividends;

D = the amount of the gross income.

VALID FROM 27/07/1999

[F145469A Court common investment funds.

(1) The Tax Acts shall have effect in relation to any common investment fund established under section 42 of the M143Administration of Justice Act 1982 (common investment funds for money paid into court) as if—

(a) the fund were an authorised unit trust;

(b) the person who is for the time being the investment manager of the fund were the trustee of that authorised unit trust; and

(c) the persons whose interests entitle them, as against the Accountant General, to share in the fund's investments were the unit holders in that authorised unit trust.

(2) In this section "the Accountant General" means (subject to subsection (3) below) the Accountant General of the Supreme Court of Judicature in England and Wales or the Accountant General of the Supreme Court of Judicature of Northern Ireland.

(3) Where in the case of any common investment fund a person other than the Accountant General is authorised by the Lord Chancellor to hold shares in the fund,

the reference in subsection (1)(c) above to the Accountant General shall include a reference to that other person.**]**

Textual Amendments

F143 Ss. 468H-468R and cross-headings inserted (with effect in accordance with Sch. 14 para. 7 of the amending Act) by Finance Act 1994 (c. 9), **Sch. 14 para. 2**

F145 S. 469A inserted (with effect in accordance with s. 68(3)-(5) of the amending Act) by Finance Act 1999 (c. 16), **s. 68(1)**

Marginal Citations

M143 1982 c.53.

Dealers in securities, banks and insurance businesses

471 Exchange of securities in connection with conversion operations, nationalisation etc.

(1) [M144]If—

(a) any securities to which a person who is carrying on a trade which consists wholly or partly in dealing in securities is beneficially entitled are exchanged for other securities; and

(b) the exchange is one to which this section applies,

then, whether or not any additional consideration is given for the exchange but subject to subsection (2) below, that person shall be treated for tax purposes (except as regards any tax payable in respect of dividends or interest), both at the time of the exchange and thereafter, as if the exchange had not taken place, and in that case the produce of any subsequent realisation of any of the securities received by him under the exchange (together with any additional consideration, or the appropriate part of any additional consideration, received by him under the exchange) shall be treated as the produce of the realisation of the corresponding securities surrendered by or transferred from him under the exchange, or of a corresponding part thereof, as the case may be.

(2) Subsection (1) above shall not apply to any person who gives notice to the inspector not later than two years after the end of the chargeable period in which the exchange takes place that he desires not to be treated as mentioned in that subsection.

(3) The exchanges to which this section applies are—

(a) any exchange effected under any arrangement carried out under section 2 of the [M145]National Loans Act 1939 or section 14 of the [M146]National Loans Act 1968 if the Treasury direct, in pursuance of that arrangement, that this section shall apply to exchanges thereunder;

(b) any exchange of securities effected by section 1 of the [M147]Bank of England Act 1946; and

(c) any exchange of securities effected in pursuance of any enactment passed after 5th April 1946 which provides for the compulsory acquisition of any securities and the issue of other securities in lieu thereof, if the Treasury direct that this section shall apply to exchanges of securities effected in pursuance of that enactment.

(4) In this section "securities" includes shares, stock, bonds, debentures and debenture stock.

Marginal Citations

M144 Source—1970 s.326
M145 1939 c. 117.
M146 1968 c. 13.
M147 1946 c. 27.

472 Distribution of securities issued in connection with nationalisation etc.

(1) [M148]Where—

(a) in pursuance of any enactment passed after 5th April 1946 any securities are issued to any body corporate as, or as part of, the consideration for the compulsory acquisition of any property under that enactment; and

(b) that body corporate is wound up or the capital thereof is reduced or any bonds, debentures or debenture stock thereof are redeemed, and, in or in connection with the winding up, reduction of capital or redemption, all or any of the securities so issued are distributed to holders of securities of the body corporate ("the distributed securities"); and

(c) the Treasury direct that this section shall apply in relation to the distribution,

any person ("the dealer") who is carrying on a trade which consists wholly or partly in dealing in securities and is beneficially entitled to any securities ("the relevant securities") to the holders of which the distribution is made shall, in relation to that distribution, be treated for tax purposes in the manner specified in subsections (2) and (3) below, unless he gives notice to the inspector not later than two years after the end of the chargeable period in which the distribution takes place that he desires not to be so treated in relation to that distribution.

(2) If the result of the winding up, reduction of capital or redemption of bonds, debentures or debenture stock is that the relevant securities to which the dealer is beneficially entitled are wholly extinguished without his receiving anything in respect thereof except the distributed securities, he shall be treated for tax purposes (except as regards any tax payable in respect of dividends or interest), both then and thereafter, as if neither the extinction nor the distribution had taken place but as if the produce of any subsequent realisation of any of the distributed securities were the produce of the realisation of the relevant securities or a corresponding part thereof, as the case may be.

(3) In any other case—

(a) the dealer shall be treated as having acquired the distributed securities at a cost equal to such proportion of the cost to him of the relevant securities as may be specified in the direction of the Treasury referred to in subsection (1) above and the question whether he has made any, and if so what, profit or suffered any, and if so what, loss on any subsequent realisation of the distributed securities shall be determined accordingly; and

(b) in considering whether he has, either as the result of the winding up, reduction of capital or redemption of bonds, debentures or debenture stock and the distribution of the securities, or on any subsequent realisation of any of the relevant securities, made any, and if so what, profit or suffered any, and if so what, loss in connection with the relevant securities, the distributed securities

shall be left out of account and the cost to him of the relevant securities shall be deemed to be reduced by the amount of the cost at which, under paragraph (a) above, he is taken to have acquired the distributed securities.

(4) In this section "securities" includes shares, stock, bonds, debentures and debenture stock.

Marginal Citations

M148 Source—1970 s.327

VALID FROM 22/07/2004

[F146 472A Trading profits etc. from securities: taxation of amounts taken to reserves]

(1) This section applies in relation to securities—

(a) which are held by a person carrying on a banking business, an insurance business or a business consisting wholly or partly in dealing in securities; and

(b) which are such that a profit on their sale would form part of the trading profits of that business.

(2) Profits and losses arising from such securities that in accordance with generally accepted accounting practice are—

(a) calculated by reference to the fair value of the securities, and

(b) recognised in that person's statement of recognised gains and losses or statement of changes in equity,

shall be brought into account in computing the profits or losses of a business in accordance with the provisions of this Act applicable to Case I of Schedule D.

(3) Subsection (2) does not apply—

(a) to an amount to the extent that it derives from or otherwise relates to an amount brought into account under that subsection in an earlier period of account, or

(b) to an amount recognised for accounting purposes by way of correction of a fundamental error.

(4) In this section, "securities"—

(a) includes shares and any rights, interests or options that by virtue of section 99, 135(5) or 136(5) of the Taxation of Chargeable Gains Act 1992 are treated as shares for the purposes of sections 126 to 136 of that Act; but

(b) does not include a loan relationship (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996).**]**

Textual Amendments

F143 Ss. 468H-468R and cross-headings inserted (with effect in accordance with Sch. 14 para. 7 of the amending Act) by Finance Act 1994 (c. 9), **Sch. 14 para. 2**

F146 S. 472A inserted (with effect in accordance with s. 54(2) of the amending Act) by Finance Act 2004 (c. 12), **s. 54** (as amended (retrospectively) by Finance Act 2005 (c.7), Sch. 4 para. 50, **Sch. 11 Pt. 2(7)**)

473 Conversion etc. of securities held as circulating capital.

(1) [M149]Subsections (3) and (4) below shall have effect where a transaction to which this section applies occurs in relation to any securities ("the original holding")—

(a) to which a person carrying on a banking business, an insurance business or a business consisting wholly or partly in dealing in securities is beneficially entitled; and

(b) which are such that a profit on their sale would form part of the trading profits of that business.

(2) This section applies to any transaction which, if the securities were not such as are mentioned in subsection (1)(b) above—

(a) would result in the original holding being equated with a new holding by virtue of sections 77 to 86 of the 1979 Act (capital gains tax roll-over relief in cases of conversion etc.); or

(b) would be treated by virtue of section 84 of that Act (compensation stock) as an exchange for a new holding which does not involve a disposal of the original holding;

but does not apply to any transaction in relation to which section 471 applies or would apply if the person concerned had not given a notice under that section.

(3) Subject to subsection (4) below, in making any computation in accordance with the provisions of this Act applicable to Case I of Schedule D of the profits or losses of the business—

(a) the transaction shall be treated as not involving any disposal of the original holding, and

(b) the new holding shall be treated as the same asset as the original holding.

(4) Where under the transaction the person concerned receives or becomes entitled to receive any consideration in addition to the new holding, subsection (3) above shall have effect as if references to the original holding were references to the proportion of it which the market value of the new holding at the time of the transaction bears to the aggregate of that value and the market value at that time (or, if it is cash, the amount) of the consideration.

(5) Subsections (3) and (4) above shall have effect with the necessary modifications in relation to any computation made for the purposes of section 76(2) in a case where securities held by the company concerned are equated with a new holding by virtue of any of sections 77 to 86 of the 1979 Act or are treated as not disposed of by virtue of section 84 of that Act.

(6) In this section "securities" includes shares, any security within the meaning of section 82 of the 1979 Act and any rights, interests or options which by virtue of section 86(7), 93 or 139 of that Act are treated as shares for the purposes of sections 77 to 86 of that Act.

(7) In determining for the purposes of subsection (2)(a) above whether a transaction would result in the original holding being equated with a new holding by virtue of section 85

or 86 of the 1979 Act the reference in section 87(1) of that Act to capital gains tax shall be construed as a reference to income tax.

Marginal Citations
M149 Source—1977 s.46; 1979(C) Sch.7

474 Treatment of tax-free income.

(1) [M150]Where a banking business, an insurance business or a business consisting wholly or partly in dealing in securities is carried on in the United Kingdom by a person not resident there, then—

(a) in computing for any of the purposes of the Tax Acts the profits arising from, or loss sustained in, the business, and

(b) in the case of an insurance business, also in computing the profits or loss from pension business and general annuity business under section 436,

all interest, dividends and other payments whatsoever to which section 48 or 123(4) extends shall be included notwithstanding the exemption from tax conferred by those sections respectively.

In this subsection "securities" includes stocks and shares.

(2) Where a banking business, an insurance business or a business consisting wholly or partly in dealing in securities—

(a) is carried on in the United Kingdom by a person not ordinarily resident there, and

(b) in making any such computation as is referred to in subsection (1) above with respect to that business, any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue thereof regulating the treatment of the interest on those securities for tax purposes,

then any expenses attributable to the acquisition or holding of, or to any transaction in, the securities (but not including in those expenses any interest on borrowed money), and any profits or losses so attributable, shall also be excluded in making that computation.

Marginal Citations
M150 Source—1970 s.328(1)(2); 1970(F) Sch.5 Part III 11(6)(f)

475 Tax-free Treasury securities: exclusion of interest on borrowed money.

(1) [M151]This section has effect where paragraphs (a) and (b) of section 474(2) apply to a business for any accounting period or year of assessment.

(2) Up to the amount determined under this section ("the amount ineligible for relief"), interest on money borrowed for the purposes of the business—

(a) shall be excluded in any computation under the Tax Acts of the profits (or losses) arising from the business or, where subsection (6) below applies, arising from any annuity business forming part of the life assurance business, and

(b) shall be excluded from the definition of "charges on income" in section 338.

(3) Subject to subsection (4) below, in determining the amount ineligible for relief, account shall be taken of all money borrowed for the purposes of the business which is outstanding in the accounting or basis period, up to the total cost of the tax-free Treasury securities held for the purpose of the business in that period.

(4) Where the person carrying on the business is a company, account shall not be taken of any borrowed money carrying interest which, apart from subsection (2) above, does not fall to be included in the computations under paragraph (a) of that subsection, and is not to be treated as a charge on income for the purposes of the Corporation Tax Acts.

(5) Subject to subsection (6) below, the amount ineligible for relief shall be equal to a year's interest on the amount of money borrowed which is to be taken into account under subsection (3) above at a rate equal to the average rate of interest in the accounting or basis period on money borrowed for the purposes of the business, except that in the case of a period of less than 12 months interest shall be taken for that shorter period instead of for a year.

(6) Where relief for expenses of management is to be granted to an insurance company for any accounting period, and that relief falls to be reduced under section 445(8)(b) (by applying the fraction which is investment income of the life assurance fund other than income from tax-free Treasury securities divided by that total investment income)—

(a) the amount ineligible for relief shall be a fraction of the amount of interest in the accounting period on money borrowed for the purposes of the business; and

(b) that fraction shall be the fraction which is income from tax-free Treasury securities divided by total investment income of the life assurance fund (that is to say, one minus the fraction to be applied under section 445(8)(b)).

(7) In this section "tax-free Treasury securities" means securities issued by the Treasury with a condition regulating the treatment of the interest thereon for income tax or corporation tax purposes such that interest on the securities is excluded in computing the income or profits.

(8) For the purposes of this section the cost of a holding of tax-free Treasury securities which has fluctuated in the accounting or basis period shall be the average cost of acquisition of the initial holding, and of any subsequent acquisitions in the accounting or basis period, applied to the average amount of the holding in the accounting or basis period, and this subsection shall be applied separately to securities of different classes.

(9) In this section "accounting or basis period" means the company's accounting period or the period by reference to which the profits or gains arising in the year of assessment are to be computed.

Marginal Citations

M151 Source—1970 s.329

CHAPTER IV

BUILDING SOCIETIES, BANKS, SAVINGS BANKS,
INDUSTRIAL AND PROVIDENT SOCIETIES AND OTHERS

476 Building societies: regulations for payment of tax.

(1) [M152]The Board may by regulations make provision with respect to any year of assessment requiring building societies, on such sums as may be determined in accordance with the regulations (including sums paid or credited before the beginning of the year but not previously brought into account under this subsection), to account for and pay an amount representing income tax calculated in part at the basic rate and in part at the reduced rate determined for the year of assessment concerned under section 483(1)(a); and in this section and section 477 such sums are referred to as "aggregate rate sums".

(2) Regulations under subsection (1) may contain such incidental and consequential provisions as appear to the Board to be appropriate, including provisions requiring the making of returns.

(3) [M153]For any year of assessment to which regulations under subsection (1) above apply, dividends or interest payable in respect of shares in, or deposits with or loans to, a building society shall be dealt with for the purposes of corporation tax as follows—

(a) in computing for any accounting period ending in the year of assessment the income of the society from the trade carried on by it, there shall be allowed as a deduction the actual amount paid or credited in the accounting period of any such dividends or interest, together with any amount accounted for and paid by the society in respect thereof as representing income tax;

(b) in computing the income of a company which is paid or credited in the year of assessment with any such dividends or interest which are aggregate rate sums, the company shall—

(i) be treated as having received an amount which, after deduction of income tax, is equal to the amount paid or credited, and

(ii) be entitled to a set-off or repayment of income tax accordingly;

(c) no part of any such dividends or interest paid or credited in the year of assessment shall be treated as a distribution of the society or as franked investment income of any company resident in the United Kingdom.

(4) [M154]Nothing in section 326 shall be taken as affecting subsection (3)(a) above and that paragraph shall apply to any terminal bonus paid by the society under a certified contractual savings scheme as if it were a dividend on a share in the society.

(5) Except in so far as regulations under subsection (1) above otherwise provide, for any year of assessment to which such regulations apply—

(a) [M155]notwithstanding anything in sections 348 to 350, income tax shall not be deducted from any dividends or interest payable in that year in respect of shares in or deposits with or loans to a building society;

(b) [M156]subject to subsections (3)(b), (6) and (7) of this section, no repayment of income tax and no assessment to income tax shall be made in respect of any such dividends or interest to or on the person receiving or entitled to the dividends or interest;

(c) [M157]any amounts paid or credited in respect of any such dividends or interest shall in computing the total income of an individual entitled thereto be treated

as income for that year received by him after deduction of income tax from a corresponding gross amount;

(d) [M158]subject to section 7(1), the amounts so paid or credited (and no more) shall, in applying sections 348 and 349(1) to other payments, be treated as profits or gains which have been brought into charge to income tax.

(6) [M159]Subsection (5)(b) above shall not prevent an assessment in respect of income tax at a rate other than the basic rate.

(7) [M160]Subsection (5)(b) above shall not apply to sums which are payable to exempt pension funds and which are aggregate rate sums; but the amounts paid or credited in respect of such sums shall be treated as paid or credited after deduction of income tax from a corresponding gross amount.

In this subsection "exempt pension fund" means any fund or scheme in the case of which provision is made by section 592(2), 613(4), 614(1), (2) or (3), 620(6) or 643(2) for exempting the whole or part of its income from income tax.

(8) [M161]For the purpose of determining whether any or what amount of tax is, by virtue of subsection (5)(c) above, to be taken into account as having been deducted from a gross amount in the case of an individual whose total income is reduced by any deductions, so much only of that gross amount shall be taken into account as is part of his total income as so reduced.

(9) [M162]Notwithstanding anything in sections 348 to 350, for any year of assessment to which regulations under subsection (1) above apply income tax shall not be deducted upon payment to the society of any interest on advances, being interest payable in that year.

(10) [M163]Subsection (9) above shall not apply to any payment of relevant loan interest to which section 369 applies.

(11) [M164]In this section "dividend" has the meaning given by regulations under subsection (1) above, but any sum which is paid by a building society by way of dividend and which is not an aggregate rate sum shall be treated for the purposes of Schedule D as paid by way of interest.

Modifications etc. (not altering text)

C55 *For regulations see* Part III Vol.5.*And see* 1988(F) s.130(7)(c)*—payment of outstanding tax by migrating companies.*

C56 *See*—1988(F) Sch.12 para.6*—distributions on change of status not to be within* s.476.1990 s.30*and* Sch.5 para.2—s.476*repealed for* 1991-92*and subsequent years. And see qualifications in* 1990 Sch.19 Part IV Note 8.

Marginal Citations

M152 Source—1970 s.343(1A); 1985 s.40(3); 1986 s.47(1)

M153 Source—1970 s.343(2); 1972 Sch.24 22; 1985 s.40(4); 1986 s.47(2)

M154 Source—1970 s.415(4)

M155 Source—1970 s.343(3)(a); 1985 s.40(5)

M156 Source—1970 s.343(3)(b); 1971 Sch.6 40(c)

M157 Source—1970 s.343(3)(c); 1971 Sch.6 40(d)

M158 Source—1970 s.343(3)(d); 1971 Sch.6 40(e)

M159 Source—1970 s.343(3)(i); 1971 Sch.6 40(f)

M160 1975 s.6; 1986 s.47(4)(b); 1987 (No.2) s.39(4)

M161 Source—1970 s.343(3); 1970(F) Sch.6 40(f)
M162 Source—1970 s.343(4); 1988 s.40(6)
M163 Source—1982 s.26(1)
M164 Source—1970 s.343(7); 1985 s.40(7); 1986 s.47(3)

477 Investments becoming or ceasing to be relevant building society investments.

(1) [M165]Where a building society investment which is a source of income of any person ("the lender") is not a relevant building society investment but at any time becomes such an investment, section 67 shall apply as if the investment were a source of income which the lender ceased to possess immediately before that time.

(2) Where a building society investment which is a source of income of any person ceases at any time to be a relevant building society investment, section 66(3) shall apply as if the investment were a new source of income acquired by him immediately after that time.

(3) In this section "building society investment" does not include a quoted Eurobond (as defined in section 124(1)) but, subject to that, means any share in, deposit with or loan to a building society; and for the purposes of this section a building society investment is relevant if dividends or interest payable in respect of it are aggregate rate sums [F147].

Textual Amendments
F147 *See* 1990 s.30*and* Sch.5 para.3*and* s.132*and* Sch.19 Part IV—s.477*repealed as regards any time falling on or after* 6*April* 1991.

Marginal Citations
M165 Source—1986 s.47(5), (6), (8)

[F148477A Building societies: regulations for deduction of tax.

(1) The Board may by regulations make provision with respect to any year of assessment requiring any building society—
  (a) in such cases as may be prescribed by the regulations to deduct out of any dividend or interest paid or credited in the year in respect of shares in, or deposits with or loans to, the society a sum representing the amount of income tax on it, and
  (b) to account for and pay any amount required to be deducted by the society by virtue of this subsection.

(2) Regulations under subsection (1) above may—
  (a) make provision with respect to the furnishing of information by building societies or their investors, including, in the case of societies, the inspection of books, documents and other records on behalf of the Board;
  (b) contain such incidental and consequential provisions as appear to the Board to be appropriate, including provisions requiring the making of returns.

(3) For any year of assessment to which regulations under subsection (1) above apply, dividends or interest payable in respect of shares in, or deposits with or loans to, a building society shall be dealt with for the purposes of corporation tax as follows—

(a) in computing for any accounting period ending in the year of assessment the income of the society from the trade carried on by it, there shall be allowed as a deduction the actual amount paid or credited in the accounting period of any such dividends or interest, together with any amount of income tax accounted for and paid by the society in respect thereof;

(b) no part of any such dividends or interest paid or credited in the year of assessment shall be treated as a distribution of the society or as franked investment income of any company resident in the United Kingdom.

(4) Subsection (3)(a) above shall apply to any terminal bonus paid by the society under a certified contractual savings scheme as if it were a dividend on a share in the society.

(5) Notwithstanding anything in sections 64, 66 and 67, for any year of assessment to which regulations under subsection (1) above apply income tax chargeable under Case III of Schedule D shall, in the case of any relevant sum, be computed on the full amount of the income arising in the year of assessment.

(6) For the purposes of subsection (5) above a sum is relevant if it is a sum in respect of which a liability to deduct income tax—

(a) is imposed by regulations under subsection (1) above, or

(b) would be so imposed if a certificate were not supplied, in accordance with the regulations, to the effect that the person beneficially entitled to the sum is unlikely to be liable to pay any amount by way of income tax for the year of assessment in which the sum is paid.

(7) Notwithstanding anything in sections 348 to 350, for any year of asessment to which regulations under subsection (1) above apply income tax shall not be deducted upon payment to the society of any interest on advances, being interest payable in that year.

(8) Subsection (7) above shall not apply to any payment of relevant loan interest to which section 369 applies.

(9) In this section "dividend" has the meaning given by regulations under subsection (1) above, but any sum which is paid by a building society by way of dividend and which is not paid under deduction of income tax shall be treated for the purposes of Schedule D as paid by way of interest.**]**

Textual Amendments

F148 1990 s.30*and* Sch.5 para.4*for* 1991-92*and subsequent years.*

Modifications etc. (not altering text)

C57 *See* 1990 Sch.5 para.16(1), (2), (3)*—regulations may also require building societies to account for tax on transitional sums.*

C58 *See* 1990 Sch.5 para.16(1), (4), (5)*—for the year* 1991-92,*the words from*
"actual"
to the end of the paragraph are replaced by
"appropriate amount";*and the following subs. is inserted after* subs.(3):— "(3A) In subsection (3)(a) above the reference to the appropriate amount is to the actual amount paid or credited in the accounting period of any such dividends or interest together with—(a) in the case of dividends or interest paid or credited in the year 1990-91, any amount accounted for and paid by the society in respect thereof as representing income tax, and (b) in the case of dividends or interest paid or credited in the year 1991-92, any amount of income tax accounted for and paid by the society in respect thereof."

VALID FROM 25/07/1991

[477B F149Building societies: incidental costs of issuing qualifying shares.

(1) In computing for the purposes of corporation tax the income of a building society from the trade carried on by it, there shall be allowed as a deduction, if subsection (2) below applies, the incidental costs of obtaining finance by means of issuing shares in the society which are qualifying shares.

(2) This subsection applies if any amount payable in respect of the shares by way of dividend or interest is deductible in computing for the purposes of corporation tax the income of the society from the trade carried on by it.

(3) In subsection (1) above, "the incidental costs of obtaining finance" means expenditure on fees, commissions, advertising, printing and other incidental matters (but not including stamp duty), being expenditure wholly and exclusively incurred for the purpose of obtaining the finance (whether or not it is in fact obtained), or of providing security for it or of repaying it.

(4) This section shall not be construed as affording relief—

(a) for any sums paid in consequence of, or for obtaining protection against, losses resulting from changes in the rate of exchange between different currencies, or

(b) for the cost of repaying qualifying shares so far as attributable to their being repayable at a premium or to their having been issued at a discount.

(5) In this section—

"dividend" has the same meaning as in section 477A, and

"qualifying share" has the same meaning as in section 64(3E) of the Finance Act 1984.**]**

Textual Amendments

F149 S. 477B inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 51, **Sch. 10 para. 3(1)(2)**

478 Building societies: time for payment of tax.

(1) M166This section shall apply, in place of the provisions of section 10, with respect to any accounting period ending before 6th April 1990 of a building society to which section 344 of the 1970 Act applied immediately before the coming into force of this Act.

(2) Where this section applies to a building society, then—

(a) corporation tax assessed on the society for any accounting period shall be paid within 30 days from the date of the issue of the notice of assessment, except that if the society's basis period for the year 1965-66 did not extend into the year 1966, the tax shall not be payable before the like time after the last day of the accounting period as 1st January 1966 is after the last day of that basis period; but

(b) if corporation tax has not become payable by the society for an accounting period by the like time from the beginning of that period as there is between the

beginning of the society's basis period for the year 1965-66 and 1st January 1966, the society shall at that time from the beginning of the accounting period make a provisional payment of tax computed on the amount on which the society is chargeable to corporation tax for the accounting period last ended with such adjustments, if any, as may be required for periods of different length or as may be agreed between the society and the inspector.

(3) References in **[**[F150]subsection (2)**]** above to a society's basis period for the year 1965-66 are references to the period by reference to which the society was assessed to income tax for that year under arrangements entered into under section 445 of the [M167]Income Tax Act 1952.

(4) [M168]Where, by virtue of subsection (2)(a) above, corporation tax assessed on a building society in respect of a 1989 accounting period would, apart from this subsection, be payable by a date which is earlier than the end of the period of two months from the end of that accounting period, the tax shall be payable within that period of two months.

(5) If, apart from this subsection, the date on which, under subsection (2)(b) above, a building society would be required to make a provisional payment of corporation tax for a 1989 accounting period would fall before the end of the period of two months from the end of that accounting period, that date shall be postponed until the end of that period of two months.

(6) With respect to a 1989 accounting period of a building society to which subsection (4) above applies, in section 825(8)(b) of this Act and paragraph 5(c) in the second column of the Table in section 86(4) of the Management Act (the reckonable date for interest on overdue tax), the reference to the time limit imposed by section (2)(a) above shall be construed as a reference to the limit imposed by subsection (4) above.

(7) In subsections (4) to (6) above a "1989 accounting period" means an accounting period ending in the year 1989-90.

Textual Amendments

F150 1990 s.89*and* Sch.14 para.8 (*correction of errors*)*—deemed always to have had effect. Previously* "section (2)".

Marginal Citations

M166 Source—1970 s.344; 1975 (No.2) s.44(2); 1987 s.36(2)

M167 1952 c. 10.

M168 Source—1987 Sch.6 Part II

479 Interest paid on deposits with banks etc.

(1) [M169]Any deposit-taker making a payment of interest in respect of a relevant deposit shall be liable to account for and pay an amount representing income tax on that payment, calculated by applying the composite rate (determined in accordance with section 483) to the grossed-up amount of the payment, that is to say, to the amount which after deduction of tax at the composite rate would be equal to the amount actually paid.

(2) [M170]Where in relation to any payment of interest a deposit-taker is liable to account for and pay an amount under subsection (1) above—

(a) subject to subsection (3) below, no assessment to income tax shall be made on, and no repayment of income tax shall be made to, the person receiving or entitled to the payment in respect of it;

(b) the payment shall, in computing the total income of the person entitled to it, be treated as income for that year received by him after deduction of income tax at the basic rate from a corresponding gross amount; and

(c) the payment (and no more) shall, in applying sections 348 and 349 to other payments, be treated as profits or gains which have been brought into charge to income tax.

(3) Subsection (2)(a) above shall not prevent an assessment in respect of income tax at a rate other than the basic rate.

(4) For the purpose of determining whether any or what amount of tax is, by virtue of subsection (2)(b) above, to be taken into account as having been deducted from a gross amount in the case of an individual whose total income is reduced by any deductions, so much only of that gross amount shall be taken into account as is part of his total income as so reduced.

(5) [M171]Any payment of interest in respect of which an amount is payable under subsection (1) above shall be a relevant payment for the purposes of Schedule 16 whether or not the deposit-taker making the payment is resident in the United Kingdom.

(6) Schedule 16 shall apply in relation to any payment which is a relevant payment by virtue of subsection (5) above—

(a) with the substitution for any reference to a company of a reference to a deposit-taker;

(b) as if any amount payable under subsection (1) above were payable as income tax;

(c) as if paragraph 5 applied only in relation to payments received by the deposit-taker and falling to be taken into account in computing his income chargeable to corporation tax; and

(d) as if in paragraph 7 the reference to section 7(2) included a reference to sections 11(3) and 349(1).

(7) In relation to any deposit-taker who is not a company, Schedule 16 shall have effect as if—

(a) paragraph 5 wnere omitted; and

(b) references to accounting periods were references to periods for which the deposit-taker makes up his accounts.

Modifications etc. (not altering text)

C59 *See*—1988(F) s.130(7)(c)*—payment of outstanding tax by migrating companies.*1990 s.30*and* Sch.5 para.5*and* s.132*and* Sch.19 Part IV*for repeal of* s.479*as regards interest paid or credited on or after* 6*April* 1991.The Personal Equity Plan Regulations 1989 regn. 5(3)(a)*—general investment rules for plans—in* Part III Vol.5.

Marginal Citations

M169 Source—1984 s.27(1)

M170 Source—1984 Sch.8 4

M171 Source—1984 Sch.8 5

480 Deposits becoming or ceasing to be composite rate deposits.

(1) [M172]Where a deposit which is a source of income of any person ("the lender") is not a composite rate deposit but at any time becomes such a deposit, section 67 shall apply as if the deposit were a source of income which the lender ceased to possess immediately before it became a composite rate deposit.

(2) Section 67 shall apply in relation to a deposit which became a composite rate deposit on 6th April 1985 with the omission from subsection (1)(b) of the words from "and shall" to "this provision".

(3) Where a deposit which is a source of income of any person ceases to be a composite rate deposit, section 66(3) shall apply as if the deposit were a new source of income acquired by him immediately after it ceased to be a composite rate deposit.

(4) For the purposes of this section a deposit is at any time a composite rate deposit if, were the person holding it to make a payment of interest in respect of it at that time, he would be liable to account for and pay an amount on that payment under section 479(1).

Modifications etc. (not altering text)
C60 *See* 1990 s.30*and* Sch.5 para.6*and* s.132*and* Sch.19 Part IV*for repeal of* s.480*as regards any time falling on or after* 6*April* 1991.

Marginal Citations
M172 Source—1984 Sch.8 6(5)-(8)

[F151480A Relevant deposits: deduction of tax from interest payments.

(1) Any deposit-taker making a payment of interest in respect of a relevant deposit shall, on making the payment, deduct out of it a sum representing the amount of income tax on it for the year of assessment in which the payment is made.

(2) Any payment of interest out of which an amount is deductible under subsection (1) above shall be a relevant payment for the purposes of Schedule 16 whether or not the deposit-taker making the payment is resident in the United Kingdom.

(3) Schedule 16 shall apply in relation to any payment which is a relevant payment by virtue of subsection (2) above—

(a) with the substitution for any reference to a company of a reference to a deposit-taker,

(b) as if paragraph 5 applied only in relation to payments received by the deposit-taker and falling to be taken into account in computing his income chargeable to corporation tax, and

(c) as if in paragraph 7 the reference to section 7(2) included a reference to sections 11(3) and 349(1).

(4) In relation to any deposit-taker who is not a company, Schedule 16 shall have effect as if—

(a) paragraph 5 were omitted, and

(b) references to accounting periods were references to periods for which the deposit-taker makes up his accounts.

(5) For the purposes of this section, crediting interest shall be treated as paying it.**]**

Textual Amendments

F151 Ss. 480A-480C inserted (with effect in accordance with Sch. 5 para. 7(2) of the amending Act) by Finance Act 1990 (c. 29), **Sch. 5 para. 7(1)**

Modifications etc. (not altering text)

C61 Ss. 480A-482 modified (with effect in accordance with s. 56 of the modifying Act) by Finance Act 2005 (c. 7), **Sch. 2 para. 6**

C62 *See* S.I. 1990 No. 2232.

[F152 480B Relevant deposits: exception from section 480A.

(1) The Board may by regulations provide that section 480A(1) shall not apply as regards a payment of interest if such conditions as may be prescribed by the regulations are fulfilled.

(2) In particular, the regulations may include—

(a) provision for a certificate to be supplied to the effect that the person beneficially entitled to a payment is unlikely to be liable to pay any amount by way of income tax for the year of assessment in which the payment is made;

(b) provision for the certificate to be supplied by that person or such other person as may be prescribed by the regulations;

(c) provision about the time when, and the manner in which, a certificate is to be supplied;

(d) provision about the form and contents of a certificate.

(3) Any provision included under subsection (2)(d) above may allow the Board to make requirements, in such manner as they see fit, as to the matters there mentioned.

(4) For the purposes of this section, crediting interest shall be treated as paying it.**]**

Textual Amendments

F152 Ss. 480A-480C inserted (with effect in accordance with Sch. 5 para. 7(2) of the amending Act) by Finance Act 1990 (c. 29), **Sch. 5 para. 7(1)**

Modifications etc. (not altering text)

C63 Ss. 480A-482 modified (with effect in accordance with s. 56 of the modifying Act) by Finance Act 2005 (c. 7), **Sch. 2 para. 6**

[F153 480C Relevant deposits: computation of tax on interest.

Notwithstanding anything in sections 64, 66 and 67, income tax chargeable under Case III of Schedule D on interest in respect of a relevant deposit shall be computed on the full amount of the income arising in the year of assessment.**]**

Textual Amendments

F153 Ss. 480A-480C inserted (with effect in accordance with Sch. 5 para. 7(2) of the amending Act) by Finance Act 1990 (c. 29), **Sch. 5 para. 7(1)**

481 "Deposit-taker", "deposit" and "relevant deposit".

(1) [M173]In this section "the relevant provisions" means sections 479 and 480, this section and section 482 [F154].

[[F155](1A) In this section "the relevant provisions" also means sections 480A and 480C.**]**

(2) In the relevant provisions "deposit-taker" means any of the following—

(a) the Bank of England;

(b) any institution authorised under the [M174]Banking Act 1987 or municipal bank within the meaning of that Act;

(c) the Post Office;

[[F156](ca) any local authority;**]**

(d) any company to which property and rights belonging to a trustee savings bank were transferred by section 3 of the [M175]Trustee Savings Bank Act 1985;

(e) any bank formed under the [M176]Savings Bank (Scotland) Act 1819; and

(f) any person or class of person who receives deposits in the course of his business or activities and which is for the time being prescribed by order made by the Treasury for the purposes of this paragraph.

(3) [M177]In the relevant provisions "deposits" means a sum of money paid on terms under which it will be repaid with or without interest and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person to whom it is made.

(4) For the purposes of the relevant provisions a deposit is a relevant deposit if, but only if—

(a) the person who is beneficially entitled to any interest in respect of the deposit is an individual or, where two or more persons are so entitled, all of them are individuals; or

(b) in Scotland, the person who is so entitled is a partnership all the partners of which are individuals; or

(c) the person entitled to any such interest receives it as a personal representative in his capacity as such;

and the deposit is not prevented from being a relevant deposit by subsection (5) below.

(5) A deposit is not a relevant deposit if—

(a) a qualifying certificate of deposit has been issued in respect of it or it is a qualifying time deposit;

(b) it is a debt on a debenture ("debenture" having the meaning given in section 744 of the [M178]Companies Act 1985) issued by the deposit-taker;

(c) it is a loan made by a deposit-taker in the ordinary course of his business or activities;

(d) it is a debt on a security which is listed on a recognised stock exchange;

(e) it is a general client account deposit;

(f) it forms part of a premiums trust fund (within the meaning of section 457) of an underwriting member of Lloyd's;

(g) it is made by a Stock Exchange money broker (recognised by the Bank of England) in the course of his business as such a broker;

(h) in the case of a deposit-taker resident in the United Kingdom for the purposes of income tax or corporation tax, it is held at a branch of his situated outside the United Kingdom;

(j) in the case of a deposit-taker who is not so resident, it is held otherwise than at a branch of his situated in the United Kingdom; or

(k) the appropriate person has declared in writing to the deposit-taker liable to pay interest in respect of the deposit that—

(i) at the time when the declaration is made, the person who is beneficially entitled to the interest is not, or, as the case may be, all the persons who are so entitled are not, ordinarily resident in the United Kingdom;

(ii) in a case falling within subsection (4)(c) above the deceased was, immediately before his death, not ordinarily resident in the United Kingdom.

(6) [M179]The Treasury may by order make amendments in this section and sections [F157480A, 480C] 479(2) to (7), 480 [F158] and 482 providing for deposits of a kind specified in the order to be or, as the case may be, not to be relevant deposits in relation to all deposit-takers or such deposit-takers or classes of deposit-takers as may be so specified.

Textual Amendments

F154 *Words*
"sections 479 and 480"
repealed by 1990 s.132*and* Sch.19 Part IV*on and after* 6*April* 1991.

F155 1990 s.30*and* Sch.5 para.8(2).

F156 1990 s.30*and* Sch.5 para.8(3)*as regards interest paid or credited on or after* 6*April* 1991.

F157 1990 s.30*and* Sch.5 para.8(4).

F158 *Words*
"479(2) to (7), 480"
repealed by 1990 s.132*and* Sch.19 Part IV*on and after* 6*April* 1991.

Modifications etc. (not altering text)

C64 Subs.(d)*and* (e)*omitted by* 1990 s.30*and* Sch.5 para.8(3), (5)*and* s.132*and* Sch.19 Part IV*as regards interest paid or credited on or after* 6*April* 1991.

Marginal Citations

M173 Source—1984 Sch.8 2(1); 1985 s.38(2); 1987 Sch.15 16(2)

M174 1987 c. 22.

M175 1985 c. 58.

M176 1819 c. 62.

M177 Source—1984 Sch.8 3(1)-(3); 1985 s.38(3), (4)

M178 1985 c. 6.

M179 Source—1984 Sch.8 3A(1); 1985 s.38(7)

482 Supplementary provisions.

(1) [M180]For the purposes of sections 479, 480 and [F159] 481 and this section, any amount which is credited as interest in respect of a relevant deposit shall be treated as a payment of interest.

(2) [M181]A declaration under section 481(5)(k) shall—

(a) if made under sub-paragraph (i), contain an undertaking by the person making it that if the person, or any of the persons in respect of whom it is made, becomes ordinarily resident in the United Kingdom he will notify the deposit-taker accordingly; and

(b) in any case, be in such form as may be prescribed or authorised, and contain such information as may reasonably be required, by the Board.

(3) [M182]A deposit-taker shall, on being so required by notice given to him by an inspector, make all declarations which have been made to him under section 481(5) available for inspection by the inspector or by a named officer of the Board.

(4) Where a notice has been given to a deposit-taker under subsection (3) above, the declarations shall be made available within such time as may be specified in the notice, and the person to whom they are to be made available may take copies of or extracts from them.

(5) A deposit-taker shall treat every deposit made with him as a relevant deposit unless satisfied that it is not a relevant deposit, but where he has satisfied himself that a deposit is not a relevant deposit he shall be entitled to continue to so treat it until such time as he is in possession of information which can reasonably be taken to indicate that the deposit is or may be a relevant deposit.

(6) In section 481(5)—

"appropriate person", in relation to a deposit, means any person who is beneficially entitled to any interest in respect of the deposit or entitled to receive any such interest as a personal representative in his capacity as such or to whom any such interest is payable;

"general client account deposit" means a deposit, held by the deposit-taker in a client account (other than one which is identified by the deposit-taker as one in which sums are held only for one or more particular clients of the person whose account it is) in respect of which that person is required by provision made under any enactment to make payments representing interest to some or all of the clients for whom, or on whose account, he received the sums deposited in the account;

"qualifying certificate of deposit" means a certificate of deposit, as defined in section 56(5), which is issued by a deposit-taker and under which—

(a) the amount payable by the deposit-taker, exclusive of interest, is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made); and

(b) the obligation of the deposit-taker to pay that amount arises after a period of not less than seven days beginning with the date on which the deposit is made; and

"qualifying time deposit" means a deposit which is made by way of loan for an amount which is not less than £50,000 (or, for a deposit denominated in foreign currency, not less than the equivalent of £50,000 at the time when the deposit is made) and on terms which—

(a) prevent repayment of the deposit before the expiry of the period of seven days beginning with the date on which the deposit is made, but which require repayment at the end of a specified period;

(b) do not make provision for the transfer of the right to repayment; and

(c) prevent partial withdrawals of, or additions to, the deposit.

In relation to deposits made before 20th May 1986 this subsection shall have effect with the substitution for "seven" of " 28 " (in both places).

(7) For the purposes of section 481(5)(h) and (j) a deposit is held at a branch of a deposit-taker if it is recorded in his books as a liability of that branch.

(8) [M183]A certificate of deposit, as defined in section 56(5), which was issued before 13th March 1984 on terms which provide for interest to be payable on the deposit at any time after 5th April 1985 (whether or not interest is payable on it before that date) shall, if it is not a qualifying certificate of deposit, be treated for the purposes of section 481(5) as if it were a qualifying certificate of deposit.

(9) [M184]Any deposit which was made before 6th July 1984 but which is not a qualifying time deposit shall, where it is made on terms which—

(a) do not make provision for the transfer of the right to repayment;

(b) prevent partial withdrawals of, or additions to, the deposit; and

(c) require—

(i) the deposit-taker to repay the sum at the end of a specified period which ends after 5th April 1985; or

(ii) in a case where interest is payable only at the time of repayment of the deposit, the deposit-taker to repay the sum on demand or on notice;

be treated for the purposes of section 481(5) as if it were a qualifying time deposit.

(10) A [M185]n order under section 481(2)(f) may prescribe a person or class of person in relation to all relevant deposits or only in relation to relevant deposits of a kind specified in the order.

(11) The Board may by regulations make provision—

(a) [M186]requiring any declaration under section 481(5)(k)(i) which does not give the address of the person making it, to be supported by a certificate given by the deposit-taker concerned—

(i) in such form as may be prescribed or authorised by the Board; and

(ii) containing such information as may reasonably be required by the Board; and

[[F160](aa) with respect to the furnishing of information by depositors or deposit-takers, including, in the case of deposit-takers, the inspection of books, documents and other records on behalf of the Board; and**]**

(b) generally for giving effect to sections 479 to 481 and this section.

[[F161](11A) In subsection (11)(aa) above the reference to depositors is to persons who are appropriate persons (within the meaning given by subsection (6) above) in relation to deposits.**]**

(12) [M187]Regulations under subsection (11) above or an order under section 481(6) may contain such incidental and consequential provision as appears to the Board or the Treasury, as the case may be, to be appropriate.

Textual Amendments

F159 Words "479, 480 and" repealed by 1990 s. 132 and Sch.19 Part IV on and after 6 April 1991

F160 1990 s. 30 and Sch. 5 para. 9(4)

F161 1990 s. 30 and Sch.5 para.9(5)

Modifications etc. (not altering text)

C65 See 1990 s. 30 and Sch. 5 para. 9(2)(6)— words "less than seven days" replaced by "more than 5 years" as regards interest paid or credited on or after 6 April 1991

C66 See 1990 s. 30 and Sch. 5 para. 9(3)(6)— sub (a) replaced by the following as regards interest paid or credited on or after 6 April1991:— "(a) require repayment of the deposit at a specified time falling before the end of the period of five years beginning with the date on which the deposit is made;"

C67 See 1990 s.132 and Sch.19 Part IV - proviso repealed on and after 6 April 1991.

Marginal Citations

M180 Source—1984 Sch. 8 1(2)

M181 Source—1984 Sch.8 3(4), (4A); 1985 s.38(5)

M182 Source—1984 Sch.8 3(5)-(9); 1985 s.38(6); 1986 No.771

M183 Source—1984 Sch.8 6(2)

M184 Source—1984 Sch.8 6(3)

M185 Source—1984 Sch.8 2(2); 1985 s.38(2)

M186 Source—1984 Sch.8 3A(2); 1985 s.38(7)

M187 Source—1984 Sch.8 3A(3); 1985 s.38(7)

VALID FROM 25/07/1991

[482A F162 Audit powers in relation to non-residents.

(1) The Board may make regulations with respect to the exclusion, in relation to investments of persons who are not ordinarily resident in the United Kingdom, of powers conferred by regulations made by virtue of section 477A(2)(a) or 482(11)(aa) ("audit powers").

(2) Regulations under subsection (1) above may in particular—

(a) make provision for the exclusion of audit powers in the case of any building society or deposit-taker to be dependent on whether the society or deposit-taker is approved by the Board for the purposes of the regulations and on the scope of that approval;

(b) make provision with respect to the approval of building societies and deposit-takers by the Board for the purposes of the regulations;

(c) make provision with respect to, and with respect to alteration of, the scope of approval by the Board for the purposes of the regulations;

(d) make provision with respect to the termination of approval by the Board for the purposes of the regulations; and

(e) make provision with respect to appeals against decisions of the Board with respect to approval for the purposes of the regulations, including decisions with respect to the scope of such approval.

(3) Regulations under subsection (1) above 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.

(4) In this section "deposit-taker" has the meaning given by section 481(2).**]**

Textual Amendments

F162 S. 482A inserted by Finance Act 1991 (c. 31, SIF 63:1), **s.75**

483 Determination of reduced rate for building societies and composite rate for banks etc.

F163(1) . . . . . .

F163(2) . . . . . .

F163(3) . . . . . .

(4) If the order made under section 26 of the Finance Act 1984 in the year 1987-88 is made in pursuance of subsection (4) of that section, that order shall, notwithstanding that that subsection is not re-enacted by this Act, apply for the purposes of sections 476 and 479 for the year 1988-89.

F163(5) . . . . . .

Textual Amendments

F163 S. 483(1)-(3)(5) repealed by Finance Act 1990 (c. 29), Sch. 5 para. 12, **Sch. 19 Part IV**, Note 8

484 Savings banks: exemption from tax.

(1) M188Any savings bank other than a savings bank which is the successor or further successor to an existing trustee savings bank shall on making a claim be entitled to exemption from income tax and corporation tax in respect of the income of its funds to the extent that such income is applied in the payment or credit of interest to any depositor; but, subject to section 325, any such interest shall be chargeable under Case III of Schedule D.

(2) M189Any gain or loss accruing to a savings bank which is the successor to an existing trustee savings bank on a disposal of an exempt investment held by that existing bank on 21st November 1979, may, if that existing bank has so elected, be computed by reference to the cost of the investment instead of by reference to its market value on the latter date and, in the case of a loss, without any restriction under section 270(4) of the 1970 Act.

(3) In subsection (2) above the reference to an election is a reference to an election under paragraph 2(3) of Schedule 11 to the Finance Act 1980 (under which the election must have been by notice in writing given to the Board within two years after 21st November 1979, and has effect in relation to all exempt investments held by the bank on that date).

(4) Where a savings bank which is the successor to an existing trustee savings bank holds investments which include both exempt investments held by the existing bank on

21st November 1979 and other investments of the same class, any investments of that class which are disposed of by the successor shall be treated for the purposes of subsection (2) above as consisting of the other investments rather than of the exempt investments held on that date.

(5) In this section references to exempt investments held by an existing trustee savings bank on 21st November 1979 are to investments on the disposal of which immediately before that date no chargeable gain or allowable loss would have accrued to the bank by virtue of section 67 of the 1979 Act (gilt-edged securities held for more than a year).

(6) [M190]In this section "successor" and "existing", in relation to a trustee savings bank, have the meanings given by section 1 of the [M191]Trustee Savings Bank Act 1985, and "further successor" has the meaning given by paragraph 9 of Schedule 2 to that Act.

Marginal Citations

M188 Source—1970 s.339; 1980 Sch.11 5; TSB 1985 Sch.2 6(5), (6)
M189 Source—1980 Sch.11 2(3)-(6); TSB 1985 Sch.2 6(3)
M190 Source—TSB 1985 s.1(1), Sch.2 9(1)
M191 1985 c.58

485 Savings banks: supplemental.

(1) [M192]Where the business of a trustee savings bank has been transferred to another trustee savings bank after 21st November 1979 and before the day which was the vesting day for the purposes of the [M193]Trustee Savings Bank Act 1985—

(a) any exempt investment which was held on that date by the first bank and was transferred with the business shall be treated for the purposes of section 484 in its application to any savings bank which is the successor to the second bank as if it had been held on that date by the second bank but without prejudice to any election made in respect of the investment by the first bank under sub-paragraph (3) of paragraph 2 of Schedule 11 to the Finance Act 1980; and

(b) the cost of the investment shall be taken for the purposes of that sub-paragraph as equal to the cost of the investment to the first bank.

(2) Where the business of a trustee savings bank was transferred to another trustee savings bank before 21st November 1979 the cost of any exempt investment held by the second bank on that date which—

(a) was transferred to it with the business; and

(b) was an exempt investment on the date of the transfer,

shall be taken for the purposes of section 484(2) in its application to any savings bank which is the successor to the second bank as equal to the cost of the investment to the first bank.

(3) In this section references to exempt investments held by a trustee savings bank on 21st November 1979 or the date of the transfer are to investments on the disposal of which immediately before that date no chargeable gain or allowable loss would have accrued to the bank by virtue of section 67 of the 1979 Act (gilt-edged securities held for more than a year) or, in the case of a transfer which took place before that section came into force, section 41 of the [M194]Finance Act 1969 (which was re-enacted by section 67 of the 1979 Act).

Marginal Citations

M192 Source—1980 Sch.11 3, 4, 6(2)-(4); TSB 1985 Sch.2 6(7)
M193 1985 c. 58.
M194 1969 c. 32.

486 Industrial and provident societies and co-operative associations.

(1) [M195]Notwithstanding anything in the Tax Acts, share interest or loan interest paid by a registered industrial and provident society shall not be treated as a distribution; and, subject to subsection (7) below and section 487(3), any share or loan interest paid in an accounting period of the society—

(a) shall be deductible in computing, for the purposes of corporation tax, the income of the society for that period from the trade carried on by the society, or

(b) if the society is not carrying on a trade, shall be treated for those purposes as a charge on the income of the society.

(2) Notwithstanding anything in sections 348 to 350, any share interest or loan interest paid by a registered industrial and provident society, except any to which subsection (3) below applies, shall be paid without deduction of income tax.

(3) This subsection applies to any share interest or loan interest payable to a person whose usual place of abode is not within the United Kingdom, and in any such case section 349(2) shall apply to the payment as it applies to a payment of yearly interest, and income tax shall be deducted accordingly.

(4) Any share interest or loan interest paid by a registered industrial and provident society shall be chargeable under Case III of Schedule D.

(5) Where at any time, by virtue of this section, the income of a person from any source, not having previously been chargeable by direct assessment on that person, becomes so chargeable, section 66(3) shall apply as if the source of that income were a new source of income acquired by that person at that time.

(6) Every registered industrial and provident society shall, within three months after the end of any accounting period of the society, deliver to the inspector a return showing—

(a) the name and place of residence of every person to whom the society has by virtue of this section paid without deduction of income tax sums amounting to more than £15 in that period; and

(b) the amount so paid in that period to each of those persons.

(7) If for any accounting period a return under subsection (6) above is not duly made by a registered industrial and provident society, share and loan interest paid by the society in that period shall not be deductible in computing its income, or be treated as a charge on income.

(8) If in the course of, or as part of, a union or amalgamation of two or more registered industrial and provident societies, or a transfer of engagements from one registered industrial and provident society to another, there is a disposal of an asset by one society to another, both shall be treated for the purposes of corporation tax in respect of chargeable gains as if the asset were acquired from the society making the disposal for a consideration of such amount as would secure that neither a gain nor a loss would accrue to that society on the disposal.

(9) Subsections (1) and (8) above shall have effect as if references to a registered industrial and provident society included any co-operative association established and resident in the United Kingdom, and having as its object or primary object to assist its members in the carrying on of agricultural or horticultural businesses on land occupied by them in the United Kingdom or in the carrying on of businesses consisting in the catching or taking of fish or shellfish.

(10) It is hereby declared that, in computing, for the purposes of any provision of the Tax Acts relating to profits or gains chargeable under Case I of Schedule D ("the tax computation"), any profits or gains of—

(a) any registered industrial and provident society which does not sell to persons not members thereof; or

(b) any registered industrial and provident society the number of the shares in which is not limited by its rules or practice;

there are to be deducted as expenses any sums which—

(i) represent a discount, rebate, dividend or bonus granted by the company to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the company, being transactions which are taken into account in the tax computation; and

(ii) are calculated by reference to those amounts or to the magnitude of those transactions and not by reference to the amount of any share or interest in the capital of the company.

(11) No dividends or bonus deductible in computing income as mentioned in subsection (10) above shall be regarded as a distribution.

(12) In this section—

"co-operative association" means a body of persons having a written constitution from which the Minister is satisfied, having regard to the provision made as to the manner in which the income of the body is to be applied for the benefit of its members and all other relevant provisions, that the body is in substance a co-operative association;

"the Minister" means—

the Minister of Agriculture, Fisheries and Food, as regards England and Wales;

the Secretary of State, as regards Scotland; and

the Department of Agriculture for Northern Ireland, as regards Northern Ireland;

"registered industrial and provident society" means a society registered or deemed to be registered under the [M196]Industrial and Provident Societies Act 1965 or under the [M197]Industrial and Provident Societies Act (Northern Ireland) 1969;

"share interest" means any interest, dividend, bonus or other sum payable to a shareholder of the society by reference to the amount of his holding in the share capital of the society;

"loan interest" means any interest payable by the society in respect of any mortgage, loan, loan stock or deposit;

and references to the payment of share interest or loan interest include references to the crediting of such interest.

Modifications etc. (not altering text)

C68 *See* 1988(F) Sch.8 para.1—*re-basing to* 1982.

C69 S. 486(8) excluded (with effect in accordance with s. 131(4) of the affecting Act) by Finance Act 1995 (c. 4), **s. 131(1)(2)(b)**

Marginal Citations

M195 Source—1970 s.340, 345; CUA 1979 s.25(2)

M196 1965 c. 12.

M197 1969 c. 24 (N.I.).

487 Credit unions.

(1) [M198]Subject to subsection (2) below, in computing for the purposes of corporation tax the income of a credit union for any accounting period—

(a) neither the activity of the credit union in making loans to its members nor in placing on deposit or otherwise investing from time to time its surplus funds shall be regarded as the carrying on of a trade or part of a trade; and

(b) interest received by the credit union on loans made by it to its members shall not be chargeable to tax under Case III of Schedule D or otherwise.

(2) Paragraph (b) of subsection (1) above shall not apply to an accounting period of a credit union for which the credit union is obliged to make a return under section 486(6) and has not done so within three months after the end of that accounting period or such longer period as the inspector shall allow.

(3) No share interest, loan interest or annuity or other annual payment paid or payable by a credit union in any accounting period shall be deductible in computing for the purposes of corporation tax the income of the credit union for that period from any trade carried on by it or be treated for those purposes as a charge on income.

(4) A credit union shall not be regarded as an investment company for the purposes of section 75 above or section 306 of the 1970 Act (capital allowances).

(5) In this section—

"credit union" means a society registered as a credit union under the [M199]Industrial and Provident Societies Act 1965 or the [M200]Credit Unions (Northern Ireland) Order 1985;

"share interest" and "loan interest" have the same meaning as in section 486;

"surplus funds", in relation to a credit union, means funds not immediately required for its purposes;

and references to the payment of share interest or loan interest include references to the crediting of such interest.

Marginal Citations

M198 Source—1970 s.340A; CUA 1979 s.25(1)

M199 1965 c. 12.

M200 S.I. 1985/1205 (N.I. 12.).

488 Co-operative housing associations.

(1) Where a housing association makes a claim in that behalf for any year or part of a year of assessment during which the association was approved for the purposes of this section—

(a) [M201]rent to which the association was entitled from its members for the year or part shall be disregarded for tax purposes; and

(b) any yearly interest payable by the association for the year or part shall be treated for tax purposes as payable not by the association but severally by the members of the association who during the year or part were tenants of property of the association, in the proportion which the rents payable by those members for the year or part bear to the aggregate of the rents to which the association was entitled for the year or part from the properties to which the interest relates; and

(c) each member of the association shall be treated for the purposes of section 354 as if he were the owner of the association's estate or interest in the property of which he is the tenant.

(2) Where the property, or any of the properties, to which any such interest as is mentioned in paragraph (b) of subsection (1) above relates is for any period not subject to a tenancy—

(a) that paragraph shall not apply in relation to so much of the interest as is attributable to the property not subject to a tenancy; and

(b) for the purposes of that paragraph as it applies in relation to a tenant of any other property to which the interest relates, the association shall be deemed to have received, in respect of the property not subject to a tenancy, rent at the rate payable therefor when it was last let by the association.

(3) In computing the income of the association no payments shall be deductible under section 25(3) to (7) in so far as attributable to a period as respects which a claim under subsection (1) above has effect.

(4) Where a claim under subsection (1) above has effect, any adjustment of the liability to tax of a member or of the association which is required in consequence of the claim may be made by an assessment or by repayment or otherwise, as the case may require.

(5) Where a housing association makes a claim in that behalf for an accounting period or part of an accounting period during which it was approved for the purposes of this section, the housing association shall be exempt from corporation tax on chargeable gains accruing to it in the accounting period or part on the disposal by way of sale of any property which has been or is being occupied by a tenant of the housing association.

(6) References in this section to the approval of an association shall be construed as references to approval—

(a) by the Secretary of State in the case of a housing association in Great Britain;

(b) by the Head of the Department of the Environment for Northern Ireland in the case of a housing association in Northern Ireland;

and an association shall not be approved unless the approving authority is satisfied—

(i) that the association is, or is deemed to be, duly registered under the [M202]Industrial and Provident Societies Act 1965 or the [M203]Industrial and Provident Societies Act (Northern Ireland) 1969, and is a housing association

within the meaning of the [M204]Housing Associations Act 1985 or Article 114 of the [M205]Housing (Northern Ireland) Order 1981;

(ii) that the rules of the association restrict membership to persons who are tenants or prospective tenants of the association, and preclude the granting or assignment (or, in Scotland, the granting or assignation) of tenancies to persons other than members; and

(iii) that the association satisfies such other requirements as may be prescribed by the approving authority, and will comply with such conditions as may for the time being be so prescribed.

(7) An approval given for the purposes of this section shall have effect as from such date (whether before or after the giving of the approval) as may be specified by the approving authority and shall cease to have effect if revoked.

(8) The Secretary of State as respects Great Britain, or the Head of the Department of the Environment for Northern Ireland as respects Northern Ireland, may make regulations for the purpose of carrying out the provisions of this section; and, from the coming into operation of regulations under this subsection prescribing requirements or conditions for the purposes of subsection (6)(iii) above, "prescribed" in subsection (6)(iii) above shall mean prescribed by or under such regulations.

The power to make regulations under this subsection shall be exercisable by the Secretary of State by statutory instrument and by the Head of the Department of the Environment for Northern Ireland by statutory rule for the purposes of the [M206]Statutory Rules (Northern Ireland) Order 1979.

(9) A claim under this section shall be made to the inspector, and shall be made not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.

Section 42 of the Management Act shall not apply to a claim under this section.

(10) Subject to subsection (11) below, no claim under this section shall have effect unless it is proved that during the year or accounting period, or part thereof, to which the claim relates—

(a) no property belonging to the association making the claim was let otherwise than to a member of the association;

(b) no property let by the association, and no part of such property, was occupied, whether solely or as joint occupier, by a person not being a member of the association;

(c) the association making the claim satisfies the conditions specified in subsection (6)(i) and (ii) above and has complied with the conditions prescribed under subsection (6)(iii) for the time being in force; and

(d) any covenants required to be included in grants of tenancies by those conditions have been observed.

For the purposes of paragraph (b) above occupation by any other person in accordance with the will, or the provisions applicable on the intestacy, of a deceased member, shall be treated during the first six months after the death as if it were occupation by a member.

(11) Where the Board are satisfied that the requirements of subsection (10) above are substantially complied with they may direct that the claim shall have effect; but if subsequently information comes to the knowledge of the Board which satisfies them

that the direction was not justified they may revoke the direction and thereupon the liability of all persons concerned to tax for all relevant years or accounting periods shall be adjusted by the making of assessments or otherwise.

(12) A claim under this section shall be in such form and contain such particulars as may be prescribed by the Board, and, without prejudice to the generality of this provision, the required particulars may include an authority granted by all members of the association for any relevant information contained in any return made by a member under the provisions of the Income Tax Acts to be used by the Board in such manner as the Board may think fit for determining whether the claim ought to be allowed.

Modifications etc. (not altering text)

C70 *See*—1965 s.93(6) (*in* Part II Vol.5)—*housing associations approved under* s.488*not eligible for grant under* 1965 s.93.1976(D)—*exemption of certain housing associations from development land tax.* 1976(D)*repealed by* 1985 ss.93, 98(6)*and* Sch.27 Part X*from* 19*March* 1985.Housing Subsidies Act 1967 (c.29) ss.26(4)*and* 32(1) (*in* Part II Vol.5*of* 1989*edition*)—*treatment of approved housing associations in respect of interest subsidised under that Act before* 1*April* 1983.

C71 *See reference to approved housing associations in* 1988(F) s.43(3)*and* 44.

Marginal Citations

M201 Source—1970 s.341; 1972 Sch.11 6

M202 1965 c. 12.

M203 1969 c.24 (N.I.).

M204 1985 c. 68.

M205 S.I. 1981/156 (N.I. 3).

M206 S.I. 1979/1573 (N.I.12.).

489 Self-build societies.

(1) [M207]Where a self-build society makes a claim in that behalf for any year or part of a year of assessment during which the society was approved for the purposes of this section, rent to which the society was entitled from its members for the year or part shall be disregarded for tax purposes.

(2) Where a claim under subsection (1) above has effect, any adjustment of the society's liability to tax which is required in consequence of the claim may be made by an assessment or by repayment or otherwise, as the case may require.

(3) Where a self-build society makes a claim in that behalf for an accounting period or part during which it was approved for the purposes of this section, the society shall be exempt from corporation tax on chargeable gains accruing to it in the accounting period or part thereof on the disposal of any land to a member of the society.

(4) References in this section to the approval of a self-build society are references to its approval by the Secretary of State, and the Secretary of State shall not approve a self-build society for the purposes of this section unless he is satisfied—

(a) that the society is, or is deemed to be, duly registered under the [M208]Industrial and Provident Societies Act 1965; and

(b) that the society satisfies such other requirements as may be prescribed by or under regulations under subsection (6) below and will comply with such conditions as may for the time being be so prescribed.

(5) An approval given for the purposes of this section shall have effect as from such date (whether before or after the giving of the approval) as may be specified by the Secretary of State and shall cease to have effect if revoked by him.

(6) The Secretary of State may by statutory instrument make regulations for the purpose of carrying out the provisions of this section; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.

(7) Section 42 of the Management Act shall not apply to a claim under this section, but such a claim shall be made to the inspector and shall be made not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.

(8) Subject to subsection (9) below, no claim under this section shall have effect unless it is proved that during the year or accounting period, or part thereof, to which the claim relates—

(a) no land owned by the society was occupied, in whole or in part and whether solely or as joint occupier, by a person who was not, at the time of his occupation, a member of the society; and

(b) the society making the claim satisfies the condition specified in paragraph (a) of subsection (4) above and has complied with the conditions prescribed under paragraph (b) of that subsection and for the time being in force;

and for the purposes of paragraph (a) above, occupation by any other person in accordance with the will, or the provisions applicable on the intestacy, of a deceased member, shall be treated during the first six months after the death as if it were occupation by a member.

(9) Notwithstanding the provisions of subsection (8) above, where, on a claim under this section, the Board are satisfied that the requirements of paragraphs (a) and (b) of that subsection are substantially complied with, they may direct that the claim shall have effect; but if, subsequently, information comes to the knowledge of the Board which satisfies them that the direction was not justified, they may revoke the direction and thereupon the liability of the society to tax for all relevant years or accounting periods shall be adjusted by the making of assessments or otherwise.

(10) A claim under this section shall be in such form and contain such particulars as may be prescribed by the Board.

(11) In this section—

"self-build society" has the same meaning as in the [M209]Housing Associations Act 1985 or, in Northern Ireland, Part VII of the [M210]Housing (Northern Ireland) Order 1981; and

"rent" includes any sums to which a self-build society is entitled in respect of the occupation of any of its land under a licence or otherwise.

(12) In the application of this section to Northern Ireland—

(a) any reference in subsections (4) and (5) above to the Secretary of State shall be construed as a reference to the Department of the Environment for Northern Ireland;

(b) the reference in subsection (4)(a) to the [M211]Industrial and Provident Societies Act 1965 shall be construed as a reference to the [M212]Industrial and Provident Societies Act (Northern Ireland) 1969; and

(c) for subsection (6) there shall be substituted the following subsection—

"(6) the Department of the Environment for Northern Ireland may by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 make regulations for the purpose of carrying out the provisions of this section; and a statutory rule containing any such regulations shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954."

Modifications etc. (not altering text)

C72 See 1976(D)—*exemption of certain housing associations from development land tax.* 1976(D)*repealed from* 19*March* 1985.

C73 *See reference to approved self-build societies in* 1988(F) s.43(3)*and* s.44.

Marginal Citations

M207 Source—1970 s.341A

M208 1965 c. 12.

M209 1985 c. 68.

M210 S.I. 1981/156 (N.I. 3).

M211 1965 c. 12.

M212 1969 c. 24 (N.I.).

490 Companies carrying on a mutual business or not carrying on a business.

(1) [M213]Subject to subsection (2) below, where a company carries on any business of mutual trading or mutual insurance or other mutual business the provisions of the Tax Acts relating to distributions shall apply to distributions made by the company notwithstanding that they are made to persons participating in the mutual activities of that business and derive from those activities, but shall so apply only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income (including group income).

(2) In the case of a company carrying on any mutual life assurance business, the provisions of the Tax Acts relating to distributions shall not apply to distributions made to persons participating in the mutual activities of that business and derived from those activities; but if the business includes annuity business, the annuities payable in the course of that business shall not be treated as charges on the income of the company to any greater extent than if the business were not mutual but were being carried on by the company with a view to the realisation of profits for the company.

(3) Subject to subsections (1) and (2) above, the fact that a distribution made by a company carrying on any such business is derived from the mutual activities of that business and the recipient is a person participating in those activities shall not affect the character which the payment or other receipt has for purposes of corporation tax or income tax in the hands of the recipient.

(4) Where a company does not carry on, and never has carried on, a trade or a business of holding investments, and is not established for purposes which include the carrying on of a trade or of such a business, the provisions of the Tax Acts relating to distributions shall apply to distributions made by the company only to the extent to which the

distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income.

Modifications etc. (not altering text)
C74 S. 490 amended (27.7.1993) by 1993 c. 34, **s. 78(6)(11)**

Marginal Citations
M213 Source—1970 s.346

491 Distribution of assets of body corporate carrying on mutual business.

(1) [M214]Where any person receives any money or money's worth—

(a) forming part of the assets of a body corporate, other than assets representing capital; or

(b) forming part of the consideration for the transfer of the assets of a body corporate, other than assets representing capital, as part of a scheme of amalgamation or reconstruction which involves the winding up of the body corporate; or

(c) consisting of the consideration for a transfer or surrender of a right to receive anything falling under paragraph (a) or (b) above, being a receipt not giving rise to any charge to tax on the recipient apart from this section,

and the body corporate has at any time carried on a trade which consists of or includes the conducting of any mutual business (whether confined to members of the body corporate or not), and is being or has been wound up or dissolved, the provisions of this section shall apply to the receipt.

(2) If a transfer or surrender of a right under subsection (1)(c) above is not at arm's length, the person making the transfer or surrender shall, for the purposes of this section, be deemed then to have received consideration equal to the value of the right.

(3) If in respect of a payment of any amount made to the body corporate for the purposes of its mutual business any deduction has been allowed for the purposes of tax in computing the profits or gains or losses of a trade, then—

(a) if at the time of the receipt the recipient is the person, or one of the persons, carrying on that trade, the amount or value of the receipt shall be treated for the purposes of tax as a trading receipt of that trade; and

(b) if at the time of the receipt the recipient is not the person, or one of the persons, carrying on that trade, but was the person, or one of the persons, carrying on that trade when any payment was made to the body corporate for the purposes of its mutual business in respect of which a deduction was allowed for the purposes of tax in computing the profits or gains or losses of the trade, the recipient shall, subject to subsection (6) below, be charged under Case VI of Schedule D for the chargeable period in which the receipt falls on an amount equal to the amount or value of the receipt.

(4) Subsection (3)(a) above applies notwithstanding that, as a result of a change in the persons carrying on the trade, the profits or gains are under section 113 or 337(1) determined as if it had been permanently discontinued and a new trade set up and commenced.

(5) Where an individual is chargeable to tax by virtue of subsection (3)(b) above and the profits or gains of the trade there mentioned fell to be treated as earned income for the purposes of the Income Tax Acts, the sums in respect of which he is so chargeable shall also be treated for those purposes as earned income.

(6) If the trade mentioned in subsection (3)(b) above was permanently discontinued before the time of the receipt, then in computing the charge to tax under subsection (3)(b) above there shall be deducted from the amount or value of the receipt—

(a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade had not been discontinued, would have been deducted in computing for tax purposes the profits or gains or losses of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits as so computed, and

(b) any capital allowance to which the person who carried on the trade was entitled immediately before the discontinuance and to which effect has not been given by way of relief before discontinuance.

(7) Relief shall not be given under subsection (6) above or under section 105(1) in respect of any loss, expense, debit or allowance if and so far as it has been so given by reference to another charge to tax under this section or under section 103.

(8) For the purposes of subsection (1) above assets representing capital consist of—

(a) assets representing any loan or other capital subscribed, including income derived from any investment of any part of that capital, but not including profits from the employment of that capital for the purposes of the mutual business of the body corporate;

(b) assets representing any profits or gains charged to tax as being profits or gains of any part of the trade carried on by the body corporate which does not consist of the conducting of any mutual business;

(c) (so far as not comprised in paragraphs (a) and (b) above) assets representing taxed income from any investments.

(9) In this section "mutual business" includes any business of mutual insurance or mutual trading.

(10) Subsections (3) to (7) above shall apply with any necessary modifications—

(a) to a profession or vocation; and

(b) to the occupation of woodlands the profits or gains of which are assessable under Schedule D;

as they apply to a trade.

(11) It is hereby declared that the description of trades in subsection (1) above does not include any trade all the profits or gains of which are chargeable to tax and, in particular, does not include such a trade carried on by any registered industrial and provident society.

Modifications etc. (not altering text)

C75 *See* 1988(F) Sch.14 Part V—*repeal of* (b)*from* 6*April* 1993.

Marginal Citations
M214 Source—1970 s.347

CHAPTER V

Modifications etc. (not altering text)
C76 The text of Part XII Chapter V is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PETROLEUM EXTRACTION ACTIVITIES

Modifications etc. (not altering text)
C77 Pt. 12 Ch. 5 applied (29.4.1996) by Finance Act 1996 (c. 8), **Sch. 8 para. 1(4)**

492 Treatment of oil extraction activities etc. for tax purposes.

(1) Where a person carries on as part of a trade—
(a) any oil extraction activities; or
(b) any of the following activities, namely, the acquisition, enjoyment or exploitation of oil rights; or
(c) activities of both those descriptions,

those activities shall be treated for all purposes of income tax, and for the purposes of the charge of corporation tax on income, as a separate trade, distinct from all other activities carried on by him as part of the trade.

(2) Relief in respect of a loss incurred by a person shall not be given under section 380 or 381 against income arising from oil extraction activities or from oil rights ("ring fence income") except to the extent that the loss arises from such activities or rights.

(3) Relief in respect of a loss incurred by a person shall not be given under section 393(2) against his ring fence profits except to the extent that the loss arises from oil extraction activities or from oil rights.

(4) In any case where—
(a) in any chargeable period a person incurs a loss in activities ("separate activities") which, for that or any subsequent chargeable period, are treated by virtue of subsection (1) above as a separate trade for the purposes specified in that subsection; and
(b) in any subsequent chargeable period any of his trading income is derived from activities ("related activities") which are not part of the separate activities but which, apart from subsection (1) above, would together with those activities constitute a single trade,

then, notwithstanding anything in that subsection, the amount of the loss may be set off, in accordance with section 385 or 393(1), against so much of his trading income in any subsequent chargeable period as is derived from the related activities.

(5) Subject to subsection (7) below, a capital allowance which is to be given to any person by discharge or repayment of tax shall not to any extent be given effect under **[**F164section 141 of the 1990 Act**]** by deduction from or set off against his ring fence income.

(6) Subject to subsection (7) below, a capital allowance which is to be given to any person by discharge or repayment of tax shall not to any extent be given effect under **[**F165section 145 of the 1990 Act**]** by deduction from or set off against his ring fence profits.

(7) Subsection (5) or (6) above shall not apply to a capital allowance which falls to be made to a company for any accounting period in respect of an asset used in the relevant accounting period by a company associated with it and so used in carrying on oil extraction activities. For the purposes of this subsection, the relevant accounting period is that in which the allowance in question first falls to be made to the company (whether or not it can to any extent be given effect in that period under **[**F166section 145(1) of the 1990 Act**]**).

(8) On a claim for group relief made by a claimant company in relation to a surrendering company, group relief shall not be allowed against the claimant company's ring fence profits except to the extent that the claim relates to losses incurred by the surrendering company that arose from oil extraction activities or from oil rights.

Textual Amendments

F164 Words in s. 492(5) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(22)(a)**

F165 Words in s. 492(6) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(22)(b)**

F166 Words in s. 492(7) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(22)(c)**

493 Valuation of oil disposed of or appropriated in certain circumstances.

(1) Where a person disposes of any oil in circumstances such that the market value of that oil in a particular month falls to be taken into account under section 2 of the M215Oil Taxation Act 1975 ("the 1975 Act"), otherwise than by virtue of paragraph 6 of Schedule 3 to that Act, in computing for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to him in any chargeable period from an oil field (or as would so fall but for section 10 of that Act), then—

(a) for all purposes of income tax, and

(b) for the purposes of the charge of corporation tax on income,

the disposal of the oil and its acquisition by the person to whom it was disposed of shall be treated as having been for a consideration equal to the market value of the oil as so taken into account under section 2 of that Act (or as would have been so taken into account under that section but for section 10 of that Act).

(2) Where a person makes a relevant appropriation of any oil without disposing of it and does so in circumstances such that the market value of that oil in a particular month falls to be taken into account under section 2 of the 1975 Act in computing for the purposes of petroleum revenue tax the assessable profit or allowable loss accruing to

him in any chargeable period from an oil field (or would so fall but for section 10 of that Act), then for all the purposes of income tax and for the purposes of the charge of corporation tax on income, he shall be treated—

(a) as having, at the time of the appropriation—

(i) sold the oil in the course of the separate trade consisting of activities falling within section 492(1)(a) or (b); and

(ii) bought it in the course of the separate trade consisting of activities not so falling; and

(b) as having so sold and bought it at a price equal to its market value as so taken into account under section 2 of the 1975 Act (or as would have been so taken into account under that section but for section 10 of that Act).

In this subsection "relevant appropriation" has the meaning given by section 12(1) of the 1975 Act.

(3) Where—

(a) a person disposes otherwise than in a sale at arm's length (as defined in paragraph 1 of Schedule 3 to the 1975 Act) of oil acquired by him in the course of oil extraction activities carried on by him or by virtue of oil rights held by him, and

(b) subsection (1) above does not apply in relation to the disposal,

then, for all purposes of income tax and for the purposes of the charge of corporation tax on income, the disposal of the oil and its acquisition by the person to whom it was disposed of shall be treated as having been for a consideration equal to the market value of the oil in the calendar month in which the disposal was made.

(4) If a person appropriates oil acquired by him in the course of oil extraction activities carried on by him or by virtue of oil rights held by him and the appropriation is to refining or to any use except for production purposes of an oil field, within the meaning of Part I of the 1975 Act, then, unless subsection (2) above applies, for all purposes of income tax and for the purposes of the charge of corporation tax on income—

(a) he shall be treated as having, at the time of the appropriation, sold and bought the oil as mentioned in subsection (2)(a)(i) and (ii) above; and

(b) that sale and purchase shall be deemed to have been at a price equal to the market value of the oil in the calendar month in which it was appropriated.

(5) For the purposes of subsections (3) and (4) above—

(a) "calendar month" means a month of the calendar year; and

(b) paragraph 2 of Schedule 3 to the 1975 Act shall apply as it applies for the purposes of Part I of that Act, but with the following modifications, that is to say—

(i) for sub-paragraph (2)(f) there shall be substituted—

"(f) the contract is for the sale of the whole quantity of oil of which the market value falls to be ascertained for the purposes of section 493(3) or (4) of the Income and Corporation Taxes Act 1988 and of no other oil; and for the avoidance of doubt it is hereby declared that the terms as to payment which are to be implied in the contract shall be those which are customarily contained in contracts for sale at arm's length of oil of the kind in question."; and

(ii) sub-paragraphs (3) and (4) shall be omitted.

Marginal Citations
M215 1975 c. 22

494 Charges on income.

(1) Section 338 shall have effect subject to the following provisions of this section.

(2) Interest paid by a company shall not be allowable under section 338 as a deduction against the company's ring fence profits except—

(a) to the extent that it was payable in respect of money borrowed by the company which is shown to have been used to meet expenditure incurred by the company in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person or to have been appropriated to meeting expenditure to be so incurred by the company; and

(b) in the case of interest paid by the company to a company associated with it, to the extent that (subject always to paragraph (a) above) the rate at which it was payable did not exceed what, having regard to all the terms on which the money was borrowed and the standing of the borrower, was a reasonable commercial rate.

Section 839 shall apply for the purposes of this subsection.

(3) Where a company pays to a company associated with it a charge on income not consisting of a payment of interest, the charge shall not be allowable to any extent under section 338 against the first-mentioned company's ring fence profits.

(4) In any case where—

(a) such of the charges on income which are paid by a company and allowable under section 338 as, by virtue of subsections (2) and (3) above, are not allowable against the company's ring fence profits exceed the remaining part of its profits (the company's "non-oil profits"), and

(b) the amount of that excess is greater than the amount (if any) by which the total of the charges on income which are allowable to the company under that section exceeds the total of the company's profits,

then, for the purpose of enabling the company to surrender the excess referred to in paragraph (a) above by way of group relief, section 403(7) shall have effect as if in that subsection—

(i) the reference to the amount paid by the surrendering company by way of charges on income were a reference to so much of that amount as is allowable only against the company's non-oil profits; and

(ii) the reference to the surrendering company's profits were a reference to its non-oil profits alone.

VALID FROM 27/07/1999

[F167 494A Sale and lease-back.

(1) This section applies where—

(a) a company ("the seller") carrying on a trade has disposed of an asset which was used for the purposes of that trade, or an interest in such an asset;

(b) the asset is used, under a lease, by the seller or a company associated with the seller ("the lessee") for the purposes of a ring fence trade carried on by the lessee; and

(c) the lessee uses the asset before the end of the period of two years beginning with the disposal.

(2) Subject to subsection (4) below, subsection (3) below applies to so much (if any) of the expenditure incurred by the lessee under the lease as—

(a) falls, in accordance with normal accountancy practice, to be treated in the accounts of the lessee as a finance charge; or

(b) would so fall if the lessee were a company incorporated in the United Kingdom.

(3) The expenditure shall not be allowable in computing for the purposes of Schedule D the profits of the ring fence trade.

(4) Expenditure shall not be disallowed by virtue of subsection (3) above to the extent that the disposal referred to in subsection (1) above is made for a consideration which—

(a) is used to meet expenditure incurred by the seller in carrying on oil extraction activities or in acquiring oil rights otherwise than from a company associated with the seller; or

(b) is appropriated to meeting expenditure to be so incurred by the seller.

(5) Where any expenditure—

(a) would apart from subsection (3) above be allowable in computing for the purposes of Schedule D the profits of the ring fence trade for an accounting period, but

(b) by virtue of that subsection is not so allowable,

that expenditure shall be brought into account for the purposes of Chapter II of Part IV of the [M216]Finance Act 1996 as if it were a non-trading debit in respect of a loan relationship of the lessee for that accounting period.

(6) In this section, "lease", in relation to an asset, has the same meaning as in sections 781 to 784.**]**

Textual Amendments

F167 S. 494AA inserted (with application in accordance with s. 100(2)(3) of the amending Act) by Finance Act 1999 (c. 16), **s. 100(1)**

Marginal Citations

M216 1996 c.8.

VALID FROM 31/07/1998

[F168494A Computation of amount available for surrender by way of group relief.

(1) In section 403(3) (availability of charges, Schedule A losses and management expenses for surrender as group relief) the reference to the gross profits of the

surrendering company for an accounting period does not include the company's relevant ring fence profits for that period.

(2) If for that period—

(a) there are no charges on income paid by the company that are allowable under section 338, or

(b) the only charges on income so allowable are charges to which section 494(3) above applies,

all the company's ring fence profits are relevant ring fence profits.

(3) In any other case the company's relevant ring fence profits are so much of its ring fence profits as exceeds the amount of the charges on income paid by the company as—

(a) are allowable under section 338 for that period, and

(b) are not charges to which section 494(3) above applies.**]**

Textual Amendments

F168 S. 494A inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 5 para. 30** (with Sch. 5 para. 73)

495 Regional development grants.

(1) Subsection (2) below applies in any case where—

(a) a person has incurred expenditure (by way of purchase, rent or otherwise) on the acquisition of an asset in a transaction to which paragraph 2 of Schedule 4 to the 1975 Act applies (transactions between connected persons and otherwise than at arm's length), and

(b) the expenditure incurred by the other person referred to in that paragraph in acquiring, bringing into existence or enhancing the value of the asset as mentioned in that paragraph has been or is to be met by a regional development grant and, in whole or in part, falls to be taken into account **[**F169Part I, II or VII of the 1990 Act (capital allowances relating to industrial buildings, machinery or plant and scientific research).**]**.

(2) Where this subsection applies, for the purposes of the charge of income tax or corporation tax on the income arising from those activities of the person referred to in paragraph (a) of subsection (1) above which are treated by virtue of section 492(1) as a separate trade for those purposes, the expenditure referred to in that paragraph shall be treated as reduced by the amount of the regional development grant referred to in paragraph (b) of that subsection.

(3) Subsections (4) to (6) below apply where—

(a) expenditure incurred by any person in relation to an asset in any relevant period ("the initial period") has been or is to be met by a regional development grant; and

(b) notwithstanding the provisions of section 137 of the M217Finance Act 1982 and subsections (1) and (2) above, in determining that person's liability to income tax or corporation tax for the initial period the whole or some part of that expenditure falls to be taken into account **[**F170Part I, II or VII of the 1990 Act**]**; and

(c) in a relevant period subsequent to the initial period either expenditure on the asset becomes allowable under section 3 or 4 of the 1975 Act or the proportion of any such expenditure which is allowable is different as compared with the initial period;

and in subsections (4) to (6) below the subsequent relevant period referred to in paragraph (c) above is referred to as "the adjustment period".

(4) Where this subsection applies—

(a) there shall be redetermined for the purposes of subsections (5) and (6) below the amount of the expenditure referred to in subsection (3)(a) above which would have been taken into account as mentioned in subsection (3)(b) if the circumstances referred to in subsection (3)(c) had existed in the initial period; and

(b) according to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (3)(b), the difference is in subsections (5) and (6) below referred to as the increase or the reduction in the allowance.

(5) If there is an increase in the allowance, then, for the purposes of the provisions referred to in subsection (3)(b) above, an amount of capital expenditure equal to the increase shall be deemed to have been incurred by the person concerned in the adjustment period on an extension of or addition to the asset referred to in subsection (3)(a) above.

(6) If there is a reduction in the allowance, then, for the purpose of determining the liability to income tax or corporation tax of the person concerned, he shall be treated as having received in the adjustment period, as income of the trade in connection with which the expenditure referred to in subsection (3)(a) above was incurred, a sum equal to the amount of the reduction in the allowance.

(7) In this section—

"regional development grant" means a grant made under the provisions of Part II of the [M218]Industrial Development Act 1982 or Part I of the [M219]Industry Act 1972 or such grant made under an enactment of the Parliament of Northern Ireland or Measure of the Northern Ireland Assembly as has been or may be declared by the Treasury under section **[**[F171]153 of the 1990 Act**]** to correspond to a grant made under those provisions; and

"relevant period" means an accounting period of a company or a year of assessment.

Textual Amendments

F169 Words in s. 495(1)(b) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(23)(a)**

F170 Words in s. 495(3)(b) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(23)(b)**

F171 Words in s. 495(7) substituted (with effect in accordance with s. 164 of the amending Act) by Capital Allowances Act 1990 (c. 1), **Sch. 1 para. 8(23)(c)**

Marginal Citations

M217 1982 c. 39

M218 1982 c. 52

M219 1972 c. 63

496 Tariff receipts.

(1) Any sum which—

(a) constitutes a tariff receipt of a person who is a participator in an oil field, and

(b) constitutes consideration in the nature of income rather than capital, and

(c) would not, apart from this subsection, be treated for the purposes of this Chapter as a receipt of the separate trade referred to in section 492(1),

shall be so treated for those purposes.

(2) To the extent that they would not otherwise be so treated, the activities of a participator in an oil field or a person connected with him in making available an asset in a way which gives rise to tariff receipts of the participator shall be treated for the purposes of this Chapter as oil extraction activities.

(3) In determining for the purposes of subsection (1) above whether any sum constitutes a tariff receipt of a person who is a participator, no account shall be taken of any sum which—

(a) is in fact received or receivable by a person connected with the participator, and

(b) constitutes a tariff receipt of the participator,

but in relation to the person by whom such a sum is actually received, subsection (1) above shall have effect as if he were a participator and as if the condition in paragraph (a) of that subsection were fulfilled.

(4) References in this section to a person connected with a participator include references to a person with whom the person is associated within the meaning of paragraph 11 of Schedule 2 to [M220]the Oil Taxation Act 1983.

Marginal Citations
M220 1983 c. 56.

VALID FROM 22/07/2004

[F172 496A Exploration expenditure supplement

Schedule 19B to this Act (exploration expenditure supplement) shall have effect.]

Textual Amendments
F172 S. 496A inserted (22.7.2004) by Finance Act 2004 (c. 12), **s. 286(2)**

VALID FROM 19/07/2006

[F173 496B Ring fence expenditure supplement

Schedule 19C to this Act (ring fence expenditure supplement) shall have effect.]

Textual Amendments

F173 S. 496B inserted (19.7.2006) by Finance Act 2006 (c. 25), **s. 154(2)**

497 Restriction on setting ACT against income from oil extraction activities etc.

(1) Section 239 shall have effect subject to the following provisions of this section; and in those provisions any reference to a company's ring fence income shall be construed, except in relation to relief under section 380 of this Act and section 71 of the 1968 Act, as a reference to the company's ring fence profits.

(2) Where advance corporation tax is paid by a company ("the distributing company") in respect of any distribution made by it to a company associated with it and resident in the United Kingdom or, where subsection (3) below applies, in respect of any distribution consisting of a dividend on a redeemable preference share—

(a) that advance corporation tax shall not be set against the distributing company's liability to corporation tax on any ring fence income of the distributing company; and

(b) if the benefit of any amount of that advance corporation tax is surrendered under section 240 to a subsidiary of the distributing company, the corresponding amount of advance corporation tax which under that section the subsidiary is treated for the purposes of section 239 as having paid shall not be set against the subsidiary's liability to corporation tax on any ring fence income of the subsidiary.

(3) Subject to subsection (4) below, this subsection applies in relation to the payment of a dividend on redeemable preference shares if the dividend is paid on or after 17th March 1987 and—

(a) at the time the shares are issued, or

(b) at the time the dividend is paid,

the company paying the dividend is under the control of a company resident in the United Kingdom, and in this subsection "control" shall be construed in accordance with section 416.

(4) Subsection (3) above does not apply if or to the extent that it is shown that the proceeds of the issue of the redeemable preference shares—

(a) were used to meet expenditure incurred by the company issuing them in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person; or

(b) were appropriated to meeting expenditure to be so incurred by that company;

and section 839 applies for the purposes of this subsection.

(5) Where in the case of any accounting period of a company there is an amount of advance corporation tax which because of subsection (2) above is not available to be set against the company's liability to corporation tax for that period on ring fence income of the company, section 239(2) shall as regards that period have effect as if the reference to the company's profits charged to corporation tax for that period were a reference to the company's profits so charged exclusive of any ring fence income.

(6) For the purposes of subsections (2) to (4) above, shares in a company are redeemable preference shares either if they are so described in the terms of their issue or if, however

they are described, they fulfil the condition in paragraph (a) below and either or both of the conditions in paragraphs (b) and (c) below—

(a) that, as against other shares in the company, they carry a preferential entitlement to a dividend or to any assets in a winding up or both;

(b) that, by virtue of the terms of their issue, the exercise of a right by any person or the existence of any arrangements, they are liable to be redeemed, cancelled or repaid, in whole or in part;

(c) that, by virtue of any material arrangements, the holder has a right to require another person to acquire the shares or is obliged in any circumstances to dispose of them or another person has a right or is in any circumstances obliged to acquire them.

(7) For the purposes of paragraph (a) of subsection (6) above, shares are to be treated as carrying a preferential entitlement to a dividend as against other shares if, by virtue of any arrangements, there are circumstances in which a minimum dividend will be payable on those shares but not on others; and for the purposes of paragraph (c) of that subsection arrangements relating to shares are material arrangements if the company which issued the shares or a company associated with that company is a party to the arrangements.

498 Limited right to carry back surrendered ACT.

(1) In any case where,—

(a) on a date not earlier than 17th March 1987, a company which is the surrendering company for the purposes of section 240 paid a dividend; and

(b) at no time in the accounting period of the surrendering company in which that dividend was paid was the surrendering company under the control of a company resident in the United Kingdom (construing "control" in accordance with section 416); and

(c) under section 240(1) the benefit of the advance corporation tax paid in respect of that dividend was surrendered to a subsidiary of the surrendering company; and

(d) that advance corporation tax is not such that the restriction in paragraph (a) or paragraph (b) of section 497(2) applies with respect to it; and

(e) in one or more of the accounting periods of the subsidiary beginning in the six years preceding the accounting period in which falls the date referred to in paragraph (a) above, the subsidiary has a liability to corporation tax in respect of profits which consist of or include ring fence profits,

sections 239 and 240 shall have effect subject to subsections (3) to (7) below.

(2) Where the conditions in subsection (1) above are fulfilled, the subsidiary to which the benefit of the advance corporation tax is surrendered is in the following provisions of this section referred to as a "qualifying subsidiary"; and in those provisions—

(a) "the surrendering company" has the same meaning as in section 240;

(b) "surrendered advance corporation tax" means advance corporation tax which, by virtue of section 240(2), a qualifying subsidiary is treated as having paid in respect of a distribution made on a particular date; and

(c) "the principal accounting period" means the accounting period of the qualifying subsidiary in which that date falls.

(3) So much of section 240(4) as would prevent surrendered advance corporation tax being set against a qualifying subsidiary's liability to corporation tax under

section 239(3) shall not apply, but section 239(3) shall instead have effect subject to the following provisions of this section.

(4) Surrendered advance corporation tax may not under section 239(3) be set against a qualifying subsidiary's liability to corporation tax for an accounting period earlier than the principal accounting period unless throughout—

(a) that period,

(b) the principal accounting period, and

(c) any intervening accounting period,

the qualifying subsidiary was carrying on activities which, under and for the purposes specified in section 492, constitute a separate trade.

(5) Subject to subsection (6) below, for each accounting period of the surrendering company in which is paid a dividend the advance corporation tax on which gives rise, under section 240, to surrendered advance corporation tax, the total amount of that surrendered advance corporation tax in respect of which claims may be made under section 239(3) (whether by one qualifying subsidiary of the surrendering company or by two or more taken together) shall not exceed whichever of the following limits is appropriate to the accounting period of the surrendering company—

(a) for periods ending on or after 17th March 1987 and before 1 st April 1989, £10 million;

(b) for periods ending on or after 1st April 1989 and before 1st April 1991, £15 million;

(c) for later periods, £20 million.

(6) In any case where an accounting period of the surrendering company is less than 12 months, the amount which is appropriate to it under subsection (5)(a) to (c) above shall be proportionately reduced.

(7) The amount of surrendered advance corporation tax of the principal accounting period which, on a claim under section 239(3), may be treated as if it were advance corporation tax paid in respect of distributions made by the qualifying subsidiary concerned in any earlier accounting period shall not exceed the amount of advance corporation tax that would have been payable in respect of a distribution made at the end of that earlier period of an amount which, together with the advance corporation tax so payable in respect of it, would equal the qualifying subsidiary's ring fence profits of that period.

(8) In determining the amount (if any) of advance corporation tax which may be repayable—

(a) under section 17(3) of the 1975 Act, or

(b) under section 127(5) of the [M221]Finance Act 1981,

any advance corporation tax in respect of a distribution actually made on or after 17th March 1987 shall be left out of account.

Marginal Citations

M221 1981 c. 35.

499 Surrender of ACT where oil extraction company etc. owned by a consortium.

(1) In any case where—

(a) a company (in this section referred to as "the consortium company") is owned by a consortium consisting of two members only, each of which owns 50 per cent. of the issued share capital of the company; and

(b) the consortium company carries on a trade consisting of or including activities falling within section 492(1)(a) to (c); and

(c) all of the issued share capital of the consortium company is of the same class and carries the same rights as to voting, dividends and distribution of assets on a winding up,

section 240 shall have effect, subject to the following provisions of this section, as if the company were a subsidiary of each member of the consortium.

(2) This section has effect with respect to advance corporation tax paid by either member of the consortium in respect of a dividend paid by it on or after 17th March 1987; and, in relation to a surrender under section 240 of the benefit of the advance corporation tax paid in respect of such a dividend—

(a) "surrendered advance corporation tax" means advance corporation tax which, by virtue of section 240(2), the consortium company is treated as having paid; and

(b) "the notional distribution date" means the date of the distribution in respect of which the surrendered advance corporation tax is treated as paid.

(3) No surrender under section 240 of the benefit of advance corporation tax may be made by virtue of this section—

(a) unless the conditions in paragraphs (a) to (c) of subsection (1) above are fulfilled throughout that accounting period of the consortium company in which falls the notional distribution date; or

(b) if arrangements are in existence by virtue of which any person could cause one or more of those conditions to cease to be fulfilled at some time during that or any later accounting period.

(4) In the application of section 239 in relation to surrendered advance corporation tax resulting from a surrender by either one of the consortium members under section 240, the reference in section 239(2) to the consortium company's profits charged to corporation tax shall be construed as a reference to one half of so much of those profits as consists of ring fence profits.

(5) So much of any surplus advance corporation tax as consists of or includes surrendered advance corporation tax shall not be treated under section 239(4) as if it were advance corporation tax paid in respect of distributions made by the consortium company in a later accounting period unless the conditions in paragraphs (a) to (c) of subsection (1) above are fulfilled throughout that later period.

(6) In any case where—

(a) as a result of a surrender by one of the consortium members, the consortium company is treated as paying an amount of surrendered advance corporation tax which exceeds the limit applicable under section 239(2) (as modified by subsection (4) above), and

(b) that excess falls to be treated under section 239(4) as advance corporation tax paid by the consortium company in respect of distributions made in a later accounting period,

then, for the purposes of the application of section 239(2) (as modified by subsection (4) above) in relation to that later accounting period, the excess of the

surrendered advance corporation tax shall be treated as resulting from a surrender by that one of the consortium members referred to in paragraph (a) above.

(7) Where section 240 has effect as mentioned in subsection (2) above, subsection (11) of that section shall have effect with the omission of paragraph (b) (and the word "and" immediately preceding it).

(8) Notwithstanding the provisions of subsection (1) above the consortium company shall not be regarded as a subsidiary for the purposes of section 498.

500 Deduction of PRT in computing income for corporation tax purposes.

(1) Where a participator in an oil field has paid any petroleum revenue tax with which he was chargeable for a chargeable period, then, in computing for corporation tax the amount of his income arising in the relevant accounting period from oil extraction activities or oil rights, there shall be deducted an amount equal to that petroleum revenue tax.

(2) There shall be made all such adjustments of assessments to corporation tax as are required in order to give effect to subsection (1) above.

(3) For the purposes of subsection (1) above, the relevant accounting period, in relation to any petroleum revenue tax paid by a company, is—

(a) the accounting period of the company in or at the end of which the chargeable period for which that tax was charged ends; or

(b) if that chargeable period ends after the accounting period of the company in or at the end of which the trade giving rise to the income referred to above is permanently discontinued, that accounting period.

(4) **[**F174Subject to the following provisions of this section**]** if some or all of the petroleum revenue tax in respect of which a deduction has been made under subsection (1) above is subsequently repaid, that deduction shall be reduced or extinguished accordingly; and any additional assessment to corporation tax required in order to give effect to this subsection may be made at any time not later than six years after the end of the **[**F175calendar year**]** in which the first-mentioned tax was repaid.

[F176(5) If, in a case where paragraph 17 of Schedule 2 to the 1975 Act applies, an amount of petroleum revenue tax in respect of which a deduction has been made under subsection (1) above is repaid by virtue of an assessment under that Schedule or an amendment of such an assessment, then, so far as concerns so much of that repayment as constitutes the appropriate repayment,—

(a) subsection (4) above shall not apply; and

(b) the following provisions of this section shall apply in relation to the company which is entitled to the repayment.

(6) In subsection (5) above and the following provisions of this section—

(a) "the appropriate repayment" has the meaning assigned by sub-paragraph (2) of paragraph 17 of Schedule 2 to the 1975 Act;

(b) in relation to the appropriate repayment, a "carried back loss" means an allowable loss which falls within sub-paragraph (1)(a) of that paragraph and which (alone or together with one or more other carried back losses) gives rise to the appropriate repayment;

(c) in relation to a carried back loss, "the operative chargeable period" means the chargeable period in which the loss accrued; and

(d) in relation to the company which is entitled to the appropriate repayment, "the relevant accounting period" means the accounting period in or at the end of which ends the operative chargeable period or, if the company's ring fence trade is permanently discontinued before the end of the operative chargeable period, the last accounting period of that trade.

(7) In computing for corporation tax the amount of the company's income arising in the relevant accounting period from oil extraction activities or oil rights there shall be added an amount equal to the appropriate repayment; but this subsection has effect subject to subsection (8) below in any case where—

(a) two or more carried back losses give rise to the appropriate repayment; and

(b) the operative chargeable period in relation to each of the carried back losses is not the same; and

(c) if subsection (6)(d) above were applied separately in relation to each of the carried back losses there would be more than one relevant accounting period.

(8) Where paragraphs (a) to (c) of subsection (7) above apply, the appropriate repayment shall be treated as apportioned between each of the relevant accounting periods referred to in paragraph (c) of that subsection in such manner as to secure that the amount added by virtue of that subsection in relation to each of those relevant accounting periods is what it would have been if—

(a) relief for each of the carried back losses for which there is a different operative chargeable period had been given by a separate assessment or amendment of an assessment under Schedule 2 to the 1975 Act; and

(b) relief for a carried back loss accruing in an earlier chargeable period had been so given before relief for a carried back loss accruing in a later chargeable period.

(9) Any additional assessment to corporation tax required in order to give effect to the addition of an amount by virtue of subsection (7) above may be made at any time not later than six years after the end of the calendar year in which is made the repayment of petroleum revenue tax comprising the appropriate repayment.

(10) In this section "allowable loss" and "chargeable period" have the same meaning as in Part I of the 1975 Act and "calendar year" means a period of twelve months beginning on 1st January.**]**

Textual Amendments

F174 Words in s. 500(4) inserted by Finance Act 1990 (c. 29), **s. 62(1)(a)**

F175 Words in s. 500(4) substituted by Finance Act 1990 (c. 29), **s. 62(1)(b)**

F176 S. 500(5)-(10) substituted for s. 500(5) by Finance Act 1990 (c. 29), **s. 62(2)**

501 Interest on repayment of PRT.

Where any amount of petroleum revenue tax paid by a participator in an oil field is, under any provision of Part I of the 1975 Act, repaid to him with interest, the amount of the interest paid to him shall be disregarded in computing the amount of his income for the purposes of corporation tax.

VALID FROM 24/07/2002

[F177 501A Supplementary charge in respect of ring fence trades

(1) Where in any accounting period beginning on or after 17th April 2002 a company carries on a ring fence trade, a sum equal to 10 per cent of its adjusted ring fence profits for that period shall be charged on the company as if it were an amount of corporation tax chargeable on the company.

(2) A company's adjusted ring fence profits for an accounting period are the amount which, on the assumption mentioned in subsection (3) below, would be determined for that period (in accordance with this Chapter) as the profits of the company's ring fence trade chargeable to corporation tax.

(3) The assumption is that financing costs are left out of account in computing—

(a) the amount of the profits or loss of any ring fence trade of the company's for each accounting period beginning on or after 17th April 2002; and

(b) where for any such period the whole or part of any loss relief is surrendered to the company in accordance with section 492(8), the amount of that relief or, as the case may be, that part.

(4) For the purposes of this section, "financing costs" means the costs of debt finance.

(5) In calculating the costs of debt finance for an accounting period the matters to be taken into account include—

(a) any costs giving rise to debits in respect of debtor relationships of the company under Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships);

(b) any exchange gain or loss, within the meaning of Chapter 2 of Part 2 of the Finance Act 1993, in relation to debt finance;

(c) any trading profit or loss, under Chapter 2 of Part 4 of the Finance Act 1994 (interest rate and currency contracts), in relation to debt finance;

(d) the financing cost implicit in a payment under a finance lease; and

(e) any other costs arising from what would be considered in accordance with generally accepted accounting practice to be a financing transaction.

(6) Where an amount representing the whole or part of a payment falling to be made by a company—

(a) falls (or would fall) to be treated as a finance charge under a finance lease for the purposes of accounts relating to that company and one or more other companies and prepared in accordance with generally accepted accounting practice, but

(b) is not so treated in the accounts of the company,

the amount shall be treated for the purposes of this section as financing costs falling within subsection (5)(d) above.

(7) If—

(a) in computing the adjusted ring fence profits of a company for an accounting period, an amount falls to be left out of account by virtue of subsection (5)(d) above, but

(b) the whole or any part of that amount is repaid,

the repayment shall also be left out of account in computing the adjusted ring fence profits of the company for any accounting period.

(8) In this section "finance lease" means any arrangements—

(a) which provide for an asset to be leased or otherwise made available by a person to another person ("the lessee"), and

(b) which, under generally accepted accounting practice,—

(i) fall (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or a loan, or

(ii) are comprised in arrangements which fall (or would fall) to be so treated.

(9) For the purposes of applying subsection (8)(b) above, the lessee and any person connected with the lessee are to be treated as being companies which are incorporated in a part of the United Kingdom.

(10) In this section "accounts", in relation to a company, includes any accounts which—

(a) relate to two or more companies of which that company is one, and

(b) are drawn up in accordance with—

(i) section 227 of the Companies Act 1985, or

(ii) Article 235 of the Companies (Northern Ireland) Order 1986.**]**

Textual Amendments

F177 S. 501A inserted (24.7.2002) by Finance Act 2002 (c. 23), **ss. 91**, 93

VALID FROM 24/07/2002

[F178 501B Assessment, recovery and postponement of supplementary charge

(1) Subject to subsection (3) below, the provisions of section 501A(1) relating to the charging of a sum as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including—

(a) those relating to returns of information and the supply of accounts, statements and reports;

(b) those relating to the assessing, collecting and receiving of corporation tax;

(c) those conferring or regulating a right of appeal; and

(d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

(2) Accordingly (but without prejudice to subsection (1) above) the Management Act shall have effect as if any reference to corporation tax included a reference to a sum chargeable under section 501A(1) as if it were an amount of corporation tax.

(3) In any regulations made under section 32 of the Finance Act 1998 (as at 17th April 2002, the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999)—

(a) references to corporation tax do not include a reference to a sum chargeable on a company under section 501A(1) as if it were corporation tax; and

(b) references to profits charged to corporation tax do not include a reference to adjusted ring fence profits, within the meaning of section 501A(1).

(4) In this section "the Taxes Acts" has the same meaning as in the Management Act.**]**

Textual Amendments

F178 S. 501B inserted (24.7.2002) by Finance Act 2002 (c. 23), **ss. 92(1)**, 93

502 Interpretation of Chapter V.

(1) In this Chapter—

"the 1975 Act" means the Oil Taxation Act 1975 [M222];

"oil" means any substance won or capable of being won under the authority of a licence granted under either the Petroleum (Production) Act 1934 or the [M223]Petroleum (Production) Act (Northern Ireland) 1964, other than methane gas won in the course of operations for making and keeping mines safe;

"oil extraction activities" means any activities of a person—

(a) in searching for oil in the United Kingdom or a designated area or causing such searching to be carried out for him; or

(b) in extracting or causing to be extracted for him oil at any place in the United Kingdom or a designated area under rights authorising the extraction and held by him or, if the person in question is a company, by the company or a company associated with it; or

(c) in transporting or causing to be transported for him as far as dry land in the United Kingdom oil extracted at any such place not on dry land under rights authorising the extraction and so held; or

(d) in effecting or causing to be effected for him the initial treatment or initial storage of oil won from any oil field under rights authorising its extraction and so held;

"oil field" has the same meaning as in Part I of the 1975 Act;

"oil rights" means rights to oil to be extracted at any place in the United Kingdom or a designated area, or to interests in or to the benefit of such oil;

"participator" has the same meaning as in Part I of the 1975 Act; and

"ring fence income" means income arising from oil extraction activities or oil rights; and

"ring fence profits" has the same meaning as in section 79(5) of the [M224]Finance Act 1984 or, in any case where that subsection does not apply, means ring fence income;**[**[F179] and

"ring fence trade" means activities which—

(a) fall within any of paragraphs (a) to (c) of subsection (1) of section 492; and

(b) constitute a separate trade (whether by virtue of that subsection or otherwise)**]**.

(2) For the purposes of subsection (1) above—

(a) "designated area" means an area designated by Order in Council under section 1(7) of the [M225]Continental Shelf Act 1964;

(b) "initial treatment" has the same meaning as in Part I of the 1975 Act; and

(c) the definition of "initial storage" in section 12(1) of the 1975 Act shall apply but, in its application for those purposes in relation to the person mentioned in subsection (1)(d) above and to oil won from any one oil field shall have effect as if the reference to the maximum daily production rate of oil for the field as there mentioned were a reference to that person's share of that maximum daily production rate, that is to say, a share thereof proportionate to his share of the oil won from that field.

(3) For the purposes of this Chapter two companies are associated with one another if—

(a) one is a 51 per cent. subsidiary of the other;

(b) each is a 51 per cent. subsidiary of a third company; or

(c) one is owned by a consortium of which the other is a member.

Section 413(6) shall apply for the purposes of paragraph (c) above.

(4) Without prejudice to subsection (3) above, for the purposes of this Chapter, two companies are also associated with one another if one has control of the other or both are under the control of the same person or persons; and in this subsection "control" shall be construed in accordance with section 416.

Textual Amendments

F179 S. 502(1): definition of "ring fence trade" added by Finance Act 1990 (c. 29), **s. 62(3)**

Marginal Citations

M222 1975 c. 22.
M223 1964 c. 28 (N.I.)
M224 1984 c. 43.
M225 1964 c. 29.

VALID FROM 19/07/2006

CHAPTER 5A

SPECIAL RULES FOR LONG FUNDING LEASES OF PLANT OR MACHINERY: CORPORATION TAX

[F180 Introductory

Textual Amendments

F180 Pt. 12 Ch. 5A (ss. 502A-502L) inserted (with effect in accordance with Sch. 8 para. 15 of the amending Act) by Finance Act 2006 (c. 25), **Sch. 8 para. 11**

502A Scope of Chapter 5A

This Chapter has effect for the purposes of corporation tax only.

Lessors under long funding finance leases

502B Lessor under long funding finance lease: rental earnings

(1) This section applies for determining for the purposes of corporation tax the profits of a company for any period of account in which it is the lessor of any plant or machinery under a long funding finance lease.

(2) The amount to be brought into account as the lessor's taxable income from the lease for the period of account is the amount of the rental earnings in respect of the lease for the period of account.

(3) The "rental earnings" for any period is the amount which, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment for that period in respect of the lease where it meets the finance lease test.

(4) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan in the accounts in question, so much of the rentals under the lease as fall (or would fall) to be treated as interest are to be treated for the purposes of this section as rental earnings.

Modifications etc. (not altering text)
C78 S. 502B excluded (21.7.2008) by Finance Act 2008 (c. 9), **Sch. 20 para. 11(2)**
C79 S. 502B excluded (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 33 para. 5**

502C Lessor under long funding finance lease: exceptional items

(1) This section applies for determining for the purposes of corporation tax the profits of a company which is or has been the lessor under a long funding finance lease.

(2) This section has effect where a profit or loss (whether of an income or capital nature) —

(a) arises to the company in connection with the lease, and
(b) in accordance with generally accepted accounting practice falls to be recognised for accounting purposes in a period of account, but
(c) would not, apart from this section, be brought into account in computing the profits of the company for the purposes of corporation tax.

(3) The profit or loss is to be treated—

(a) in the case of a profit, as income of the company attributable to the lease,
(b) in the case of a loss, as a revenue expense incurred by the company in connection with the lease.

(4) Any reference in this section to an amount falling to be recognised for accounting purposes in a period of account is a reference to an amount falling to be recognised for accounting purposes—

(a) in the company's profit and loss account or income statement,

(b) in the company's statement of recognised gains and losses or statement of changes in equity, or

(c) in any other statement of items brought into account in computing the company's profits or losses for that period.

Modifications etc. (not altering text)

C80 S. 502C excluded (21.7.2008) by Finance Act 2008 (c. 9), **Sch. 20 para. 11(8)**

C81 S. 502C excluded (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 33 para. 7**

502D Lessor under long funding finance lease making termination payment

(1) This section applies for determining the liability to corporation tax of a company which is or has been the lessor under a long funding finance lease.

(2) Where—

(a) the lease terminates, and

(b) a sum calculated by reference to the termination value is paid to the lessee,

no deduction in respect of the sum paid to the lessee is allowed in computing the profits of the company.

(3) This section does not prevent a deduction in respect of a sum to the extent that the sum is brought into account in determining the company's rental earnings.

Lessors under long funding operating leases

502E Lessor under long funding operating lease: periodic deduction

(1) This section applies for determining for the purposes of corporation tax the profits of a company for any period of account—

(a) for the whole of which, or

(b) for any part of which,

the company is the lessor of any plant or machinery under a long funding operating lease.

(2) A deduction is allowed in computing the profits of the company for the period of account.

(3) The amount of the deduction for any period of account is to be determined as follows.

(4) First, find the "relevant value" for the purposes of subsection (6)(a) below, which is—

(a) if the only use of the plant or machinery by the lessor has been the leasing of it under the long funding operating lease as a qualifying activity, cost;

(b) if the last previous use of the plant or machinery by the lessor was the leasing of it under another long funding operating lease as a qualifying activity, market value;

(c) if the last previous use of the plant or machinery by the lessor was the leasing of it under a long funding finance lease as a qualifying activity, the recognised value;

(d) if the last previous use of the plant or machinery by the lessor was for the purposes of a qualifying activity other than leasing under a long funding lease, the lower of cost and market value;

(e) if the lessor owns the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity, but—

(i) the plant or machinery is brought into use by the lessor for the purposes of a qualifying activity on or after 1st April 2006, and

(ii) that qualifying activity is the leasing of the plant or machinery under the long funding operating lease,

the relevant value is the lower of first use market value and first use amortised value.

(5) In subsection (4) above—

"cost" means the amount of the expenditure incurred by the lessor on the provision of the plant or machinery;

"first use amortised value" means the value that the plant or machinery would have at the time when it is first brought into use for the purposes of the qualifying activity, on the assumption that—

(a) the cost of acquiring the plant or machinery had been written off on a straight line basis over the remaining useful economic life of the plant or machinery, and

(b) any further capital expenditure incurred had been written off on a straight line basis over so much of the remaining economic life of the plant or machinery as remains at the time when the expenditure is incurred;

"first use market value" means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity;

"market value" means the market value of the plant or machinery at the commencement of the term of the long funding operating lease;

"recognised value" means the value at which the plant or machinery is recognised in the books or other financial records of the lessor at the commencement of the long funding operating lease.

(6) From—

(a) the relevant value determined in accordance with subsection (4) above,

subtract

(b) the amount which, at the commencement of the term of the lease, is (or, in a case falling within subsection (4)(e) above, would have been) expected to be the residual value of the plant or machinery,

to find the expected gross reduction in value over the term of the lease.

(7) Apportion the amount of that expected gross reduction in value to each period of account in which any part of the term of the lease falls.

(8) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each period of account.

(9) The amount of the deduction for any period of account is the amount so apportioned to that period.

502F Long funding operating lease: lessor's additional expenditure

(1) This section applies if in any period of account—

(a) a company is the lessor of any plant or machinery under a long funding operating lease,

(b) the company incurs capital expenditure in relation to the plant or machinery, and

(c) that capital expenditure (the "additional expenditure") is not reflected in the market value of the plant or machinery at the commencement of the term of the lease.

(2) In a case falling within section 502E(4)(e) above, subsection (1)(c) above has effect as if the reference to the commencement of the term of the lease were a reference to the time when the plant or machinery is first brought into use by the lessor for the purposes of the qualifying activity.

(3) Where this section applies, an additional deduction is allowed in computing the profits of the company for each post-expenditure period of account in which the company is the lessor of the plant or machinery under the lease.

(4) The amount of the deduction for any such period of account is to be determined as follows.

(5) Find ARV, CRV, PRV, and TRV where—

"ARV" is the amount which, at the time when the additional expenditure is incurred, is expected to be the residual value of the plant or machinery;

"CRV" is the amount which, at the commencement of the term of the lease, is expected to be the residual value of the plant or machinery;

"PRV" is the sum of any amounts that fell to be taken into account as RRV (see subsection (6)) in the application of this section in relation to any previous additional expenditure incurred by the company in relation to the leased plant or machinery;

"TRV" is the total of CRV and PRV.

(6) Find RRV, where—

(a) if ARV exceeds TRV, RRV is the portion of the excess that is a result of the additional expenditure, but

(b) if ARV does not exceed TRV, RRV is nil.

(7) From—

(a) the amount of the additional expenditure,

subtract

(b) RRV,

to find the expected partial reduction in value over the remainder of the term of the lease.

(8) Apportion the amount of that expected partial reduction in value to each post-expenditure period of account in which any part of the term of the lease falls.

(9) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each post-expenditure period of account.

(10) The amount of the additional deduction for any period of account is the amount so apportioned to that period.

(11) In this section "post-expenditure period of account" means any period of account ending after the incurring of the additional expenditure.

502G Lessor under long funding operating lease: termination of lease

(1) This section applies for determining the liability to corporation tax of a company which is the lessor immediately before the termination of a long funding operating lease.

(2) Step 1 is to find—
- (a) the termination amount (TA);
- (b) the total of any sums paid to the lessee that are calculated by reference to the termination value (LP).

(3) Step 2 is to find—
- (a) the relevant value for the purposes of section 502E(6)(a) (RV);
- (b) the total of the deductions allowable under section 502E for periods of account for the whole or part of which the company was the lessor before the termination of the lease (TD1);
- (c) the amount, if any, (ERV) by which RV exceeds TD1.

(4) Step 3 is to find—
- (a) the total of any amounts of capital expenditure incurred by the company which constitute additional expenditure for the purposes of section 502F in the case of the lease (TAE);
- (b) the total of any deductions allowable under section 502F for periods of account for the whole or part of which the company was the lessor before the termination of the lease (TD2);
- (c) the amount, if any, (EAE) by which TAE exceeds TD2.

(5) Step 4 is to find the total of ERV and EAE (T).

(6) If (TA – LP) exceeds T, treat a profit of an amount equal to the excess as arising to the company in the period of account in which the lease terminates.

(7) If T exceeds (TA – LP), treat a loss of an amount equal to the excess as arising to the company in that period of account.

(8) A profit or loss treated as arising to the company under subsection (6) or (7) above is to be treated—
- (a) in the case of a profit, as income of the company attributable to the lease,
- (b) in the case of a loss, as a revenue expense incurred by the company in connection with the lease.

(9) In computing the profits of the company, no deduction is allowed in respect of any sums paid to the lessee that are calculated by reference to the termination value.

VALID FROM 21/07/2008

Lessors under long funding finance or operating leases: avoidance etc

502GA Cases where ss. 502B to 502G do not apply: plant or machinery held as trading stock

(1) Sections 502B to 502G do not apply in the case of a company which is or has been the lessor of any plant or machinery under a long funding lease if the following condition is met.

(2) The condition is that any part of the expenditure incurred by the company on the acquisition of the plant or machinery for leasing under the lease—

(a) is (apart from those sections) allowable as a deduction in calculating its profits or losses for the purposes of corporation tax, and

(b) is so allowable as a result of the plant or machinery forming part of its trading stock.

(3) For the purposes of this section the cases in which expenditure incurred by a company on the acquisition of any plant or machinery for leasing under a lease is allowable as such a deduction include any case where—

(a) the company becomes entitled to the deduction at any time after the expenditure is incurred, and

(b) the deduction arises as a result of the plant or machinery forming part of its trading stock at that time.

(4) If—

(a) at any time any of sections 502B to 502G has applied for determining the amounts to be taken into account in calculating the profits or losses of the company for the purposes of corporation tax, and

(b) the condition in subsection (2) is met at any subsequent time,

those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.

(5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (4).

[F181 502GB Cases where ss. 502B to 502G do not apply: lessor also lessee under non-long funding lease

(1) This section applies if—

(a) a company is the lessee of any plant or machinery under a lease ("lease A") that is not a long funding lease,

(b) it enters into a lease ("lease B") of any of that plant or machinery (as lessor), and

(c) lease B is a long funding lease.

(2) Sections 502B to 502G do not apply in relation to lease B.

(3) If by virtue of section 70H of the Capital Allowances Act (tax return by lessee treating lease as long funding lease) lease A becomes a long funding lease (and

does not cease to be such a lease), treat this section as never having applied in relation to lease B.**]**

Textual Amendments

F181 S. 502GB inserted (with effect in accordance with Sch. 20 para. 9(6) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 20 para. 9(3)**

[F182 502GC Cases where ss. 502B to 502G do not apply: other avoidance

(1) Sections 502B to 502G do not apply in the case of a company which is or has been the lessor of any plant or machinery under a long funding lease if conditions A to C are met.

(2) Condition A is that the long funding lease forms part of any arrangement entered into by the company which includes one or more other transactions (whether the arrangement is entered into before or after or at the inception of the lease).

(3) Condition B is that the main purpose, or one of the main purposes, of the arrangement is to secure that, over the relevant period, there would be a substantial difference between—

(a) the total amount of the amounts under the arrangement which are, in accordance with generally accepted accounting practice, recognised in determining the company's profit or loss for any period or taken into account in calculating the amounts which are so recognised, and

(b) the total amount of the amounts under the arrangement which are taken into account in calculating the profits or losses of the company for the purposes of corporation tax.

(4) For the purposes of condition B "the relevant period" means the period which begins with the inception of the lease and ends with the end of the term of the lease.

(5) Condition C is that the difference would be attributable (wholly or partly) to the application of any of sections 502B to 502G in relation to the company by reference to the plant or machinery under the lease.

(6) The reference in this section to an amount being recognised in determining a company's profit or loss for a period is to an amount being recognised for accounting purposes—

(a) in the company's profit and loss account or income statement,

(b) in the company's statement of recognised gains and losses or statement of changes in equity, or

(c) in any other statement of items brought into account in calculating the company's profits and losses for that period.

(7) For the purposes of this section it does not matter whether the parties to any transaction which forms part of the arrangement differ from the parties to any of the other transactions.

(8) For the purposes of this section the cases in which two or more transactions are to be taken as forming part of an arrangement include any case in which it would be reasonable to assume that one or more of them—

(a) would not have been entered into independently of the other or others, or

(b) if entered into independently of the other or others, would not have taken the same form or been on the same terms.

(9) If—

(a) at any time any of sections 502B to 502G has applied for determining the amounts to be taken into account in calculating the profits or losses of the company for the purposes of corporation tax, and

(b) conditions A to C are met at any subsequent time,

those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.

(10) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (9).**]**

Textual Amendments

F182 S. 502GC inserted (with effect in accordance with Sch. 20 para. 9(7) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 20 para. 9(4)**

VALID FROM 21/07/2009

[F184502GD[F183Cases where ss 502B to 502G do not apply: films]

(1) If a company is or has been a lessor under a long funding lease of a film, sections 502B to 502G do not apply in respect of the lease.

(2) "Film" has the same meaning as in Part 15 of CTA 2009 (see section 1181 of that Act).**]**

Textual Amendments

F183 S. 502GA and preceding cross-heading inserted (with effect in accordance with Sch. 20 para. 9(5) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 20 para. 9(2)**

F184 S. 502GD inserted (with effect in accordance with Sch. 33 para. 3 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 33 para. 1**

Insurance company as lessor

502H Insurance company as lessor

(1) This section applies to a company carrying on life assurance business if it is the lessor under a long funding lease in a period of account.

(2) In this section—

(a) subsections (3) to (7) have effect in relation to—

(i) basic life assurance and general annuity business, and

(ii) long-term business which is not life assurance business, and

(b) subsections (8) to (10) have effect in relation to certain computations falling to be made in accordance with the provisions of this Act applicable to Case I of Schedule D.

(3) Subsection (4) below applies in the case of each of the following amounts—

(a) an amount of rental earnings which the company is required by section 502B (long funding finance lease) to bring into account as taxable income,

(b) an amount treated under section 502C(3)(a) (long funding finance lease: lessor's exceptional items) as a profit arising to the company,

(c) an amount of rental income arising to the company from a long funding operating lease,

(d) an amount treated under section 502G(8)(a) (long funding operating lease: lessor's excess termination amount) as a profit arising to the company,

but only if the leased asset is an asset of the company's long-term insurance fund.

(4) In determining for the purposes of the Corporation Tax Acts in any such case the extent to which any such amount is referable to—

(a) basic life assurance and general annuity business, or

(b) long-term business which is not life assurance business,

section 432A (apportionment of insurance companies' income) is to have effect in relation to the amount as it has effect in relation to the income arising from an asset.

This subsection is subject to subsections (5) and (6) below.

(5) Before applying subsection (4) above in a case where—

(a) that subsection applies by virtue of subsection (3)(a) above in relation to an amount of rental earnings, and

(b) there is an amount which is deductible as a revenue expense by virtue of section 502C(3)(b) (long funding finance lease: lessor's exceptional items),

the amount so deductible is to be given effect by applying it, so far as possible, in reducing the amount of the rental earnings.

(6) Before applying subsection (4) above by virtue of subsection (3)(c) above in relation to an amount of rental income,—

(a) any deduction falling to be made under section 502E, or

(b) any reduction falling to be made under section 502F,

is to be given effect by applying it, so far as possible, in reducing (or further reducing) the amount of the rental income.

(7) Where, after applying amounts in making reductions required by subsection (5) or (6) above, there remains unapplied an amount in respect of—

(a) a deduction falling to be made under section 502E,

(b) a reduction falling to be made under section 502F, or

(c) an amount deductible as a revenue expense by virtue of section 502C(3)(b),

the amount is to be apportioned under section 432A in the same way as income.

(8) Where—

(a) the leased asset is an asset of the company's long-term insurance fund, and

(b) a computation falling within subsection (9) below falls to be made,

subsection (10) below applies to the computation.

(9) A computation falls within this subsection if it is a computation of profits of—

(a) life assurance business carried on by the company, or

(b) any category of life assurance business carried on by the company,

and falls to be made in accordance with the provisions of this Act applicable to Case I of Schedule D.

(10) In making the computation, no amount shall be brought into account by virtue of any of the following provisions—

(a) section 502B (long funding finance lease: rental earnings),

(b) section 502C(3)(a) or (b) (long funding finance lease: profit or loss in respect of exceptional items),

(c) section 502E (long funding operating lease: periodic deduction),

(d) section 502F (long funding operating lease: lessor's additional expenditure),

(e) section 502G(8)(a) or (b) (long funding operating lease: lessor's profit or loss in respect of termination amount).

Lessees under long funding finance leases

502I Lessee under long funding finance lease: limit on deductions

(1) This section applies for determining for the purposes of corporation tax the profits of a company for any period of account in which it is the lessee of any plant or machinery under a long funding finance lease.

(2) In calculating the company's profits for the period of account,—

(a) the amount deducted in respect of amounts payable under the lease,

must not exceed

(b) the amounts which, in accordance with generally accepted accounting practice, fall (or would fall) to be shown in the company's accounts as finance charges in respect of the lease.

(3) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, subsection (2) above applies as if the lease were one which, under generally accepted accounting practice, fell to be treated as a finance lease.

502J Lessee under long funding finance lease: termination

(1) This section applies where—

(a) a company is or has been the lessee under a long funding finance lease, and

(b) in connection with the termination of the lease, a payment calculated by reference to the termination value falls to be made to the company.

(2) The payment is not to be brought into account in determining for the purposes of corporation tax the profits of the company for any period of account.

(3) Subsection (2) above does not affect the amount of any disposal value that falls to be brought into account by the company under the Capital Allowances Act.

Lessees under long funding operating leases

502K Lessee under long funding operating lease

(1) This section applies for determining for the purposes of corporation tax the profits of a company for any period of account in which it is the lessee of any plant or machinery under a long funding operating lease.

(2) The deductions that may be allowed in computing the profits of the company for the period of account are to be reduced in accordance with the following provisions of this section.

(3) The amount of the reduction for any period of account is to be determined as follows.

(4) First, find the "relevant value" for the purposes of subsection (6)(a) below, which is—

(a) the market value of the plant or machinery at the commencement of the term of the lease, unless paragraph (b) below applies;

(b) if the lessee—

(i) has the use of the plant or machinery as a result of having incurred expenditure on its provision for purposes other than those of a qualifying activity, but

(ii) brings the plant or machinery into use for the purposes of a qualifying activity on or after 1st April 2006,

the lower of first use market value and first use amortised market value.

(5) In subsection (4) above—

"first use amortised market value" means the value that the plant or machinery would have—

(a) at the time when it is first brought into use for the purposes of the qualifying activity, but

(b) on the assumption that the market value of the plant or machinery at the commencement of the term of the lease had been written off on a straight line basis over the remaining useful economic life of the plant or machinery;

"first use market value" means the market value of the plant or machinery at the time when it is first brought into use for the purposes of the qualifying activity.

(6) From—

(a) the relevant value determined in accordance with subsection (4) above,

subtract

(b) the amount which, at the commencement of the term of the lease, is (or, in a case falling within subsection (4)(b) above, would have been) expected to be the market value of the plant or machinery at the end of the term of the lease,

to find the expected gross reduction over the term of the lease.

(7) Apportion the amount of that expected gross reduction to each period of account in which any part of the term of the lease falls.

(8) The apportionment must be on a time basis according to the proportion of the term of the lease that falls in each period of account.

(9) The amount of the reduction for any period of account is the amount so apportioned to that period.

*Interpretation of Chapter***]**

502L Interpretation of this Chapter

(1) This section has effect for the interpretation of this Chapter.

(2) In this Chapter—

"qualifying activity" has the same meaning as in Part 2 of the Capital Allowances Act;

"residual value", in relation to any plant or machinery leased under a long funding operating lease, means—

(a) the estimated market value of the plant or machinery on a disposal at the end of the term of the lease,

less

(b) the estimated costs of that disposal.

(3) Any reference in this Chapter to a sum being written off on a straight line basis over a period of time (the "writing-off period") is a reference to—

(a) the sum being apportioned between each of the periods of account in which any part of the writing-off period falls,

(b) that apportionment being made on a time basis, according to the proportion of the writing-off period that falls in each of the periods of account, and

(c) the sum being written off accordingly.

(4) Chapter 6A of Part 2 of the Capital Allowances Act (interpretation of provisions about long funding leases) applies in relation to this Chapter as it applies in relation to that Part.

CHAPTER VI

MISCELLANEOUS BUSINESSES AND BODIES

503 Letting of furnished holiday accommodation treated as a trade.

(1) [M226]Subject to the following provisions of this section, for the purposes of sections 5(2), 380 to 390, 393, 394, 401, 623(2)(c), 644(2)(c) and 833(4)(c) . . . [F185]—

(a) the commercial letting of furnished holiday accommodation in the United Kingdom in respect of which the profits or gains are chargeable under Case VI of Schedule D shall be treated as a trade; and

(b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.

(2) [M227]In their application by virtue of subsection (1) above sections 390(1) and 401(1) shall have effect as if for the references in those sections to Case I of Schedule D there were substituted references to Case VI of that Schedule.

(3) No relief shall be given to an individual under section 381 as it has effect by virtue of subsection (1) above, in respect of a loss sustained in any year of assessment, if any of the accommodation in respect of which the trade is carried on in that year was first let by him as furnished accommodation more than three years before the beginning of that year of assessment.

(4) Relief shall not be given for the same loss or the same portion of a loss both under any provision of Chapters I and II of Part X except sections 391, 392, 395 and 396, as those Chapters apply by virtue of this section, and under any other provision of the Tax Acts.

(5) [M228]In computing the profits or gains arising from the commercial letting of furnished holiday accommodation which are chargeable to tax under Case VI of Schedule D, such expenditure may be deducted as would be deductible if the letting were a trade and those profits or gains were accordingly to be computed in accordance with the rules applicable to Case I of that Schedule.

(6) [M229]Where there is a letting of accommodation only part of which is holiday accommodation such apportionments shall be made for the purposes of this section as appear to the inspector, or on appeal the Commissioners, to be just and reasonable.

(7) Where a person has been charged to income tax or corporation tax otherwise than in accordance with the provisions of this section, such assessment, reduction or discharge of an assessment or, where a claim for repayment is made, such repayment, shall be made as may be necessary to give effect to those provisions.

Textual Amendments

F185 *Words repealed by* 1990(C) s.164(4)*and* Sch.2.*See* 1989*edition for these provisions.*

Marginal Citations

M226 Source—1984 s.50(1), Sch.11 1; 1987 (No.2) Sch.2 6
M227 Source—1984 Sch.11 2
M228 Source—1984 Sch.11 3
M229 Source—1984 Sch.11 6, 7

504 Supplementary provisions.

(1) [M230]This section has effect for the purposes of section 503.

(2) A letting—

(a) is a commercial letting if it is let on a commercial basis and with a view to the realisation of profits; and

(b) is of furnished accommodation if the tenant is entitled to the use of furniture.

(3) Accommodation shall not be treated as holiday accommodation for the purposes of this section unless—

(a) it is available for commercial letting to the public generally as holiday accommodation for periods which amount, in the aggregate, to not less than 140 days;

(b) the periods for which it is so let amount in the aggregate to at least 70 days; and

(c) for a period comprising at least seven months (which need not be continuous but includes any months in which it is let as mentioned in paragraph (b) above)

it is not normally in the same occupation for a continuous period exceeding 31 days.

(4) Any question whether accommodation let by any person other than a company is, at any time in a year of assessment, holiday accommodation shall be determined—

(a) if the accommodation was not let by him as furnished accommodation in the preceding year of assessment but is so let in the following year of assessment, by reference to the 12 months beginning with the date on which he first so let it in the year of assessment;

(b) if the accommodation was let by him as furnished accommodation in the preceding year of assessment but is not so let in the following year of assessment, by reference to the 12 months ending with the date on which he ceased so to let it in the year of assessment; and

(c) in any other case, by reference to the year of assessment.

(5) Any question whether accommodation let by a company is at any time in an accounting period holiday accommodation shall be determined—

(a) if the accommodation was not let by it as furnished accommodation in the period of 12 months immediately preceding the accounting period but is so let in the period of 12 months immediately following the accounting period, by reference to the 12 months beginning with the date in the accounting period on which it first so let it;

(b) if the accommodation was let by it as furnished accommodation in the period of 12 months immediately preceding the accounting period but is not so let by it in the period of 12 months immediately following the accounting period, by reference to the 12 months ending with the date in the accounting period on which it ceased so to let it;

(c) in any other case, by reference to the period of 12 months ending with the last day of the accounting period.

(6) Where, in any year of assessment or accounting period, a person lets furnished accommodation which is treated as holiday accommodation for the purposes of this section in that year or period ("the qualifying accommodation"), he may make a claim under this subsection, within two years after that year or period, for averaging treatment to apply for that year or period to that and any other accommodation specified in the claim which was let by him as furnished accommodation during that year or period and would fall to be treated as holiday accommodation in that year or period if subsection (3)(b) above were satisfied in relation to it.

(7) Where a claim is made under subsection (6) above in respect of any year of assessment or accounting period, any such other accommodation shall be treated as being holiday accommodation in that year or period if the number of days for which the qualifying accommodation and any other such accommodation was let by the claimant as mentioned in subsection (3)(a) above during the year or period amounts on average to at least 70.

(8) Qualifying accommodation may not be specified in more than one claim in respect of any one year of assessment or accounting period.

(9) For the purposes of this section a person lets accommodation if he permits another person to occupy it, whether or not in pursuance of a lease; and "letting" and "tenant" shall be construed accordingly.

Modifications etc. (not altering text)

C82 S. 504 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 241(2)**, 289 (with ss. 60, 101(1), 171, 201(3))

Marginal Citations

M230 Source—1984 s.50(2)-(9)

VALID FROM 06/04/2005

[F186 504A Letting of furnished holiday accommodation treated as trade for certain income tax purposes

(1) For the purposes specified in subsection (2)—

(a) a UK property business which consists in, or so far as it consists in, the commercial letting of furnished holiday accommodation is treated as if it were a trade the profits of which are chargeable to income tax under Part 2 of ITTOIA 2005, and

(b) all such lettings made by a particular person or partnership or body of persons are treated as one trade.

The "commercial letting of furnished holiday accommodation" has the same meaning as it has for the purposes of Chapter 6 of Part 3 of ITTOIA 2005.

(2) Subsection (1) applies for the purposes of—

(a) Chapter 1 of Part 10 (loss relief for income tax),

(b) section 833(4)(c) (income regarded as earned income), and

(c) section 189(2)(b) of the Finance Act 2004 (income regarded as relevant UK earnings for pension purposes).

(3) Chapter 1 of Part 10 as applied by this section has effect with the following adaptations—

(a) no relief is to be given to an individual under section 381 (relief for losses in early years of trade) in respect of a year of assessment if any of the accommodation in respect of which the trade is carried on in that year was first let by that person as furnished accommodation more than three years before the beginning of that year of assessment;

(b) section 384 (restrictions on right of set-off) has effect with the omission of subsections (6) to (8) (which relate to certain losses attributable to capital allowances);

(c) section 390 (treatment of interest as loss) has effect as if the reference to a trade carried on wholly or partly in the United Kingdom were a reference to the UK property business so far as it is treated as a trade.

(4) If there is a letting of accommodation only part of which is holiday accommodation, such apportionments are to be made for the purposes of this section as are just and reasonable.

(5) Relief is not to be given for the same loss, or the same portion of a loss, both under a provision of Chapter 1 of Part 10 as applied by this section and under any other provision of the Income Tax Acts.**]**

Textual Amendments

F186 S. 504A inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 197** (with Sch. 2)

505 Charities: general.

(1) [M231]Subject to subsections (2) and (3) below, the following exemptions shall be granted on a claim in that behalf to the Board—

(a) exemption from tax under Schedules A and D in respect of the rents and profits of any lands, tenements, hereditaments or heritages belonging to a hospital, public school or almshouse, or vested in trustees for charitable purposes, so far as the same are applied to charitable purposes only;

(b) *exemption from tax under Schedule B in respect of any lands occupied by a charity*[F187];

(c) exemption—

(i) from tax under Schedule C in respect of any interest, annuities, dividends or shares of annuities,

(ii) from tax under Schedule D in respect of any yearly interest or other annual payment, and

(iii) from tax under Schedule F in respect of any distribution,

where the income in question forms part of the income of a charity, or is, according to rules or regulations established by Act of Parliament, charter, decree, deed of trust or will, applicable to charitable purposes only, and so far as it is applied to charitable purposes only;

(d) exemption from tax under Schedule C in respect of any interest, annuities, dividends or shares of annuities which are in the names of trustees and are applicable solely towards the repairs of any cathedral, college, church or chapel, or of any building used solely for the purposes of divine worship, so far as the same are applied to those purposes;

(e) exemption from tax under Schedule D in respect of the profits of any trade carried on by a charity, if the profits are applied solely to the purposes of the charity and either—

(i) the trade is exercised in the course of the actual carrying out of a primary purpose of the charity; or

(ii) the work in connection with the trade is mainly carried out by beneficiaries of the charity.

(2) [M232]Any payment which—

(a) is received by a charity from another charity; and

(b) is not made for full consideration in money or money's worth; and

(c) is not chargeable to tax apart from this subsection; and

(d) is not, apart from this subsection, of a description which (on a claim) would be eligible for relief from tax by virtue of any provision of subsection (1) above;

shall be chargeable to tax under Case III of Schedule D but shall be eligible for relief from tax under subsection (1)(c) above as if it were an annual payment.

(3) [M233]If in any chargeable period of a charity—

(a) its relevant income and gains are not less than £10,000; and

(b) its relevant income and gains exceed the amount of its qualifying expenditure; and

(c) the charity incurs, or is treated as incurring, non-qualifying expenditure;

relief shall not be available under either subsection (1) above or section 145 of the 1979 Act for so much of the excess as does not exceed the non-qualifying expenditure incurred in that period.

(4) In relation to a chargeable period of less than 12 months, subsection (3) above shall have effect as if the amount specified in paragraph (a) of that subsection were proportionately reduced.

(5) In subsection (3) above "relevant income and gains" means—

(a) income which apart from subsection (1) above would not be exempt from tax together with any income which is taxable notwithstanding that subsection; and

(b) gains which apart from section 145 of the 1979 Act would be chargeable gains together with any gains which are chargeable gains notwithstanding that section.

(6) [M234]Where by virtue of subsection (3) above there is an amount of a charity's relevant income and gains for which relief under subsection (1) above and section 145 of the 1979 Act is not available, the charity may, by notice to the Board, specify which items of its relevant income and gains are, in whole or in part, to be attributed to that amount, and, for this purpose, all covenanted payments to charity (within the meaning of section 660(3)) shall be treated as a single item; and if within 30 days of being required to do so by the Board, a charity does not give notice under this subsection, the items of its relevant income and gains which are to be attributed to the amount in question shall be such as the Board may determine.

(7) Where it appears to the Board that two or more charities acting in concert are engaged in transactions of which the main purpose or one of the main purposes is the avoidance of tax (whether by the charities or by any other person), the Board may by notice given to the charities provide that, for such chargeable periods as may be specified in the notice, subsection (3) above shall have effect in relation to them with the omission of paragraph (a).

(8) An appeal may be brought against a notice under subsection (7) above as if it were notice of the decision of the Board on a claim made by the charities concerned.

Textual Amendments

F187 *Repealed by* 1988(F) s.148*and* Sch.14 Part V*from* 6*April* 1988.

Modifications etc. (not altering text)

C83 *See the following sections of this Act*:—s.86—*employees seconded to charities.*s.235*and* 237—*disallowance of relief, and charge at additional rate, on income from stripping distributions etc.*s.332—*relief in respect of premises held by a charity or ecclesiastical corporation for use as official residence of clergyman or minister.*s.507—*exemption of the Trustees of the National*

*Heritage Memorial Fund; and exemption of the Historic Buildings and Monuments Commission for England;*s.660*—dispositions of income for short periods.*s.682(1)*—application of* 1988 Part XV Ch.III (*income under revocable settlements, etc.*)*where settlement trustees are trustees for charitable purposes.*s.683 to 685*—tax on income under certain settlements.*s.704*—cancellation of tax advantages from certain transactions in securities.*s.733*—interest and dividends on securities purchased and resold.*
and see—1989 s.94*and* Sch.11 para.15*—deep gain securities.*1990 s.56*and* Sch.10 para.21*—exemption for convertible securities held by charities.*Charities Act 1960 (c.58) s.5 (*construed as in* ss.45*and* 46)*—effect of registration as a charity in England and Wales and* s.9 (in Part II Vol.5)*—exchange of information with other government departments and local authorities.*

Marginal Citations

M231 Source—1970 s.360(1)
M232 Source—1986 s.30(1)
M233 Source—1986 s.31(1), (2), (3)(c), (d)
M234 Source—1986 s.31(7)-(9)

506 Qualifying expenditure and non-qualifying expenditure.

(1) [M235]In this section, section 505 and Schedule 20—

"charity" means any body of persons or trust established for charitable purposes only;

"qualifying expenditure", in relation to a chargeable period of a charity, means, subject to subsection (3) below, expenditure incurred in that period for charitable purposes only; and

"non-qualifying expenditure" means expenditure which is not qualifying expenditure.

(2) [M236]For the purposes of section 505 and subsection (1) above, where expenditure which is not actually incurred in a particular chargeable period properly falls to be charged against the income of that chargeable period as being referable to commitments (whether or not of a contractual nature) which the charity has entered into before or during that period, it shall be treated as incurred in that period.

(3) A payment made (or to be made) to a body situated outside the United Kingdom shall not be qualifying expenditure by virtue of this section unless the charity concerned has taken such steps as may be reasonable in the circumstances to ensure that the payment will be applied for charitable purposes.

(4) [M237]If in any chargeable period a charity—

(a) invests any of its funds in an investment which is not a qualifying investment, as defined in Part I of Schedule 20; or

(b) makes a loan (not being an investment) which is not a qualifying loan, as defined in Part II of that Schedule;

then, subject to subsection (5) below, the amount so invested or lent in that period shall be treated for the purposes of this section as being an amount of expenditure incurred by the charity, and, accordingly, as being non-qualifying expenditure.

(5) If, in any chargeable period, a charity which has in that period made an investment or loan falling within subsection (4) above—

(a) realises the whole or part of that investment; or

(b) is repaid the whole or part of that loan;

any further investment or lending in that period of the sum realised or repaid shall, to the extent that it does not exceed the sum originally invested or lent, be left out of account in determining the amount which, by virtue of subsection (4) above, is treated as non-qualifying expenditure incurred in that period.

(6) If the aggregate of the qualifying and non-qualifying expenditure incurred by a charity in any chargeable period exceeds the relevant income and gains of that period, Part III of Schedule 20 shall have effect to treat, in certain cases, some or all of that excess as non-qualifying expenditure incurred in earlier periods.

Modifications etc. (not altering text)

C84 *Definition employed for purposes of*:1990 s.25—*donation to charity by individuals.*1990 s.56*and* Sch.10 para.21—*exemption for convertible securities held by charities.*1990 s.94(1)—*inspection powers* (*definition extended to cover bodies mentioned in* sections 507*and* 508).

Marginal Citations

M235 Source—1970 s.360(3); 1986 s.31(1)(a), (c), Sch.7 1(1)
M236 Source—1986 Sch.7 1(2), (3)
M237 Source—1986 s.31(4)-(6)

VALID FROM 19/07/2006

[F188 506A Transactions with substantial donors

(1) This section applies to the following transactions—

(a) the sale or letting of property by a charity to a substantial donor,
(b) the sale or letting of property to a charity by a substantial donor,
(c) the provision of services by a charity to a substantial donor,
(d) the provision of services to a charity by a substantial donor,
(e) an exchange of property between a charity and a substantial donor,
(f) the provision of financial assistance by a charity to a substantial donor,
(g) the provision of financial assistance to a charity by a substantial donor, and
(h) investment by a charity in the business of a substantial donor.

(2) For the purposes of this section a person is a substantial donor to a charity in respect of a chargeable period if—

(a) the charity receives relievable gifts of at least £25,000 from him in a period of 12 months in which the chargeable period wholly or partly falls, or
(b) the charity receives relievable gifts of at least £100,000 from him in a period of six years in which the chargeable period wholly or partly falls;

and if a person is a substantial donor to a charity in respect of a chargeable period by virtue of paragraph (a) or (b), he is a substantial donor to the charity in respect of the following five chargeable periods.

(3) A payment made by a charity to a substantial donor in the course of or for the purposes of a transaction to which this section applies shall be treated for the purposes of section 505 as non-charitable expenditure.

(4) If the terms of a transaction to which this section applies are less beneficial to the charity than terms which might be expected in a transaction at arm's length, the charity shall be treated for the purposes of section 505 as incurring non-charitable expenditure equal to that amount which the Commissioners for Her Majesty's Revenue and Customs determine as the cost to the charity of the difference in terms.

(5) A payment by a charity of remuneration to a substantial donor shall be treated for the purposes of section 505 as non-charitable expenditure unless it is remuneration, for services as a trustee, which is approved by—

(a) the Charity Commission,

(b) another body with responsibility for regulating charities by virtue of legislation having effect in respect of any Part of the United Kingdom, or

(c) a court.**]**

Textual Amendments

F188 Ss. 506A-506C inserted (with effect in accordance with s. 54(2)(3) of the amending Act) by Finance Act 2006 (c. 25), **s. 54(1)**

VALID FROM 19/07/2006

[F188 506B Section 506A: exceptions

(1) Section 506A shall not apply to a transaction within section 506A(1)(b) or (d) if the Commissioners for Her Majesty's Revenue and Customs determine that the transaction—

(a) takes place in the course of a business carried on by the substantial donor,

(b) is on terms which are no less beneficial to the charity than those which might be expected in a transaction at arm's length, and

(c) is not part of an arrangement for the avoidance of any tax.

(2) Section 506A shall not apply to the provision of services to a substantial donor if the Commissioners determine that the services are provided—

(a) in the course of the actual carrying out of a primary purpose of the charity, and

(b) on terms which are no more beneficial to the substantial donor than those on which services are provided to others.

(3) Section 506A shall not apply to the provision of financial assistance to a charity by a substantial donor if the Commissioners determine that the assistance—

(a) is on terms which are no less beneficial to the charity than those which might be expected in a transaction at arm's length, and

(b) is not part of an arrangement for the avoidance of any tax.

(4) Section 506A shall not apply to investment by a charity in the business of a substantial donor where the investment takes the form of the purchase of shares or securities listed on a recognised stock exchange.

(5) A disposal at an undervalue to which section 587B applies shall not be a transaction to which section 506A applies (but may be taken into account in the application of section 506A(2)).

(6) A disposal at an undervalue to which section 257(2) of the 1992 Act (gifts of chargeable assets) applies shall not be a transaction to which section 506A applies (but may be taken into account in the application of section 506A(2)).

(7) In the application of section 506A payments by a charity, or benefits arising to a substantial donor from a transaction, shall be disregarded in so far as they—

(a) relate to a donation by the donor, and

(b) do not exceed the relevant limit in relation to the donation for the purposes of section 339 or section 25 of the Finance Act 1990.

(8) A company which is wholly owned by a charity within the meaning of section 339(7AB) shall not be treated as a substantial donor in relation to the charity which owns it (or any of the charities which own it).

(9) A registered social landlord or housing association shall not be treated as a substantial donor in relation to a charity with which it is connected; and for that purpose—

(a) "registered social landlord or housing association" means a body entered on a register maintained under—

(i) section 1 of the Housing Act 1996,

(ii) section 57 of the Housing (Scotland) Act 2001, or

(iii) Article 14 of the Housing (Northern Ireland) Order 1992, and

(b) a body and a charity are connected if (and only if)—

(i) the one is wholly owned, or subject to control, by the other, or

(ii) both are wholly owned, or subject to control, by the same person.**]**

Textual Amendments

F188 Ss. 506A-506C inserted (with effect in accordance with s. 54(2)(3) of the amending Act) by Finance Act 2006 (c. 25), **s. 54(1)**

VALID FROM 19/07/2006

[F188 506C Sections 506A and 506B: supplemental

(1) A gift is "relievable" for the purposes of section 506A(2) if relief is available in respect of it under—

(a) section 83A,

(b) section 339,

(c) sections 587B and 587C,

(d) section 25 of the Finance Act 1990 (individual gift aid),

(e) section 257 of the 1992 Act (gifts of chargeable assets),

(f) section 63 of the Capital Allowances Act (gifts of plant and machinery),

(g) sections 713 to 715 of ITEPA 2003 (payroll giving),

(h) section 108 of ITTOIA 2005 (gifts of trading stock), or

(i) sections 628 and 630 of ITTOIA 2005 (gifts from settlor-interested trusts).

(2) A charity is treated as incurring expenditure in accordance with section 506A(4) at such time (or times) as the Commissioners determine.

(3) Section 506A applies to a transaction entered into in a chargeable period with a person who is a substantial donor in respect of that period, even if it was not until after the transaction was entered into that he first satisfied the definition of "substantial donor" in respect of that period.

(4) Either or both of subsections (3) and (4) of section 506A may be applied to a single transaction; but any amount of non-charitable expenditure which a charity is treated as incurring under section 506A(3) in respect of a transaction shall be deducted from any amount which it would otherwise be treated as incurring under section 506A(4) in respect of the transaction.

(5) Two or more connected charities shall be treated as a single charity for the purposes of section 506A and 506B and this section; and for this purpose "connected" means connected in a matter relating to the structure, administration or control of a charity.

(6) Where remuneration is paid otherwise than in money, section 506A(5) shall apply as to a payment in money of the amount that would, under Part 3 of ITEPA 2003, be the cash equivalent of the remuneration as a benefit.

(7) In sections 506A and 506B and this section—

(a) a reference to a substantial donor or other person includes a reference to a person connected with him within the meaning of section 839,

(b) "financial assistance" includes, in particular—

(i) the provision of a loan, guarantee or indemnity, and

(ii) entering into alternative finance arrangements within the meaning of section 46 of the Finance Act 2005, and

(c) a reference to a gift of a specified amount includes a reference to a non-monetary gift of that value.

(8) On an appeal against an assessment the Special Commissioners may review a decision of the Commissioners in connection with section 506A.

(9) The Treasury may by regulations vary a sum, or a period of time, specified in section 506A(2).**]**

Textual Amendments

F188 Ss. 506A-506C inserted (with effect in accordance with s. 54(2)(3) of the amending Act) by Finance Act 2006 (c. 25), **s. 54(1)**

507 The National Heritage Memorial Fund, the Historic Buildings and Monuments Commission for England and the British Museum.

(1) [M238]There shall on a claim in that behalf to the Board be allowed in the case of—

(a) the Trustees of the National Heritage Memorial Fund;

(b) the Historic Buildings and Monuments Commission for England;

[[F189](c) the Trustees of the British Museum;

(d) the Trustees of the British Museum (National History);**]**

such exemption from tax as falls to be allowed under section 505 in the case of a charity the whole income of which is applied to charitable purposes.

(2) [M239]*The Trustees of the British Museum and the Trustees of the British Museum* (*Natural History*)*shall each be entitled, on a claim in that behalf to the Board, to the following exemptions—*

(a) *exemption from tax under Schedules A and D in respect of any land, or interest in or right over land, vested in them; and*

(b) *the like exemptions in respect of any dividends of stock vested in them, or in any other person for their use, and in respect of distributions charged under Schedule F, as are granted to charities under section* 505 [F190].

Textual Amendments

F189 1989 s.60(1)*in relation to accounting periods ending on or after* 14*March* 1989.

F190 *Repealed by* 1989 ss.60(1)*and* 187*and* Sch.17 Part IV*in relation to accounting periods ending on or after* 14*March* 1989.

Modifications etc. (not altering text)

C85 *See*1989 s.59*—these bodies treated as established for charitable purposes for purposes of* s.59 (*covenanted subscriptions*).1990 s.25*—donations to charity by individuals.*

Marginal Citations

M238 Source—1980 s.118(1); 1983 s.46(1)

M239 Source—1970 s.363(a), (b)

508 Scientific research organisations.

(1) [M240]Where—

(a) an Association which has as its object the undertaking of scientific research which may lead to or facilitate an extension of any class or classes of trade is approved for the purposes of this section by the Secretary of State; and

(b) the memorandum of association or other similar instrument regulating the functions of the Association precludes the direct or indirect payment or transfer to any of its members of any of its income or property by way of dividend, gift, division, bonus or otherwise howsoever by way of profit;

there shall, on a claim in that behalf to the Board, be allowed in the case of the Association such exemption from tax as falls to be allowed under section 505 in the case of a charity the whole income of which is applied to charitable purposes.

(2) The condition specified in paragraph (b) of subsection (1) above shall not be deemed not to be complied with in the case of any Association by reason only that the memorandum or other similar instrument regulating its functions does not prevent the payment to its members of reasonable remuneration for goods, labour or power supplied, or for services rendered, of reasonable interest for money lent, or of reasonable rent for any premises.

(3) In this section "scientific research" means any activities in the fields of natural or applied science for the extension of knowledge.

Marginal Citations

M240 Source—1970 s.362

VALID FROM 29/04/1996

[F191 508A Investment trusts investing in housing.

(1) Where any company that is an investment trust has eligible rental income for any accounting period—

(a) the rate of corporation tax chargeable for any financial year on the trust's housing investment profits for that period shall be deemed to be the small companies' rate for that year; and

(b) its housing investment profits for that period shall be treated for the purposes of section 13 as excluded from its basic profits for that period.

(2) For the purposes of this section—

(a) a company's eligible rental income for any period is so much of its income for that period as consists in rents or other receipts deriving from lettings by the company of eligible properties; and

(b) its housing investment profits for any period are so much of its profits for that period as represents the amount chargeable to tax under Schedule A in respect of its eligible rental income for that period.

(3) In computing the amount mentioned in subsection (2)(b) above for any period, deductions shall be made which (except in so far as they exceed the amount from which they are deducted) are, in aggregate, not less than the sum of the following amounts—

(a) every amount which is both—

(i) deductible (otherwise than as a debit brought into account under Chapter II of Part IV of the Finance Act 1996) in the computation of any income of the company, or of its total profits, for that period, and

(ii) referable to, or to activities connected with, the letting by the company on assured tenancies of dwelling-houses that are eligible properties when so let,

and

(b) any amount that is so referable that would represent a non-trading deficit on the company's loan relationships for that period.

(4) For the purposes of subsection (3) above any question—

(a) whether for any period there is an amount referable to any matter that would represent a non-trading deficit on a company's loan relationships, or

(b) as to what that amount is for that period,

shall be determined by computing whether and to what extent there would for that period have been a non-trading deficit on the company's loan relationships if debits and credits fell to be brought into account under Chapter II of Part IV of the Finance Act 1996 to the extent only that they are referable to that matter.**]**

Textual Amendments

F191 Ss. 508A, 508B inserted (with effect in accordance with Sch. 30 para. 3 of the amending Act) by Finance Act 1996 (c. 8), **Sch. 30 para. 1**

VALID FROM 29/04/1996

[F191 508B Interpretation of section 508A.

(1) In section 508A "eligible property", in relation to a company, means (subject to the following provisions of this section) any dwelling-house as respects which the following conditions are satisfied—

(a) the company first acquired an interest in the dwelling-house on or after 1st April 1996;

(b) that interest was not, at the time when it was acquired, subject to any letting or to any statutory tenancy;

(c) at that time no arrangements had been made by the company or any person connected with it for the letting of the dwelling-house;

(d) the interest of the company in the dwelling-house is a freehold interest or an interest under a long lease at a low rent;

(e) the consideration given by the company for the acquisition of its interest in the dwelling-house did not exceed—

(i) £125,000, in the case of a dwelling-house in Greater London, or

(ii) £85,000, in any other case;

(f) the dwelling-house is let by the company under an assured tenancy and is neither—

(i) let by the company in consideration of a premium within the meaning of Schedule 8 to the 1992 Act, nor

(ii) a dwelling-house in respect of which the person to whom it is let or any associate of his has been granted any option to purchase.

(2) For the purposes of paragraph (b) of subsection (1) above, no account shall be taken of any shorthold tenancy or statutory shorthold tenancy to which the interest became subject before the time when it was acquired.

(3) For the purposes of paragraph (c) of subsection (1) above, no account shall be taken of any arrangements made by a person connected with the company in question before the time when the interest was acquired by the company if—

(a) that person had an interest in the dwelling-house when he made those arrangements;

(b) that person did not dispose of his interest at any time after the arrangements were entered into and before the company acquired its interest; and

(c) the arrangements were such as to confer a relevant entitlement on a person who, at the time when the company acquired its interest, was a tenant under any shorthold tenancy of the dwelling-house (or any part of it).

(4) For the purposes of subsection (3)(c) above a relevant entitlement is an entitlement of a tenant under a shorthold tenancy of any premises, on the coming to an end of

that tenancy, to such a further tenancy of the same or substantially the same premises as will itself be a shorthold tenancy.

(5) For the purposes of this section the consideration given by a company for the acquisition of an interest in a dwelling-house shall be taken (subject to subsection (6) below) to include—

(a) any amount expended by the company on the construction or renovation of the dwelling-house or on any conversion by virtue of which that dwelling-house came to be usable as such;

(b) any amount so expended by a person connected with the company; and

(c) any consideration given by a person connected with the company for the acquisition of any such interest in the dwelling-house as—

(i) is subsequently acquired by the company, or

(ii) is held by such a person at the same time as the company holds its interest in the premises.

(6) Where a company has acquired any interest in a dwelling house from a person connected with that company—

(a) amounts expended by that person as mentioned in paragraph (a) of subsection (5) above, and

(b) the amount of any consideration given by that person for an interest in the dwelling-house,

shall be treated by virtue of that subsection as included in the consideration given by the company to the extent only that the aggregate of those amounts exceeds the consideration given by that company to that person for the interest acquired from that person by the company.

(7) In section 508A and this section—

"associate" has the meaning given by subsections (3) and (4) of section 417;

"assured tenancy" means—

(a) any letting which is an assured tenancy for the purposes of the [M241]Housing Act 1988 or the [M242]Housing (Scotland) Act 1988, or

(b) any tenancy in Northern Ireland which complies with such requirements or conditions as may be prescribed by regulations made by the Department of the Environment for Northern Ireland;

"letting" includes a letting by virtue of an agreement for a lease or under a licence, and "let" shall be construed accordingly;

"long lease", in relation to the interest of a company in any dwelling-house, means a lease for a term of years certain of which at least 21 years remains unexpired at the time when that interest was acquired by the company;

"low rent" means a rent at an annual rate not exceeding—

(a) £1,000, in the case of a dwelling-house in Greater London; and

(b) £250, in any other case;

"rent" has the same meaning as it has for the purposes of Schedule A in its application to companies within the charge to corporation tax;

"shorthold tenancy" means any letting which is an assured shorthold tenancy for the purposes of the [M243]Housing Act 1988 or a short assured tenancy for the purposes of the [M244]Housing (Scotland) Act 1988;

"statutory shorthold tenancy" means—

(a) a statutory periodic tenancy within the meaning of the Housing Act 1988 which arose on the coming to an end of an assured shorthold tenancy which was a fixed term tenancy, or

(b) a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988 which arose on the coming to an end of a short assured tenancy;

"statutory tenancy"—

(a) in relation to England and Wales, has the same meaning as in the [M245]Rent Act 1977;

(b) in relation to Scotland, has the same meaning as in the [M246]Rent (Scotland) Act 1984; and

(c) in relation to Northern Ireland, has the same meaning as in the [M247]Rent (Northern Ireland) Order 1978.

(8) Section 839 shall apply for the purposes of this section.

(9) Section 508A shall have effect where—

(a) a company acquires an interest in any dwelling-house, and

(b) a person connected with the company has previously acquired an interest in the dwelling-house, being an interest subsequently acquired by the company or one held by that person at the same time as the company holds its interest,

as if references in this section (except in subsection (3) above) to the time when the company first acquired an interest in the premises included references to the time when the person connected with the company first acquired his interest.

(10) The Treasury may, if they think fit, by order vary the figures for the time being specified in paragraph (e) of subsection (1) above; and an order under this subsection may make different provision for different localities in Greater London or elsewhere.

(11) In the application of this section to Scotland—

(a) references to acquiring an interest shall be construed, if there is a contract to acquire the interest, as references to entering into that contract;

(b) references to the freehold interest shall be construed as references to the estate or interest of the proprietor of the*dominium utile* or, in the case of property other than feudal property, of the owner;

(c) in the definition of "long lease" in subsection (7) above, the word "certain" shall be omitted.

(12) Regulations made for the purposes of paragraph (b) of the definition of "assured tenancy" in subsection (7) above shall be made by statutory rule for the purposes of the [M248]Statutory Rules (Northern Ireland) Order 1979, and shall be subject to negative resolution within the meaning of section 41(6) of the [M249]Interpretation Act (Northern Ireland) 1954.**]**

Textual Amendments

F191 Ss. 508A, 508B inserted (with effect in accordance with Sch. 30 para. 3 of the amending Act) by Finance Act 1996 (c. 8), **Sch. 30 para. 1**

Marginal Citations

M241 1988 c. 50.
M242 1988 c. 43.
M243 1988 c. 50.
M244 1988 c. 43.
M245 1977 c. 42.
M246 1984 c. 58.
M247 S.I. 1978/1050 (N.I. 20).
M248 S.I. 1979/1573 (N.I. 12).
M249 1954 c. 33 (N.I.).

509 Reserves of marketing boards and certain other statutory bodies.

(1) [M250]Where a body established by or under any enactment and having as its object, or one of its objects, the marketing of an agricultural product or the stabilising of the price of an agricultural product is required, by or under any scheme or arrangements approved by or made with a Minister of the Crown or government department, to pay the whole or part of any surplus derived from its trading operations or other trade receipts into a reserve fund satisfying the conditions specified in subsection (2) below, then, in computing for the purposes of tax the profits or gains or losses of the body's trade—

(a) there shall be allowed as deductions any sums so required to be paid by the body into the reserve fund out of the profits or gains of the trade, and

(b) there shall be taken into account as trading receipts any sums withdrawn by the body from the fund, except so far as they are so required to be paid to a Minister or government department, or are distributed to producers of the product in question or refunded to persons paying any levy or duty.

(2) The conditions to be satisfied by the reserve fund are as follows—

(a) that no sum may be withdrawn from the fund without the authority or consent of a Minister of the Crown or government department; and

(b) that where money has been paid to the body by a Minister of the Crown or government department in connection with arrangements for maintaining guaranteed prices, or in connection with the body's trading operations, and is repayable to that Minister or department, sums afterwards standing to the credit of the fund are required as mentioned in subsection (1) above to be applied in whole or in part in repaying the money; and

(c) that the fund is reviewed by a Minister of the Crown at intervals fixed by or under the scheme or arrangements in question, and any amount by which it appears to the Minister to exceed the reasonable requirements of the body is withdrawn therefrom.

(3) In this section references to a Minister of the Crown or government department include references to a Head of a Department or a Department in Northern Ireland, and references to producers of a product include references to producers of one type or quality of a product from another.

Modifications etc. (not altering text)

C86 S. 509(1) extended (with modifications) (27.7.1993) by 1993 c. 37, s. 12, **Sch. 2 Pt. I para. 23**

Marginal Citations
M250 Source—1970 s.348; 1971 s.28(1)

510 Agricultural societies.

(1) [M251]Profits or gains arising to an agricultural society from any exhibition or show held for the purposes of the society shall be exempt from tax if applied solely to the purposes of the society.

(2) In this section "agricultural society" means any society or institution established for the purpose of promoting the interests of agriculture, horticulture, livestock breeding or forestry.

Marginal Citations
M251 Source—1970 s.361

[F192 510A European economic interest groupings.

(1) [M252]In this section "grouping" means a European Economic Interest Grouping formed in pursuance of Council Regulation (EEC) No. 2137/85 of 25th July 1985, whether registered in Great Britain, in Northern Ireland, or elsewhere.

(2) Subject to the following provisions of this section, for the purposes of charging tax in respect of income and gains a grouping shall be regarded as acting as the agent of its members.

(3) In accordance with subsection (2) above—

(a) for the purposes mentioned in that subsection the activities of the grouping shall be regarded as those of its members acting jointly and each member shall be regarded as having a share of its property, rights and liabilities; and

(b) for the purposes of charging tax in respect of gains a person shall be regarded as acquiring or disposing of a share of the assets of the grouping not only where there is an acquisition or disposal of assets by the grouping while he is a member of it, but also where he becomes or ceases to be a member of a grouping or there is a change in his share of the property of the grouping.

(4) Subject to subsection (5) below, for the purposes of this section a member's share of any property, rights or liabilities of a grouping shall be determined in accordance with the contract under which the grouping is established.

(5) Where the contract does not make provision as to the shares of members in the property, rights or liabilities in question a member's share shall be determined by reference to the share of the profits of the grouping to which he is entitled under the contract (and if the contract makes no provision as to that, the members shall be regarded as having equal shares).

(6) Subject to subsection (7) below, where any trade or profession is carried on by a grouping it shall be regarded for the purposes of charging tax in respect of income and gains as carried on in partnership by the members of the grouping.

(7) Sections 111 and 114(4) shall not apply to the members of a grouping and section 112 shall have effect in relation to the members of a grouping as if the second reference

in subsection (2) to the firm were a reference to the members and subsection (3) were omitted.

(8) Notwithstanding subsection (7) above, where a trade or profession is carried on by a grouping, the amount of which the members are chargeable to income tax in respect of it shall be computed (but not assessed) jointly.**]**

Textual Amendments

F192 S. 510A inserted (retrospective to 1.7.1989) by Finance Act 1990 (c. 29), Sch. 11 paras. 1, **5**

Marginal Citations

M252 Source—O.J. No. L199/1.

511 The Electricity Council and Boards, the Northern Ireland Electricity Service and the Gas Council.

(1) **M253**For the purposes of the Corporation Tax Acts, the Electricity Council shall be treated as carrying on a trade, and those Acts shall have effect as if the trade carried on by the Central Electricity Authority at any time before 1st January 1958 had been the trade of the Electricity Council.

(2) For the purposes of the Corporation Tax Acts—

(a) any trade carried on by a Board shall be treated as if it were part of the trade carried on by the Electricity Council;

(b) subject to paragraph (c) below, any property, rights or liabilities of a Board shall be treated as property, rights or liabilities of the Electricity Council, and anything done by or to a Board shall be deemed to have been done by or to the Electricity Council;

(c) any rights, liabilities or things done —

(i) of, by or to the Electricity Council against, to or by a Board, or

(ii) of, by or to a Board against, to or by the Electricity Council or any other Board,

shall be left out of account;

and corporation tax shall be charged accordingly.

(3) For the purposes of the operation of the Corporation Tax Acts in accordance with subsections (1) and (2) above, the Electricity Council shall be deemed to have been in existence as from 1st April 1948, and anything done by, to or in relation to the Central Electricity Authority shall be treated as if it had been done by, to or in relation to the Electricity Council.

(4) **M254**The Corporation Tax Acts shall have effect as if the trade carried on at any time before 1st April 1973 by any predecessor of the Northern Ireland Electricity Service had been carried on by the Service; and for that purpose the Service shall be deemed to have been in existence as from the time when the predecessor began to carry on its trade and anything done by, to or in relation to the predecessor shall be treated as if it had been done by, to or in relation to the Service.

(5) In subsection (4) above references to a predecessor of the Northern Ireland Electricity Service are references to any body whose functions were transferred to the Service on

the 1st April 1973, and references to the trade of a predecessor are references to its activities in the discharge of the functions that were so transferred.

(6) [M255]In subsections (1) and (2) above "Board" means—

(a) any Area Board established by or under the provisions of the [M256]Electricity Act 1947; and

(b) in relation to any time on or after 1st January 1958, the Central Electricity Generating Board.

(7) [M257]The Corporation Tax Acts shall apply in relation to the trade of the Gas Council as if before the beginning of April 1962 it had consisted of the trades of the Area Boards (within the meaning of the [M258]Gas Act 1948), and (without prejudice to the generality of the foregoing) allowances and balancing charges shall be made to or on the Gas Council accordingly by reference to the capital expenditure of Area Boards and to the allowances made to Area Boards in respect of that expenditure.

Modifications etc. (not altering text)

C87 *See* ss.89*and* 90*and* Sch.11 Electricity Act 1989*in connection with electricity industry privatisation; and see* s.112*and* Sch.18 Electricity Act 1989*for changes to* s.511*from a day to be appointed.*

Marginal Citations

M253 Source—1970 s.349(1)-(3)
M254 Source—1981 s.50(3), (4)
M255 Source—1970 s.349(4)
M256 1947 c. 54.
M257 Source—1970 s.350(3)
M258 1948 c. 67.

512 Atomic Energy Authority and National Radiological Protection Board.

(1) [M259]The United Kingdom Atomic Energy Authority and the National Radiological Protection Board shall be entitled to exemption from income tax and corporation tax—

(a) under Schedules A,*B*[F193] and C;

(b) under Schedule D in respect of any yearly interest or other annual payment received by the Authority or Board;

(c) under Schedule F in respect of distributions received by the Authority or Board.

(2) Income arising from investments or deposits held for the purposes of any pension scheme provided and maintained by the Authority shall be treated for the purposes of this section as if that income and the source thereof belonged to the Authority.

Textual Amendments

F193 *Repealed by* 1988(F) s.148*and* Sch.14 Part V*from* 6*April* 1988.

Marginal Citations

M259 Source—1970 s.351

513 British Airways Board and National Freight Corporation.

(1) [M260]Subject to subsection (2) below, the successor company in which the property, rights, liabilities and obligations of the British Airways Board are vested by the [M261]Civil Aviation Act 1980 shall be treated for all purposes of corporation tax as if it were the same person as the British Airways Board; and the successor company to which the undertaking of the National Freight Corporation is transferred by the [M262]Transport Act 1980 shall be treated for those purposes as if it were the same person as the National Freight Corporation.

(2) [M263]The transfer by the Civil Aviation Act 1980 from the British Airways Board to the successor company of liability for any loan made to the Board shall not affect any direction in respect of the loan which has been given by the Treasury under section 581.

(3) A successor company shall not by virtue of subsection (1) above be regarded as a body falling within section 272(5) of the 1970 Act.

Marginal Citations
M260 Source—1973 s.36(1)
M261 1980 c.60.
M262 1980 c.34.
M263 Source—1980 s.119(1)-(3)

514 Funds for reducing the National Debt.

[M264]Where any property is held upon trust in accordance with directions which are valid and effective under section 9 of the Superannuation and other [M265]Trust Funds (Validation) Act 1927 (which provides for the validation of trust funds for the reduction of the national debt), any income arising from that property or from any accumulation of any such income, and any profits of any description otherwise accruing to the property and liable to be accumulated under the trust, shall be exempt from income tax.

Marginal Citations
M264 Source—1970 s.364
M265 1927 c. 41.

515 Signatories to Operating Agreement for INMARSAT.

(1) [M266]An overseas signatory to the Operating Agreement made pursuant to the Convention on the International Maritime Satellite Organisation which came into force on 16th July 1979 shall be exempt from income tax and corporation tax in respect of any payment received by that signatory from the Organisation in accordance with that Agreement.

(2) In this section "an overseas signatory" means a signatory other than one designated for the purposes of the Agreement by the United Kingdom in accordance with the Convention.

Marginal Citations
M266 Source—1980 s.63

516 Government securities held by non-resident central banks.

(1) [M267]Tax shall not be chargeable on dividends (within the meaning of Schedule C) paid out of the public revenue of the United Kingdom where they are income of any bank or issue department of a bank to which this subsection for the time being applies.

(2) Subsection (1) above shall not prevent any such dividends being taken into account in computing profits or gains or losses of a business carried on in the United Kingdom.

(3) A bank or issue department of a bank to which this subsection for the time being applies shall be exempt from tax in respect of chargeable gains accruing to it.

(4) Her Majesty may by Order in Council direct that subsection (1) or (3), or both, shall apply to any bank, or to its issue department, if it appears to Her Majesty that the bank is not resident in the United Kingdom and is entrusted by the government of a territory outside the United Kingdom with the custody of the principal foreign exchange reserves of that territory.

(5) No recommendation shall be made to Her Majesty in Council to make an order under this section unless a draft of the order has been laid before the House of Commons and has been approved by resolution of that House.

Modifications etc. (not altering text)
C88 *For Orders in Council see* Part III Vol.5.

Marginal Citations
M267 Source—1970 s.370

517 Issue departments of the Reserve Bank of India and the State Bank of Pakistan.

[M268]There shall be exempt from tax any profits or income arising or accruing to the issue department of the Reserve Bank of India constituted under an Act of the Indian legislature called the Reserve Bank of India Act 1934, or to the issue department of the State Bank of Pakistan constituted under certain orders made under section 9 of the [M269]Indian Independence Act 1947.

Marginal Citations
M268 Source—1970 s.371
M269 1947 c. 30.

518 Harbour reorganisation schemes.

(1) [M270]This section has effect where the trade of any body corporate other than a limited liability company is transferred to a harbour authority by or under a certified harbour reorganisation scheme which provides also for the dissolution of the transferor.

(2) For the purposes of the Corporation Tax Acts, the trade shall not be treated as permanently discontinued, nor shall a new trade be treated as set up and commenced.

(3) The transferee shall be entitled to relief from corporation tax under section 393(1), as for a loss sustained by it in carrying on the transferred trade or any trade of which it comes to form part, for any amount which, if the transferor had continued to carry it on, would have been available to the transferor for carry-forward against chargeable profits of succeeding accounting periods, but subject to any claim made by the transferor under section 393(2).

(4) There shall be made to or on the transferee in accordance with the provisions of the Capital Allowances Acts all such allowances and charges as would, if the transferor had continued to carry on the trade, have fallen to be made to or on it under those Acts and the amount of any such allowance or charge shall be computed as if the transferee had been carrying on the trade since the transferor had begun to do so and as if everything done to or by the transferor had been done to or by the transferee.

(5) No sale or transfer which on the transfer of the trade is made by the transferor to the transferee of any assets in use for the purposes of the trade shall be treated as giving rise to any such allowance or charge as is mentioned in subsection (4) above.

(6) The transferor shall not be entitled to relief under section 394 in respect of the trade.

(7) The transferee shall be entitled to relief from corporation tax in respect of chargeable gains for any amount for which the transferor would have been entitled to claim relief in respect of allowable losses if it had continued to carry on the trade.

(8) **M271**Where part only of such trade is transferred to a harbour authority by or under a certified harbour organisation scheme, and the transferor continues to carry on the remainder of the trade, or any such trade is, by or under a certified harbour reorganisation scheme which provides also for the dissolution of the transferor, transferred in parts to two or more harbour authorities, this section shall apply as if the transferred part, or each of the transferred parts, had at all times been a separate trade.

(9) Where a part of any trade is to be treated by virtue of subsection (8) above as having been a separate trade over any period there shall be made any necessary adjustments of accounting periods, and such apportionments as may be just of receipts, expenses, allowances or charges.

Subsection (10) of section 343 shall apply to any apportionment under this subsection as it applies to an apportionment under subsection (9) of that section.

(10) **M272**In this section—

"harbour authority" has the same meaning as in the **M273**Harbours Act 1964;

"harbour reorganisation scheme" means any statutory provision providing for the management by a harbour authority of any harbour or group of harbours in the United Kingdom, and "certified", in relation to any harbour reorganisation scheme, means certified by a Minister of the Crown or government department as so providing with a view to securing, in the public interest, the efficient and economical development of the harbour or harbours in question;

"limited liability company" means a company having a limit on the liability of its members;

"statutory provision" means any enactment, or any scheme, order or other instrument having effect under an enactment, and includes an enactment confirming a provisional order; and

"transferor", in relation to a trade, means the body from whom the trade is transferred, whether or not the transfer is effected by that body.

Marginal Citations

M270 Source—1970 s.352(1)-(6); 1971 Sch.8 16; 1986 s.56(7)(a), Sch.13 2(5)(a)
M271 Source—1970 s.352(8), (9)
M272 Source—1970 s.352(11)
M273 1964 c. 40.

519 Local authorities.

(1) [M274]A local authority in the United Kingdom—

(a) shall be exempt from all charge to income tax in respect of its income;

(b) shall be exempt from corporation tax;

and so far as the exemption from income tax conferred by this subsection calls for repayment of tax, effect shall be given thereto by means of a claim.

(2) Subsection (1) above shall apply to a local authority association as it applies to a local authority.

(3) In this Act "local authority association" means any incorporated or unincorporated association—

(a) of which all the constituent members are local authorities, groups of local authorities or local authority associations, and

(b) which has for its object or primary object the protection and furtherance of the interests in general of local authorities or any description of local authorities;

and for this purpose, if a member of an association is a representative of or appointed by any authority, group of authorities or association, that authority, group or association (and not he) shall be treated as a constituent member of the association.

[F194](4) . . . . . .

Textual Amendments

F194 Subs.(4)*repealed by* 1990 s.127*and* Sch.18 para.5(2)*and* 132*and* Sch.19 Part IV*on and after* 1*April* 1990.

Modifications etc. (not altering text)

C89 S. 519 extended (12.1.2000) by Greater London Authority Act 1999 (c. 29), **ss. 419(1)(2)(a)**, 425(2) (with s. 157(4)); S.I. 1999/3434, **art. 2**

C90 Definition applied for purposes of—1979(C) s.149B(3)—*miscellaneous exemptions.*1988 s.832(1) —*interpretation of Tax Acts.*

Marginal Citations

M274 Source—1970 s.353(1), (4)

[F195 519A Health service bodies.

(1) A health service body—

(a) shall be exempt from income tax in respect of its income, and

(b) shall be exempt from corporation tax,

and, so far as the exemption from income tax conferred by this subsection calls for repayment of tax, effect shall be given thereto by means of a claim.

(2) In this section "health service body" means—

(a) a health authority, within the meaning of the National Health Service Act 1977;

(b) a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990;

(c) a Family Health Services Authority;

(d) a Health Board or Special Health Board, the Common Services Agency for the Scottish Health Service and a National Health Service trust respectively constituted under sections 2, 10 and 12A of the National Health Service (Scotland) Act 1978;

(e) a State Hospital Management Committee constituted under section 91 of the Mental Health (Scotland) Act 1984;

(f) the Dental Practice Board;

(g) the Scottish Dental Practice Board; and

(h) the Public Health Laboratory Service Board.**]**

Textual Amendments

F195 Ss.61(1)*and* 67(2) National Health Service and Community Care Act 1990*on and after* 17*September* 1990*by virtue of* S.I. 1990 No.1329 (C.37) (*not reproduced*);*and see* 1979(C) s.149B(3A)(b) —*application of definition of* "health service body" *to* s.149B(3)—miscellaneous exemptions.

Status:
Point in time view as at 01/02/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:
Income and Corporation Taxes Act 1988, PART XII is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.