



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.

[^{F1M1}(1) This section has effect for the interpretation of the life assurance provisions of the Corporation Tax Acts.]

(2) ^{M2}Unless the context otherwise requires—

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[^{F4F5}

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[^{F7}“basic life assurance and general annuity business” has the meaning given by section 431F;]

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[^{F8}“brought into account” has the meaning given by section 83A of the Finance Act 1989;]

[^{F9}“child trust fund business” has the meaning given by section 431BA;]

“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;

[^{F10}“contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and “contract of long-term insurance” means any contract which falls within Part II of Schedule 1 to that Order;]

[^{F11}“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;]

[^{F12}“foreign currency assets”, in relation to an insurance company and any time during a period of account, means assets, other than assets linked to gross roll-up business, which—

- (a) are at that time managed under the control of a person whose normal place of work is at a permanent establishment outside the United Kingdom at or through which the company carries on gross roll-up business; or
- (b) are denominated in a foreign currency and specified in a certificate given by a director of the company no later than [^{F13}one year] after the end of the period of account as being all of the assets of the company's long-term insurance fund which are held at that time during the period of account to enable the company to meet liabilities of its gross roll-up business which are denominated in that currency;]

[^{F14}^{F15}.....]

[^{F16}“free assets amount”, in relation to an insurance company, means the excess of the value of the assets of the company's long-term business over the aggregate of—

- (a) the value of the liabilities of that business,
- (b) any money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) of the company not within paragraph (a) above which are owed in respect of that business, and
- (c) the amount of the shareholders' excess assets within the meaning given by section 432A(8)(b);]

[^{F17}“General Prudential Sourcebook” means the General Prudential Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000 ^{M3};]

[^{F18}“gross roll-up business” has the meaning given by section 431EA;]

[^{F19}“the I minus E basis” means the basis under which a company carrying on life assurance business is charged to tax on the relevant profits (within the meaning of section 88(3) of the Finance Act 1989) of that business otherwise than under Case I of Schedule D;]

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[^{F20}“immediate needs annuities business” means business which consists of the effecting or carrying out of immediate needs annuities (within the meaning of section 725 of ITTOIA 2005);]

[^{F21}“individual savings account business” has the meaning given by section 431BB;]

[^{F22}.....]

[^{F23}[^{F24}[^{F25}“insurance business transfer scheme” means—

- (a) a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 [^{F26}, 4 or 5] of subsection (3) of that section, or
- (b) a scheme which would fall within that section but for subsection (1)(b) of that section;]

“insurance company” means—

- (a) a person (other than a friendly society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act or a firm qualifying for authorisation under Schedule 4 to that Act which—
 - (i) carries on business which consists of the effecting or carrying out of contracts of insurance, and
 - (ii) carries on that business through a branch or agency in the United Kingdom,

[^{F27}but does not include an insurance special purpose vehicle;]]

[^{F28}“the Insurance Prudential Sourcebook” means the Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000;

“insurance special purpose vehicle” means any undertaking which assumes risks from insurance or reinsurance undertakings and which fully funds its exposure to such risks through the proceeds of a debt issue or some other financing mechanism where the repayment rights of the providers of such debt or other financing mechanism are subordinated to the reinsurance obligations of the undertaking;]

[^{F29}[^{F30}.....]

[^{F31}“internal linked fund”, in relation to an insurance company, means an account—

- (a) to which linked assets are appropriated by the company, and
- (b) which may be divided into units the value of which is determined by the company by reference to the value of those assets;]

[^{F32}[^{F33}.....]

[^{F34}[^{F35}.....]

[^{F36}“liabilities”, in relation to an insurance company, means—

- (a) the mathematical reserves of the company as determined in accordance with [^{F37}section 1.2 of the Insurance Prudential Sourcebook], and
- (b) liabilities of the company (whose value falls to be determined in accordance with [^{F38}section 1.3 of the General Prudential Sourcebook]) which arise from deposit back arrangements;

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and for this purpose “deposit back arrangements” has the same meaning as in that Sourcebook;]]

[^{F39}“life assurance business” means business which—

- (a) consists of the effecting or carrying out of contracts of insurance which fall within paragraph I, II, III or VII(b) of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, or
- (b) is capital redemption business,

other than immediate needs annuities business;]

[^{F40}“the life assurance provisions of the Corporation Tax Acts” means—

- (a) the provisions of this Chapter so far as relating to life assurance business, companies carrying on such business and friendly societies, 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 business that includes life assurance business;]

[^{F41}“life reinsurance business” has the meaning given by section 431C;

[^{F42}[^{F43}“linked assets”, and related expressions, shall be construed in accordance with section 432ZA;]

[^{F44}“long-term business” means business which consists of the effecting or carrying out of contracts of long-term insurance;]

“[^{F45}long-term insurance fund]” means the fund maintained by an insurance company in respect of its [^{F46}long-term] business ^{F47}. . . ;]

[^{F48}^{F49}]

[^{F50}“net value”, in relation to any assets, means the excess of the value of the assets over the value of money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) attributable to an internal linked fund which are not owed in respect of liabilities;]

[^{F51}“non-profit company”, in relation to a period of account, means a company carrying on long-term business where, at the end of the period—

- (a) none of the liabilities of that business, or
- (b) none but an insignificant proportion of those liabilities,

are with-profits liabilities;]

[^{F52}“non-profit fund” means a fund that is not a with-profits fund;]

^{F53}

[^{F54}^{F55}

^{F56}

[^{F57}“overseas life assurance business” has the meaning given by section 431D;

^{F58}]

“overseas life insurance company” means an insurance company [^{F59}not resident in] the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom; ^{F60}. . .

[^{F61}“pension business” has the meaning given by section 431B;

“periodical return”, in relation to an insurance company, means a return deposited with the [^{F62}Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers)].

[^{F63}“period of account” means the period covered by a periodical return;]

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[^{F64}“PHI business” means long-term business other than life assurance business (including the reinsurance of such long-term business);]

^{F65}

[^{F66}“the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000;]

[^{F67}[^{F68}“reinsurance” includes retrocession;]

[^{F69}“shareholders' excess assets” has the meaning given by section 432A(8)(b);]

[^{F70}[^{F71}]

[^{F72}[^{F73}“value”, in relation to an asset of an insurance company, means the value of the asset as determined in accordance with [^{F74}section 1.3 of the General Prudential Sourcebook, as read with section 2.1 of the Insurance Prudential Sourcebook;]

[^{F75}“with-profits fund” has the meaning given by the Prudential Sourcebook (Insurers);]

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

[^{F76}(2YA) Where an insurance company becomes an insurance special purpose vehicle otherwise than on the last day of a period of account, it shall be treated as an insurance special purpose vehicle from the beginning of that period.]

[^{F77}(2ZA) Subsections (2ZB) and (2ZC) below apply where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).

(2ZB) If the transfer takes place otherwise than on the last day of a period of account of the transferor, references to—

- (a) opening liabilities of the transferor,
- (b) opening values or net values of assets of the transferor, ^{F78}
- (c) the opening amount of the [^{F79}free assets amount] of the transferor, [^{F80} or
- (d) the opening amount of the [^{F81}shareholders'] excess assets of the transferor,]

for the period of account, so far as relating to the business transferred, are to the part of those liabilities, [^{F82}values or amounts] which bears to the whole the proportion A/C.

(2ZC) If the transfer takes place otherwise than on the first day of a period of account of the transferee, references to—

- (a) closing liabilities of the transferee,
- (b) closing values or net values of assets of the transferee, ^{F83}
- (c) the closing amount of the [^{F84}free assets amount] of the transferee, [^{F85} or
- (d) the closing amount of the [^{F86}shareholders'] excess assets of the [^{F87}transferee,]

for the period of account, so far as relating to the business transferred, are to the part of those liabilities, [^{F88}values or amounts] which bears to the whole the proportion B/C.

(2ZD) For the purposes of subsection (2ZC) above—

- (a) closing liabilities of the transferee are to be taken not to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferor with the transferee, but
- (b) closing liabilities of the transferee are to be taken to relate to the business transferred to the extent that they are liabilities which, immediately before the

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transfer, were reinsured by the transferee with the transferor if the business transferred consists of or includes that reinsurance business.

(2ZE) In subsections (2ZB) and (2ZC) above—

A is the number of days in the period beginning with the period of account and ending with the day of the transfer,

B is the number of days in the period beginning with the day of the transfer and ending with the period of account, and

C is one-half of the number of days in the period of account.]

^{F89}(2ZF) [In this Chapter “capital redemption business” means any business of a company carrying on insurance business in so far as it consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period.]

^{F90}(2ZG) [The Treasury may by order amend the definition of “insurance business transfer scheme” given by subsection (2) above where it is expedient to do so in consequence of any amendment of section 105 of the Financial Services and Markets Act 2000.

(2ZH) The power conferred by subsection (2ZG) above includes power to make incidental, supplementary, consequential or transitional provisions and savings (including provision amending any provision of the Corporation Tax Acts relating to insurance companies).]

^{F91}(2A) [^{F92}]
 (3) ^{F92}
 (4) ^{F92}
 (5) ^{F92}
 (6) ^{F92}]]]

Textual Amendments

- F1** S. 431(1) substituted (with effect in accordance with [Sch. 10 para. 17\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 11\(2\)](#)
- F2** S. 431(2): definition of "annuity business" repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(3\)\(a\)](#), [Sch. 27 Pt. 2\(7\)](#), Note (with Sch. 7 Pt. 2)
- F3** S. 431(2): definition of "general annuity business" and "pension business" repealed (with effect in accordance with Sch. 8 para. 57, Sch. 29 Pt. 8(5) Notes 2, 3 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#)
- F4** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F5** S. 431(2): definition of "basic life assurance business" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2
- F6** S. 431(2): definition of "basic life assurance and general annuity business" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2
- F7** S. 431(2): definition of "basic life assurance and general annuity business" inserted (with effect in accordance with [Sch. 8 para. 57](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 1](#)

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- F8** S. 431(2): definition of "brought into account" inserted (with effect in accordance with Sch. 33 para. 20(3) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 20(2)**
- F9** S. 431(2): definition of "child trust fund business" inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(2)** (with Sch. 7 Pt. 2)
- F10** S. 431(2): definition of "contract of insurance" inserted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(2)**
- F11** S. 431(2): definition of "fair value" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 10(1)**
- F12** S. 431(2): definition of "foreign currency assets" inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(2)** (with Sch. 7 Pt. 2)
- F13** S. 431(2): words in definition of "foreign currency assets" substituted (with effect in accordance with Sch. 17 para. 11(2) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 11(1)**
- F14** S. 431(2): definition of "foreign income dividends" inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 4**
- F15** S. 431(2): definition of "foreign income dividends" repealed (with effect in accordance with Sch. 6 para. 5(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 5(1), **Sch. 8 Pt. 2(11)**, Note
- F16** S. 431(2): definition of "free assets amount" inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(2)(a)**
- F17** S. 431(2): definition of "General Prudential Sourcebook" inserted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 (S.I. 2006/3270), **arts. 1(1), 4(2)(a)**
- F18** S. 431(2): definition of "gross roll-up business" inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(2)** (with Sch. 7 Pt. 2)
- F19** S. 431(2): definition of "the I minus E basis" inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 3** (with Sch. 8 Pt. 2)
- F20** S. 431(2): definition of "immediate needs annuities business" inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(2)** (with Sch. 7 Pt. 2)
- F21** S. 431(2): definition of "individual savings account business" inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(2)** (with Sch. 7 Pt. 2)
- F22** S. 431(2): definition of "industrial assurance business" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(26)**
- F23** S. 431(2): definition of "insurance company" substituted (with effect in accordance with s. 52(5) of the amending Act) by Finance Act 1995 (c. 4), **s. 52(1)**
- F24** S. 431(2): definitions of "insurance business transfer scheme" and "insurance company" substituted for definition of "insurance company" (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(3)**
- F25** S. 431(2): definition of "insurance business transfer scheme" substituted (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 1(1)**
- F26** S. 431(2): words in para. (a) of definition of "insurance business transfer scheme" substituted (19.2.2008 with effect in accordance with art. 1(3) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 4**
- F27** S. 431(2): words in definition of "insurance company" inserted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 (S.I. 2006/3270), **arts. 1(1), 4(2)(b)**
- F28** S. 431(2): definitions of "the Insurance Prudential Sourcebook" and "insurance special purpose vehicle" inserted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 (S.I. 2006/3270), **arts. 1(1), 4(2)(c)**

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- F29** S. 431(2): definition of "the Integrated Prudential Sourcebook" inserted (with effect in accordance with Sch. 9 para. 2(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 2(2)**
- F30** S. 431(2): definition of "the Integrated Prudential Sourcebook" omitted (31.12.2006 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of The Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 (S.I. 2006/3270), **arts. 1(1), 4(2)(d)**
- F31** S. 431(2): definition of "internal linked fund" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 9(1)**
- F32** S. 431(2): definition of "investment reserve" inserted (with effect in accordance with Sch. 33 para. 28 of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 25**
- F33** S. 431(2): definition of "investment reserve" omitted (6.1.2006 with effect in accordance with art. 1 of the repealing S.I.) by virtue of The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(2)(b)**
- F34** S. 431(2): definitions inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(2)**
- F35** S. 431(2): definition of "investment reserve" repealed (with effect in accordance with s. 109(10) of the repealing Act) by Finance Act 2000 (c. 17), s. 109(9)(a), **Sch. 40 Pt. 2(16)**, Note 1
- F36** S. 431(2): definition of "liabilities" substituted (with effect in accordance with Sch. 9 para. 2(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 2(3)**
- F37** S. 431(2): words in para. (a) of definition of "liabilities" substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 (S.I. 2006/3270), **arts. 1(1), 4(2)(e)(i)**
- F38** S. 431(2): words in para. (b) of definition of "liabilities" substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 (S.I. 2006/3270), **arts. 1(1), 4(2)(e)(ii)**
- F39** S. 431(2): definition of "life assurance business" substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(4)** (with Sch. 7 Pt. 2)
- F40** S. 431(2): definition of "the life assurance provisions of the Corporation Tax Acts" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 11(3)**
- F41** S. 431(2): definition of "life reinsurance business" inserted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 1**
- F42** S. 431(2): definitions inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(2)**
- F43** S. 431(2): definition of "linked assets" substituted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 11(1)**
- F44** S. 431(2): definition of "long-term business" substituted for definition of "long term business" (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(5)**
- F45** S. 431(2): words in definition of "long term business fund" substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(b)**
- F46** S. 431(2): word in definition of "long term business fund" substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(2)(a)**
- F47** S. 431(2): words in definition of "long term business fund" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(26)**
- F48** S. 431(2): definition of "long-term liabilities" inserted (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(6)**
- F49** S. 431(2): definition of "long-term liabilities" repealed (with effect in accordance with Sch. 9 para. 2(6) of the repealing Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 2(4), **Sch. 11 Pt. 2(10)**, Note 1
- F50** S. 431(2): definition of "net value" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 9(1)**

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- F51** S. 431(2): definition of "non-profit company" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 8(1)**
- F52** S. 431(2): definition of "non-profit fund" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 8(1)**
- F53** S. 431(2): definition of "offshore income gain" repealed (with effect in accordance with Sch. 8 para. 55 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 1
- F54** S. 431(2): definitions inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(2)**
- F55** S. 431(2): definition of "ordinary long term business" and "ordinary life assurance business" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(26)**
- F56** S. 431(2): definition of "overseas life assurance business" repealed (with effect in accordance with Sch. 8 para. 55 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 1
- F57** S. 431(2): definition of "overseas life assurance business" inserted (with effect in accordance with Sch. 8 para. 55 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 1**
- F58** S. 431(2): definition of "overseas life assurance fund" repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 6(3)(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F59** S. 431(2): words in the definition of "overseas life insurance company" substituted (27.7.1993 as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, s. **103(1)(3)(4)**
- F60** S. 431(2): word following the definition of "overseas life assurance company" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 2
- F61** S. 431(2): definition of "pension business" inserted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 1**
- F62** S. 431(2): words in definition of "periodical return" substituted (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(7)**
- F63** S. 431(2): definition of "period of account" inserted (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 33 para. 29**
- F64** S. 431(2): definition of "PHI business" inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(2)** (with Sch. 7 Pt. 2)
- F65** S. 431(2): definition of "policy holders' fraction" and "shareholders' fraction" inserted by Finance Act 1989 (c. 26), **Sch.8 para.1** and repealed (retrospectively) by Finance Act 1990 (c. 29), **Sch.19 Part IV**, Note 6
- F66** S. 431(2): definition of "the Prudential Sourcebook (Insurers)" inserted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(8)**
- F67** S. 431(2): definition of "reinsurance business" inserted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 1**
- F68** S. 431(2): definition of "reinsurance" substituted for definition of "reinsurance business" (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 6(5)** (with Sch. 7 Pt. 2)
- F69** S. 431(2): definition of "shareholders' excess assets" inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 3(2)(c)**
- F70** S. 431(2): definition of "UK distribution income" inserted (27.7.1993 with effect in relation to accounting periods beginning after 31.12.1992) by 1993 c. 34, s. **99(2)(3)**
- F71** S. 431(2): definition of "UK distribution income" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 2
- F72** S. 431(2): definitions inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(2)**
- F73** S. 431(2): definition of "value" substituted (with effect in accordance with Sch. 9 para. 2(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 2(5)**

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- F74** S. 431(2): words in definition of "value" substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), [arts. 1\(1\)](#), [4\(2\)\(f\)](#)
- F75** S. 431(2): definition of "with-profits fund" inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 8\(1\)](#)
- F76** S. 431(2YA) inserted (27.12.2007 with effect in accordance with art. 1(3) of the amending S.I.) by [The Insurance Companies \(Taxation of Reinsurance Business\) \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/3430\)](#), [arts. 1\(1\)](#), [2\(1\)](#)
- F77** S. 431(2ZA)-(2ZE) inserted (with effect in accordance with Sch. 33 para. 22(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 22\(1\)](#)
- F78** Word at the end of s. 431(2ZB)(b) omitted (6.1.2006 with effect in accordance with art. 1 of the repealing S.I.) by virtue of [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(3\)\(a\)](#)
- F79** Words in s. 431(2ZB)(c) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(3\)\(b\)](#)
- F80** S. 431(2ZB)(d) and preceding word inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(3\)\(c\)](#)
- F81** Word in s. 431(2ZB)(d) substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2006 \(S.I. 2006/1358\)](#), [art. 2](#)
- F82** Words in s. 431(2ZB) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(3\)\(d\)](#)
- F83** Word at the end of s. 431(2ZC)(b) omitted (6.1.2006 with effect in accordance with art. 1 of the repealing S.I.) by virtue of [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(4\)\(a\)](#)
- F84** Words in s. 431(2ZC)(c) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(4\)\(b\)](#)
- F85** S. 431(2ZC)(d) and preceding word inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(4\)\(c\)](#)
- F86** Word in s. 431(2ZC)(d) substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), [arts. 1\(1\)](#), [4\(3\)\(a\)](#)
- F87** Word in s. 431(2ZC)(d) substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Miscellaneous Amendments\) Order 2006 \(S.I. 2006/3270\)](#), [arts. 1\(1\)](#), [4\(3\)\(b\)](#)
- F88** Words in s. 431(2ZC) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2005 \(S.I. 2005/3465\)](#), [art. 3\(4\)\(d\)](#)
- F89** S. 431(2ZF) inserted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 6\(6\)](#) (with Sch. 7 Pt. 2)
- F90** S. 431(2ZG)(2ZH) inserted (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 1\(3\)](#)
- F91** S. 431(2A) inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(3\)](#)
- F92** S. 431(2A)-(6) repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2

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Modifications etc. (not altering text)

- C2** S. 431 modified (20.3.1997 with effect as mentioned in 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), 6** (as amended by: S.I. 2001/3629, **regs. 1, 156, 165(2)(b)**; S.I. 2003/23, **regs. 1, 4**; S.I. 2004/822, **regs. 1, 6**; S.I. 2005/2005, **regs. 1, 5**)
- C3** S. 431 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 6** (as amended by: S.I. 2007/2134, **regs. 1(1)(2), 6**; S.I. 2008/1937, **regs. 1(2)(3), 4**)
- C4** S. 431(2) modified (31.7.1992 with effect as mentioned in reg. 1 of the modifying S.I.) by S.I. 1992/1655, **regs. 1, 5** (as amended (31.12.1993) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1, 5, 6**; and as further amended (19.3.1997) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1997 (S.I. 1997/471), **regs. 1, 6**)
- C5** S. 431(2) modified (20.3.1997 with effect as mentioned in reg. 7(1) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 7**
- C6** S. 431(2) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 7**
- C7** S. 431(2) 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, 5**
- C8** S. 431(2) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 5**; S.I. 2004/3369, **art. 2(1)**

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** 2000 c. 8

VALID FROM 21/07/2008

[^{F93}431Z~~A~~ 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

- F93** 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)**

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[^{F94} ^{F95} 431A Amendment of Chapter etc

- (1) The Treasury may by order amend any [^{F96} of the life assurance provisions of the Corporation Tax Acts] where it is expedient to do so in consequence of the exercise of any power under the Financial Services and Markets Act 2000, in so far as that Act relates to insurance companies.
- (2) Where any exercise of a power under that Act has effect for a period ending on or before, or beginning before and ending after, the day on which an order containing an amendment in consequence of that exercise is made under subsection (1) above, the power conferred by that subsection includes power to provide for the amendment to have effect in relation to that period.
- (3) The Treasury may by order amend any of the following provisions—
 - (a) sections 432ZA, 432A, 432B to 432G and 755A ^{F97} . . . ;
 - (b) sections 83A, 85, 88 and 89 of the Finance Act 1989;
 - (c) section 210A of the Taxation of Chargeable Gains Act 1992.
- (4) An order under subsection (3) above may only be made so as to have effect in relation to periods of account—
 - (a) beginning on or after 1st January 2005, and
 - (b) ending before 1st October 2006.
- (5) ^{F98}
- (6) Any power conferred by this section to make an order includes power to make—
 - (a) different provision for different cases or different purposes, and
 - (b) incidental, supplemental, consequential or transitional provision and savings.
- (7) ^{F99}]]

Textual Amendments

F94 S. 431A inserted (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 2, **11(2)** (with Sch. 6 para. 12)

F95 S. 431A substituted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 3**

F96 Words in s. 431A(1) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 12(2)**

F97 Words in s. 431A(3)(a) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 7, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

F98 S. 431A(5) repealed (19.7.2006) by Finance Act 2006 (c. 25), Sch. 11 para. 1(2)(a), **Sch. 26 Pt. 3(14)**

F99 S. 431A(7) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 12(3), **Sch. 27 Pt. 2(10)**, Note

[^{F100} 431AA Relevant benefits for purposes of section 431(4)(d) and (e).

^{F101}]]

Textual Amendments

F100 S. 431AA inserted (with application in accordance with s. 143(5) of the amending Act) by Finance Act 1994 (c. 9), **s. 143(4)**

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F101 S. 431AA repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(5), Note 2

[^{F102}Classes of life assurance business]

Textual Amendments

F102 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

[^{F103}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 entered into for the purposes of a registered pension scheme or is the reinsurance of such business.
- (2) Where a pension scheme ceases to be a registered pension scheme by virtue of the withdrawal of registration of the pension scheme under section 157 of the Finance Act 2004, any of the company’s life assurance business that was pension business when the pension scheme was a registered pension scheme is to be treated as ceasing to be pension business at the beginning of the period of account of the company in which the pension scheme so ceases to be a registered pension scheme.
- (3) Where—
 - (a) immediately before 6th April 2006 an annuity contract falls within any of the descriptions of contracts specified in subsection (2) of this section as it had effect immediately before that date, but
 - (b) on or after that date the contract does not fall to be regarded for the purposes of this section as having been entered into for the purposes of a registered pension scheme,the contract is to be treated for the purposes of this section as having been entered into for such purposes.]

Textual Amendments

F103 S. 431B substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 35 para. 20 (as amended by Finance Act 2005 (c. 5), Sch. 9 para. 18(2)-(4)(7)) (with Sch. 36)

[^{F104}431B 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).]

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Textual Amendments

F104 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](#))

[^{F104}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

F104 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)

- C9** 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](#))
- C10** S. 431C(1) modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), [regs. 1, 5, 8](#)
- C11** 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”.

- [^{F105}(1) In this Chapter “overseas life assurance business” means so much of a company's relevant life assurance business as is with a policy holder or annuitant not residing in the United Kingdom (but not including the reinsurance of such business).
- (1A) In subsection (1) above “relevant life assurance business” means life assurance business other than—
 - (a) pension business
 - (b) individual savings account business,

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- (c) child trust fund business, and
- (d) business of any description prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.]
- [^{F106}(2) Regulations under subsection [^{F107}(1A)] above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.
- (3) The Board may by regulations—
- (a) make provision as to the circumstances in which a trustee who is a policy holder or annuitant residing in the United Kingdom is to be treated for the purposes of this section as not so residing; and
- (b) provide that nothing in Chapter II of Part XIII [^{F108}or Chapter 9 of Part 4 of ITTOIA 2005] shall apply to a policy or contract which constitutes overseas life assurance business by virtue of any such provision as is mentioned in paragraph (a) above.
- (4) Regulations under subsection [^{F107}(1A)] or (3) above may contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate [^{F109}(including provision amending any enactment or any instrument made under an enactment)].]

Textual Amendments

- F105** S. 431D(1)(1A) substituted for s. 431D(1) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 9(2) (with Sch. 7 Pt. 2)
- F106** S. 431D(2)-(4) substituted for s. 431D(2)-(8) (28.7.2000) by Finance Act 2000 (c. 17), s. 108(2) (with s. 108(3))
- F107** Words in s. 431D(2)(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 9(3) (with Sch. 7 Pt. 2)
- F108** Words in s. 431D(3)(b) 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. 176 (with Sch. 2)
- F109** Words in s. 431D(4) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 9(4) (with Sch. 7 Pt. 2)

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,

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- (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.

[^{F110}431E] **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

F110 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 [^{F111}other than gross roll-up business].

Textual Amendments

F111 Words in s. 431F substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 11](#) (with Sch. 7 Pt. 2)

Modifications etc. (not altering text)

- C12** S. 431F modified (6.4.1999) by [The Individual Savings Account \(Insurance Companies\) Regulations 1998 \(S.I. 1998/1871\)](#), [regs. 1, 5, 9](#)
- C13** 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\(1\)](#)

[^{F112}^{F113}Basis of taxation etc]]

Textual Amendments

F112 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\(2\)](#))

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F113 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)

[^{F114}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

F114 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)

C14 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)

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[^{F115} 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

F115 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)

C15 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)

[^{F119} 432A 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 [^{F120} (“the relevant amount”)] is shown in paragraph 4(12) of Appendix 9.4 to the periodical return for the company for [^{F121}a] period of account which ends on or after 31st December 2006 [^{F122} but before 1st January 2009 (a “relevant period of account”)].
 - [^{F123}(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—
 - (a) X shall be added to the closing long term business provision of the company for the relevant period of account; and
 - (b) XA shall be brought into account as a trading receipt of the company for each subsequent period of account until the total sum of the amounts so brought into account is equal to X (and if that total sum would otherwise exceed X, the excess shall be ignored).
- (2A) ^{F124}

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(2B) X is—

- (a) where the relevant period of account ends before 1st April 2007, the whole of the relevant amount;
- (b) where the relevant period of account ends on or after 1st April 2007 but before 1st January 2008, two-thirds of the relevant amount;
- (c) where the relevant period of account ends on or after 1st January 2008, one-third of the relevant amount.

(2C) XA is the amount found by applying the following formula—

$$\frac{Y}{12} \times Z$$

Here—

Y is the number of months of the period of account in question (part of a month being counted as a month); and

Z is—

- (a) where X is the whole of the relevant amount, one-third of X;
- (b) where X is two thirds of the relevant amount, one-half of X;
- (c) where X is one third of the relevant amount, the whole of X.]

(3) ^{F125}

(4) ^{F125}

(5) In this section—

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

^{F126}
^{F126}

[This section is subject to sections 82E and 82F of the Finance Act 1989 (treatment ^{F127}(6) of transferors and transferees under insurance business transfer schemes) and those sections shall apply in relation to this section as if any reference in them to a provision of section 82D of that Act (treatment of profits: life assurance – adjustment consequent on change in Insurance Prudential Sourcebook) were a reference to the corresponding provision of section 432YA.]]

Textual Amendments

F119 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**

F120 Words in s. 432YA(1) substituted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), **arts. 1(1), 3(2)(a)**

F121 Word in s. 432YA(1) substituted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), **arts. 1(1), 3(2)(b)**

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- F122** Words in s. 432YA(1) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), arts. 1(1), 3(2)(c)
- F123** S. 432YA(2)-(2C) substituted for s. 432YA(2) (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), arts. 1(1), 3(3)
- F124** S. 432YA(2A) omitted (19.2.2008 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), arts. 1(1), 5
- F125** S. 432YA(3)(4) omitted (17.4.2007 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), arts. 1(1), 3(4)
- F126** S. 432YA(5): definitions of "non-profit company" and "non-profit fund" repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 8(2)(a), Sch. 27 Pt. 2(10), Note
- F127** S. 432YA(6) added (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), arts. 1(1), 3(5)

[^{F128}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 [^{F129} and in a case where only part of an asset is so identified, references to a linked asset are references to that part.]
- (2) Linked assets shall be taken—
 - (a) to be linked to [^{F130}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 [^{F130}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 [^{F130}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 [^{F131}the proportion A/B where—

A is the total of the linked liabilities of the company which are liabilities of the internal linked fund in which the asset is held and are referable to that category of business;

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B is the total of the linked liabilities of the company which are liabilities of that fund.]

- (5) For the purposes of sections 432A to [F132 432E]—
- (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.

[F133 (6) In this section—

F134

“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 [F135 PHI] business shall be disregarded for the purposes of this section unless the benefits to be provided which constitute [F135 PHI] business are to be determined by reference to the value of assets.]

Textual Amendments

F128 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))

F129 Words in s. 432ZA(1) inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), art. 4(2)

F130 Words in s. 432ZA(2)(a)(b)(3)(7) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), art. 52(2)(b)

F131 Words in s. 432ZA(4)(b) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(1)

F132 Words in s. 432ZA(5) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 15(1)

F133 S. 432ZA(6) substituted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), s. 109(2)

F134 S. 432ZA(6): definition of “internal linked fund” repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 9(2)(a), Sch. 27 Pt. 2(10), Note

F135 Words in s. 432ZA(7) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 12 (with Sch. 7 Pt. 2)

[F136 432A Apportionment of income and gains.

[F137 (1) This section has effect [F138 for determining for the purposes of any provision of the Corporation Tax Acts in relation to any period for which an insurance company carries on business] what parts of—

- (a) income arising from the assets of the company’s [F139 long-term insurance fund], or

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(b) gains or losses accruing on the disposal of such assets,

are referable to any category of business.

[^{F140}(1A) If the company carries on only one category of business in the period, all of the income and gains or losses referred to in subsection (1) above [^{F141}is] referable to that category of business; but if the company carries on more than one category of business in the period, the following provisions shall apply.]

(2) The categories of business referred to in [^{F142}subsections (1) and (1A)] above are—

- [^{F143}(a) basic life assurance and general annuity business,
- (b) gross roll-up business, and
- (c) PHI business.]

(3) Income arising from, and gains or losses accruing on the disposal of, assets linked to any category of business [^{F144}is] referable to that category of business.]

(4) [^{F145}.....]

[Income arising from, and gains or losses accruing on the disposal of, foreign currency [^{F146}(4A) assets is referable to gross roll-up business.]

(5) There [^{F147}is] referable to any category of business [^{F148}... the relevant fraction of any income, gains or losses not directly referable to [^{F149}any category] of business.

[^{F150}(6) For the purposes of subsection (5) above “the relevant fraction”, in relation to basic life assurance and general annuity business, is—

$$\frac{A}{A + B + C}$$

where—

A is the aggregate of—

- (a) the mean of the opening and closing liabilities of the basic life assurance and general annuity business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category of business,
- (b) if there has been a relevant reattribution, the mean of the opening and closing amounts of the shareholders' excess assets, and
- (c) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts;

B is the aggregate of—

- (a) the mean of the opening and closing liabilities of the gross roll-up business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category of business, and
- (b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts; and

C is the aggregate of—

- (a) the mean of the opening and closing liabilities of the PHI business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below

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nil) by the mean of the opening and closing net values of any assets directly referable to that category of business, and

(b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts.

(6A) For the purposes of subsection (5) above “the relevant fraction”, in relation to gross roll-up business, is—

$$\frac{B}{A + B + C}$$

where A, B and C have the same meaning as in subsection (6) above.

(6B) For the purposes of subsection (5) above “the relevant fraction”, in relation to PHI business, is—

$$\frac{C}{A + B + C}$$

where A, B and C have the same meaning as in subsection (6) above.

(6C) But if the denominator found in accordance with subsection (6), (6A) or (6B) above is nil, the relevant fraction for the purposes of subsection (5) above in relation to the category of business in question is such fraction as is just and reasonable.]

[^{F151}(7) For the purposes of subsections [^{F152}(5), (6) [^{F153}, (6A) and (6B)]] above—

- (a) income, gains or losses are directly referable to a category of business if referable to that category by virtue of subsection (3) or [^{F154}(4A)] above, ^{F155} . . .
- (b) assets are directly referable to a category of business if income arising from the assets is, and gains or losses accruing on the disposal of the assets are, so referable by virtue of subsection (3) [^{F156}or (4A)] above, [^{F157} and
- (c) amounts are directly referable to basic life assurance and general annuity business if they fall within any of the following provisions—
 - (i) sections ^{F158} . . . ^{F159} . . . 442A,
 - (ii) section [^{F160}85(2C) or 85A] of the Finance Act 1989.]]

[^{F161}(8) In [^{F162}subsection (6)] above—

- (a) “appropriate part”, in relation to the free assets amount, means—
 - (i) where none (or none but an insignificant proportion) of the liabilities of the long-term business are with-profits liabilities, the part of that amount which bears to the whole the proportion A/B where—

A is the amount of the liabilities of the category of business in question [^{F163}(but taking that amount to be nil if it would otherwise be below nil)];

B is the whole amount of the liabilities of the long-term business; and
- (ii) in any other case the part of the free assets amount which bears to the whole the proportion C/D where—

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C is the amount of the with-profits liabilities of the category of business in question;

D is the whole amount of the with-profits liabilities of the long-term business; and

- (b) the amount of the shareholders' excess assets in relation to any period of account of the company is the amount equal to SXA — L27 where—
- (i) SXA is the aggregate amount of the assets shown in its non-participating funds which are attributed to its shareholders as a result of a relevant reattribution; and
 - (ii) L27 is the amount (if any) shown in line 27 of Form 19 in its periodical return for the relevant period of account.

[^{F164}This is subject to subsection (8ZA) below.]

[^{F165}(8ZA) If for the purposes of subsection (8)(a) above either B or D is nil then, in [^{F166}paragraph (c) of the definition of A and paragraph (b) of the definitions of B and C in subsection (6)] above, “appropriate part”, in relation to the free assets amount, means the part of that amount which bears to the whole such proportion as is just and reasonable.]

(8A) In this section—

“non-participating funds” means accounts which relate exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus;

“reattribution” in relation to an insurance company which has an inherited estate, means the attribution of assets to shareholders' interests as a result of—

- (a) an agreement between the company and the relevant regulator as to the amount of that estate and its attribution between shareholders and policy holders; or
- (b) a decision of the company to specify and identify an amount of assets (otherwise than in connection with a transfer to the company's long-term insurance fund) as attributable only to shareholders' interests;

a reattribution is “relevant” if it arises as a result of any of the following—

- (a) a transfer of business under—
 - (i) section 49 of, or Schedule 2C to, the Insurance Companies Act 1982;
 - (ii) an insurance business transfer scheme (within the meaning of section 431(2));
- (b) a scheme of arrangement under section 425 of the Companies Act 1985;
- (c) an order under section 68 of the Insurance Companies Act 1982;
- (d) a waiver under section 148 of the Financial Services and Markets Act 2000;
- (e) an amendment to the company's memorandum, articles of association or other instrument regulating the company.

(8B) In subsection (8A) above—

“inherited estate” has the same meaning as it has in the [^{F167}Insurance Prudential Sourcebook]; and

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“relevant regulator” means the Financial Services Authority, the Treasury or the Secretary of State.]

- (9) ^{F168}
- [^{F170}
- ^{F169}(9A)
- (9B) ^{F171}]
- ^{F172}(10)]

Textual Amendments

- F136** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F137** S. 432A(1)-(3) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 13(2)**
- F138** Words in s. 432A(1) substituted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(2)**
- F139** Words in s. 432A(1)(a)(9B) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(c)**
- F140** S. 432A(1A) inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(3)**
- F141** Word in s. 432A(1A) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(2)** (with Sch. 7 Pt. 2)
- F142** Words in s. 432A(2) substituted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 7 para. 8(4)**
- F143** S. 432A(2)(a)-(c) substituted for s. 432A(2)(a)-(f) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(3)** (with Sch. 7 Pt. 2)
- F144** Word in s. 432A(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(4)** (with Sch. 7 Pt. 2)
- F145** S. 432A(4) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 13(5), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F146** S. 432A(4A) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(6)** (with Sch. 7 Pt. 2)
- F147** Word in s. 432A(5) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(7)(a)** (with Sch. 7 Pt. 2)
- F148** Words in s. 432A(5) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 13(7)(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F149** Words in s. 432A(5)(6)(b)(i) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 13(3)** (with Sch. 8 para. 55(2))
- F150** S. 432A(6)-(6C) substituted for s. 432A(6)-(6AA) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(8)** (with Sch. 7 Pt. 2)
- F151** S. 432A(7) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 13(4)** (with Sch. 8 para. 55(2))
- F152** Words in s. 432A(7) substituted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 5(4)(a)**
- F153** Words in s. 432A(7) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(9)(a)** (with Sch. 7 Pt. 2)
- F154** Words in s. 432A(7)(a) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(9)(b)** (with Sch. 7 Pt. 2)
- F155** Word at the end of s. 432A(7)(a) omitted (6.1.2006 with effect in accordance with art. 1 of the repealing S.I.) by virtue of The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 5(4)(b)**

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- F156** Words in s. 432A(7)(b) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(9)(c)** (with Sch. 7 Pt. 2)
- F157** S. 432A(7)(c) and preceding word inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 5(4)(c)**
- F158** Words in s. 432A(7)(c)(i) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(9)(d)**, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F159** Words in s. 432A(7)(c)(i) omitted (13.8.2007 with effect in accordance with reg. 1(2) of the repealing S.I.) by virtue of The Insurance Companies (Overseas Life Assurance Business) (Excluded Business) (Amendment) Regulations 2007 (S.I. 2007/2086), **regs. 1(1)**, 6(1)
- F160** Words in s. 432A(7)(c)(ii) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 5** (with Sch. 8 Pt. 2)
- F161** S. 432A(8)-(8B) substituted for s. 432A(8) (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 5(5)**
- F162** Words in s. 432A(8) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(10)** (with Sch. 7 Pt. 2)
- F163** Words in s. 432A(8)(a)(i) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1)**, 4(5)(a)
- F164** Words in s. 432A(8) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1)**, 4(5)(b)
- F165** S. 432A(8ZA) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1)**, 4(6)
- F166** Words in s. 432A(8ZA) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(11)** (with Sch. 7 Pt. 2)
- F167** Words in s. 432A(8B) substituted (31.12.2006 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 (S.I. 2006/3270), **arts. 1(1)**, 5
- F168** S. 432A(9) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 13(12)**, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F169** S. 432A(9A)(9B) inserted (with effect in accordance with s. 109(10) of the amending Act) by Finance Act 2000 (c. 17), **s. 109(6)**
- F170** S. 432A(9A) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 9(2)(b)**, **Sch. 27 Pt. 2(10)**, Note
- F171** S. 432A(9B) repealed (with effect in accordance with Sch. 43 Pt. 3(12), Note 1 of the repealing Act) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 3(12)**
- F172** S. 432A(10) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, **ss. 91(2)(a)**, 213, **Sch. 23 Pt. III** (8), Note

Modifications etc. (not altering text)

- C18** S. 432A modified (3.5.1994) by Finance Act 1994, (c. 9), s. 169, Sch. 18 para 1(4)
- C19** S. 432A modified by S.I. 1992/1655, **regs. 6-8** (as amended (31.12.1993) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1**, 5, 7; and as further amended (10.8.1995) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1995 (S.I. 1995/1916), **regs. 1**, 5)
- C20** S. 432A applied (with effect in accordance with s. 105(1) of the affecting Act) by Finance Act 1996 (c. 8), **Sch. 11 para. 3** (with Sch. 15)
- C21** S. 432A applied (19.3.1997) by Finance Act 1997 (c. 16), **Sch. 12 para 19**
- C22** S. 432A 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),

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- regs. 1(1)**, 9, 13 (as amended by: S.I. 2000/2710, **regs. 1, 4**; S.I. 2001/3629, **arts. 1, 157, 165**; S.I. 2001/3975, **regs. 1, 4**; S.I. 2003/23, **regs. 1, 5, 6**; S.I. 2004/822, **regs. 1, 8, 9**; S.I. 2005/2005, **regs. 1, 6**)
- C23** S. 432A modified by Finance Act 1996 (c. 8), **Sch. 11 para. 3A(5)** (as inserted (with effect in accordance with s. 109(10) of the 2000 amending Act) by Finance Act 2000 (c. 17), **s. 109(8)**)
- C24** S. 432A applied (with effect in accordance with Sch. 29 Pt. 14 of the affecting Act) by Finance Act 2002 (c. 23), **Sch. 29 para. 138(2)(3)**
- C25** S. 432A modified (12.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1)**, 9 (as amended by: S.I. 2007/2134, **regs. 1(1)(2)**, 9; S.I. 2008/1937, **regs. 1(1)(2)**, 6)
- C26** S. 432A excluded by Finance Act 1989 (c. 26), **s. 83XA(14)** (as inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 2(1)**)
- C27** S. 432A(2) modified (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)**, 10-12
- C28** S. 432A(2) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 10**
- C29** S. 432A(2) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 8**; S.I. 2004/3369, **art. 2(1)**

[^{F173}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 [^{F174}long-term insurance fund] is treated as a separate business from the exploitation of land not so held.
- (3) ^{F175}.....
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
 - [^{F176}(a) basic life assurance and general annuity business;
 - (b) gross roll-up business; and
 - (c) PHI business.]
- (5) Accordingly, the exploitation of land held as an asset of the company's [^{F174}long-term insurance fund] otherwise than as mentioned in subsection ^{F177}. . . (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

- F173** 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)
- F174** Words in s. 432AA(2)(3)(5) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(d)**
- F175** S. 432AA(3) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 14(2)**, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F176** S. 432AA(4)(a)-(c) substituted for s. 432AA(4)(a)-(d) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 14(3)** (with Sch. 7 Pt. 2)

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F177 Words in s. 432AA(5) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 14(4), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

Modifications etc. (not altering text)

- C30** 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**)
- C31** S. 432AA modified (12.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by **The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014)**, **regs. 1(1), 10** (as amended by: S.I. 2007/2134, **regs. 1(1)(2), 11**; S.I. 2008/1937, **regs. 1(1)(2), 8**)
- C32** S. 432AA(4) modified (6.4.1999) by **The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871)**, **regs. 1, 5, 11**
- C33** S. 432AA(4) modified (6.4.2005) by **The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680)**, **regs. 1, 4, 9**; S.I. 2004/3369, **art. 2(1)**

[^{F173}432AB] **Bsses 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.
- [^{F178}(3)** So far as a loss is referable to basic life assurance and general annuity business, it shall be treated for the purposes of section 76 as expenses payable which fall to be brought into account at Step 3 in subsection (7) of that section.]
- (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) ^{F179}]

Textual Amendments

- F173** 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)
- F178** S. 432AB(3) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 17(2)
- F179** S. 432AB(6) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 15, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

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Modifications etc. (not altering text)

- C34** 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**)
- C35** S. 432AB modified (12.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), **regs. 1(1), 11**

[^{F180}432BA] Apportionment of receipts brought into account.

- (1) This section and [^{F181}sections 432C to [^{F182}432G]] have effect where it is necessary in accordance with section 83 of the Finance Act 1989 to determine what parts of any items [^{F183}brought into account, within the meaning of that section.] are referable to life assurance business or [^{F184}gross roll-up business].
- [^{F185}(2) Where for that purpose reference falls to be made to more than one account recognised for the purposes of that section, the provisions of sections 432C to [^{F186}432G] apply separately in relation to each account.]
- (3) [^{F187}Section 432C applies] 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 [^{F188}sections 432E and 432F apply] where the relevant business relates wholly or partly to other policies or contracts [^{F189}(and section 432G applies in either case)].]
- [^{F190}(4) The following provisions of this section have effect where [^{F191}section 432C]—
- (a) [^{F192}applies] in relation to any account for a fund in which shareholders' excess assets are held, ^{F193} . . .
 - (b) ^{F193}
- (5) The part of the amount brought into account as income which is referable in accordance with section 432C to [^{F194}gross roll-up business] is reduced by ^{F195} . . . the shareholders' excess income.
- (6) The part of the amount brought into account as the increase or decrease in the value of assets or as other income which is referable in accordance with section [^{F196}432C to gross roll-up business] is reduced or increased as follows.
- (7) The part of that amount is—
- (a) reduced by ^{F197} . . . the shareholders' excess gains, or
 - (b) increased by ^{F197} . . . the shareholders' excess losses,
- as the case may be.
- [^{F198}(8) But if, in relation to the fund in question, an election in accordance with Rule 9.10(c) of the Prudential Sourcebook (Insurers) has effect for the period of account, the following rules apply.
- (8A) In any case where there are adjusted shareholders' excess gains (“amount A”) and an adjusted increase in value of inherited estate assets (“amount B”), the part of the amount mentioned in subsection (6) (“the relevant amount”) is reduced by ^{F199} . . . the lower of amounts A and B.
- (8B) The difference between amounts A and B is carried forward to the next period of account—

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- (a) as shareholders' excess gains (if amount A is the greater amount), or
- (b) as an increase in value of inherited estate assets (if amount B is the greater amount).
- (8C) In any case where there are adjusted shareholders' excess losses ("amount C") and an adjusted decrease in value of inherited estate assets ("amount D"), the relevant amount is increased by ^{F200} . . . the lower of amounts C and D.
- (8D) The difference between amounts C and D is carried forward to the next period of account—
- (a) as shareholders' excess losses (if amount C is the greater amount), or
- (b) as a decrease in value of inherited estate assets (if amount D is the greater amount).
- (8E) In any other case—
- (a) the relevant amount is neither reduced nor increased, and
- (b) the adjusted shareholders' excess gains or losses, and the adjusted increase or decrease in value of inherited estate assets, are carried forward to the next period of account as shareholders' excess gains or losses and an increase or decrease in value of inherited estate assets (as the case may be).
- (8F) For the purposes of subsections (8A) to (8E), in relation to any period of account ("the relevant period"), the adjusted shareholders' excess gains or losses, and the adjusted increase or decrease in value of inherited estate assets, are determined as follows.

Step 1

Find the amount of shareholders' excess gains or losses, and the amount of the increase or decrease in value of inherited estate assets, for the relevant period.

Step 2

Find the amount (if any) of shareholders' excess gains or losses, and the amount (if any) of the increase or decrease in value of inherited estate assets, carried forward to the relevant period (without being taken into account for the purposes of step 3 or 4 in any previous period of account).

Step 3

This step applies if, for the relevant period, there are shareholders' excess gains or an increase in value of inherited estate assets.

In such a case—

- (a) increase that amount by the amount of any such gains or (as the case may be) of any such increase in value so carried forward to the relevant period, or
- (b) reduce that amount (but not below nil) by the amount of any shareholders' excess losses or (as the case may be) of any decrease in value of inherited estate assets so carried forward to the relevant period.

The resulting amount is the adjusted shareholders' excess gains or (as the case may be) the adjusted increase in value of inherited estate assets for the relevant period.

Step 4

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This step applies if, for the relevant period, there are shareholders' excess losses or a decrease in value of inherited estate assets.

In such a case—

- (a) increase that amount by the amount of any such losses or (as the case may be) of any such decrease in value so carried forward to the relevant period, or
- (b) reduce that amount (but not above nil) by the amount of any shareholders' excess gains or (as the case may be) of any increase in value of inherited estate assets so carried forward to the relevant period.

The resulting amount is the adjusted shareholders' excess losses or (as the case may be) the adjusted decrease in value of inherited estate assets for the relevant period.

(8G) For the purposes of subsections (8A) to (8F), in relation to any company and any period of account,—

“decrease in value of inherited estate assets” means so much of the amount of the decrease in value of assets brought into account in line 13 of Form 40 in the periodical return of the company for that period as relates to shareholders' excess assets;

“increase in value of inherited estate assets” means so much of the amount of the increase in value of assets brought into account in line 13 of Form 40 in the periodical return of the company for that period as relates to shareholders' excess assets.]

(9) For the purposes of this section—

F201
F202

“shareholders' excess gains” means the amount by which—

- (a) [F203 the aggregate amount of investment gains and amounts chargeable under Case VI of Schedule D by virtue of section 85(2C)(c) of the Finance Act 1989 for the accounting periods comprised in the period of account exceeds]
- (b) [F204 the aggregate amount that would be found under paragraph (a)] if section 432A(6) were amended in accordance with subsection (10) below;

“shareholders' excess income” means the amount by which—

- (a) the investment income referable to basic life assurance and general annuity business in accordance with section 432A for the [F205 accounting periods comprised in the] period of account exceeds
- (b) the amount that would be so referable if section 432A(6) were amended in accordance with subsection (10) below;

“shareholders' excess losses” means the amount by which—

- (a) [F206 investment losses for the accounting periods comprised in the period of account exceeds]
- (b) the amount that would be [F207 found under paragraph (a)] if section 432A(6) were amended in accordance with subsection (10) below.

(10) For the purposes of the definitions of “shareholders' excess gains”, “shareholders' excess income” and “shareholders' excess losses”, the amendments of section 432A(6) mentioned in those definitions are—

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- (a) in ^{F208}the definition of A, in paragraph (b)] the insertion after “the mean of” of “the appropriate parts of”;
- (b) in ^{F208}the definition of A, in paragraph (b)] the insertion after “assets” of—
- “(and for this purpose the definition of “appropriate part” in subsection (8) (a) below applies in relation to the shareholders' excess assets as it applies in relation to the free assets amount”); and
- ^{F209}(c) the substitution for the definitions of B and C of—
- “B is the amount that would be given by A if A applied in relation to gross roll-up business; and
- C is the amount that would be given by A if A applied in relation to PHI business.”.]

(11) For the purposes of subsection (9)—

- (a) the amount of a company's investment gains is the greater of LG ^{F210}+ OIG] + NTC - NTD and nil where—
- ^{F211}(i) LG is the amount of BLAGAB chargeable gains accruing from disposals of assets of the company's long-term insurance fund in each accounting period comprised in the period of account after deducting the aggregate of BLAGAB allowable losses so accruing in the accounting period and in any accounting period to which section 8(1) (b) of the Taxation of Chargeable Gains Act 1992 (company's total profits to include chargeable gains) applies];
- [OIG is the amount of offshore income gains accruing in each such
- ^{F212}(ia) accounting period and charged to corporation tax under Case VI of Schedule D by virtue of section 761(1)(b)(ii);]
- (ii) NTC is the amount of non-trading credits for the period ^{F213}[of account] which arise to the company from increases in the fair value of the company's loan relationships or from related transactions; and
- (iii) NTD is the amount of non-trading debits ^{F214}[for the period of account] which arise to the company from decreases in the fair value of the company's loan relationships or from related transactions;
- (b) “investment income” means the aggregate of—
- (i) the non-trading credits for the period ^{F215}[of account] which do not arise to the company from increases in the fair value of the company's loan relationships or from related transactions;
- [annuities or other annual payments in each accounting period
- ^{F216}(ia) comprised in the period of account that are chargeable under Case III of Schedule D by virtue of paragraph (b) of that Case;]
- (ii) income ^{F217}for each such accounting period] falling with Schedule A; and
- (iii) income ^{F218}for each such accounting period] falling within Case V of Schedule D; and
- (c) the amount of a company's investment losses is the greater ^{F219}[of
- LA + NTD – OIG – NTC (where there is an amount LA in the period of account)
- or

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NTD = NTC = LG = OIG (where there is an amount LG in the period of account)]

and nil where—

[^{F220}(i) LA is the amount of the company's BLAGAB allowable losses accruing from disposals of assets of the company's long-term insurance fund in each accounting period comprised in the period of account after deducting BLAGAB chargeable gains so accruing; and]

(ii) [^{F221}LG, OIG,] NTC and NTD have the same meanings as they have in relation to a company's investment gains.

[In subsection (11)—
^{F222}(12)

“BLAGAB allowable losses” means allowable losses referable in accordance with section 432A to the company's basic life assurance and general annuity business;

“BLAGAB chargeable gains” means chargeable gains referable in accordance with section 432A to the company's basic life assurance and general annuity business;

“related transaction” has the meaning given by section 84(5) of the Finance Act 1996.]]

Textual Amendments

- F180** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F181** Words in s. 432B(1)(2) substituted (with effect in accordance with Sch. 8 para. 53(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 17(1)(a)** (with Sch. 8 para. 55(2))
- F182** Words in s. 432B(1) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(2)(a)** (with Sch. 7 Pt. 2)
- F183** Words in s. 432B(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 16(2)(a)** (with Sch. 8 para. 55(2))
- F184** Words in s. 432B(1) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(2)(b)** (with Sch. 7 Pt. 2)
- F185** S. 432B(2) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 16(2)(b)** (with Sch. 8 para. 55(2))
- F186** Words in s. 432B(2) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(3)** (with Sch. 7 Pt. 2)
- F187** Words in s. 432B(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(4)(a)** (with Sch. 7 Pt. 2)
- F188** Words in s. 432B(3) substituted (with effect in accordance with Sch. 8 para. 53(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 17(1)(b)** (with Sch. 8 para. 55(2))
- F189** Words in s. 432B(3) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(4)(b)** (with Sch. 7 Pt. 2)
- F190** S. 432B(4)-(11) inserted (6.1.2006 with effect in accordance with art. 1 of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2005 (S.I. 2005/3465), **art. 6(2)**
- F191** Words in s. 432B(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(5)(a)** (with Sch. 7 Pt. 2)
- F192** Word in s. 432B(4)(a) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(5)(b)** (with Sch. 7 Pt. 2)
- F193** S. 432B(4)(b) and preceding word repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 16(5)(c), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F194** Words in s. 432B(5) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(6)(a)** (with Sch. 7 Pt. 2)

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- F195** Words in s. 432B(5) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 16(6)(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F196** Words in s. 432B(6) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(7)** (with Sch. 7 Pt. 2)
- F197** Words in s. 432B(7) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 16(8), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F198** S. 432B(8)-(8G) substituted for s. 432B(8) (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(2)**
- F199** Words in s. 432B(8A) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 16(9), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F200** Words in s. 432B(8C) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 16(10), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F201** S. 432B(9): definition of "the relevant fraction" repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 16(11)(a), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F202** S. 432B(9): definition of "the section 83 net amount" repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 16(11)(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F203** S. 432B(9): para. (a) of definition of "shareholders' excess gains" substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(3)(c)(i)**
- F204** S. 432B(9): words in para. (b) of definition of "shareholders' excess gains" substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(3)(c)(ii)**
- F205** S. 432B(9): words in para. (a) of definition of "shareholders' excess income" inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(3)(d)**
- F206** S. 432B(9): para. (a) of definition of "shareholders' excess losses" substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(3)(e)(i)**
- F207** S. 432B(9): words in para. (b) of definition of "shareholders' excess losses" substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(3)(e)(ii)**
- F208** Words in s. 432B(10)(a)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(12)(a)** (with Sch. 7 Pt. 2)
- F209** S. 432B(10)(c) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 16(12)(b)** (with Sch. 7 Pt. 2)
- F210** Words in s. 432B(11)(a) inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(a)(i)**
- F211** S. 432B(11)(a)(i) substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(a)(ii)**
- F212** S. 432B(11)(a)(ia) inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(a)(iii)**
- F213** Words in s. 432B(11)(a)(ii) substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(a)(iv)**
- F214** Words in s. 432B(11)(a)(iii) substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(a)(v)**

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- F215** Words in s. 432B(11)(b)(i) substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(b)(i)**
- F216** S. 432B(11)(b)(ia) inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(b)(ii)**
- F217** Words in s. 432B(11)(b)(ii) inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(b)(iii)**
- F218** Words in s. 432B(11)(b)(iii) inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(b)(iv)**
- F219** Words in s. 432B(11)(c) substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(c)(i)**
- F220** S. 432B(11)(c)(i) substituted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(c)(ii)**
- F221** Words in s. 432B(11)(c)(ii) inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(4)(c)(iii)**
- F222** S. 432B(12) inserted (9.6.2006 with effect in accordance with art. 1(2)(3) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 (S.I. 2006/1358), **arts. 1(1), 3(5)**

Modifications etc. (not altering text)

- C36** S. 432B modified by S.I. 1992/1655, **reg. 9** (as amended (31.12.1993) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1, 8**)
- C37** 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**
- C38** 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)**
- C39** S. 432B modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **reg. 9A** (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), 10** (and that modifying reg. 10 is omitted (12.8.2008 with effect in accordance with reg. 1(2) of the revoking S.I.) by virtue of S.I. 2008/1937, **regs. 1(1), 7**))

[^{F223}432] Section 432B apportionment: non-participating funds

- (1) This section specifies the extent to which the net amount is referable to life assurance business or to gross roll-up business.
- (2) In this section “the net amount” means the aggregate of the amounts brought into account—
 - (a) as investment income,
 - (b) as an increase in the value of assets, or
 - (c) as other income,less the aggregate of the amounts brought into account as a decrease in the value of assets.

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- (3) To the extent that the net amount is attributable to—
- (a) assets linked to life assurance business, or
 - (b) foreign currency assets,
- it is referable to life assurance business.
- (4) There is also referable to life assurance business the appropriate fraction of so much of the net amount as is not attributable to linked assets or foreign currency assets.
- (5) For the purposes of subsection (4) above “the appropriate fraction” is—

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

where—

A is the mean of the opening and closing liabilities of the relevant business so far as referable to life assurance business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the aggregate of the mean of the opening and closing net values of assets linked to the relevant business so far as so referable and foreign currency assets; and

B is the mean of the opening and closing liabilities of the relevant business so far as referable to PHI business, reduced (but not below nil) by the mean of the opening and closing net values of any assets linked to PHI business.

- (6) But if the denominator found in accordance with subsection (5) above is nil, the appropriate fraction for the purposes of subsection (4) above is such fraction as is just and reasonable.
- (7) To the extent that the net amount is attributable to—
- (a) assets linked to gross roll-up business, or
 - (b) foreign currency assets,
- it is referable to gross roll-up business.
- (8) There is also referable to gross roll-up business the relevant fraction of so much of the net amount as is not attributable to linked assets or foreign currency assets.
- (9) For the purposes of subsection (8) above “the relevant fraction” is—

$$\frac{C}{C + D}$$

where—

C is the mean of the opening and closing liabilities of the relevant business so far as referable to gross roll-up business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the aggregate of the mean of the opening and closing net values of any assets linked to gross roll-up business and foreign currency assets; and

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D is the mean of the opening and closing liabilities of the relevant business so far as referable to basic life assurance and general annuity business or PHI business (but taking that mean to be nil if it would otherwise be below nil), reduced (but not below nil) by the mean of the opening and closing net values of any assets linked to either of those categories of business.

- (10) But if the denominator found in accordance with subsection (9) above is nil, the relevant fraction for the purposes of subsection (8) above is such fraction as is just and reasonable.
- (11) For the purposes of this section, so much of the net amount—
- (a) as is brought into account as other income in an internal linked fund of the company, and
 - (b) as is not attributable to assets of that fund,
- is to be treated as linked to a category of business to the same extent as income attributable to an asset of the fund would, by virtue of section 432ZA, be referable to that category of business.]

Textual Amendments

F223 S. 432C substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 17](#) (with [Sch. 7 Pt. 2](#))

VALID FROM 08/04/2010

[^{F224} 432CA] 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—

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- (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

F224 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)

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VALID FROM 27/07/2010

[^{F225}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

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- (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

F225 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\(1\)](#)

[^{F226}432D]Section 432B apportionment: value of non-participating funds.

^{F227}

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Textual Amendments

- F226** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), Sch. 6 para. 4
- F227** S. 432D repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 18, Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)

[^{F228}432E] Section 432B apportionment: participating funds.

[^{F229}(1) The part of the net amount which is referable to life assurance business or to gross roll-up business is—

- (a) the amount determined in accordance with subsections (2) and (2A) below, or
- (b) if greater, the amount determined in accordance with subsection (3) below.

(1A) In this section “the net amount” means the aggregate of the amounts brought into account—

- (a) as investment income,
- (b) as an increase in the value of assets, or
- (c) as other income,

less the aggregate of the amounts brought into account as a decrease in the value of assets.]

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

- (a) ^{F230}
- (b) ^{F231} . . . that

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

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 life assurance business or of gross roll-up business]; and
 CS is so much of the surplus of the relevant business as would remain if the relevant business were confined to [^{F232}life assurance business or to gross roll-up business].

(2A) In a case where [^{F233}an amount or amounts are] taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of subsection (2B) of that section [^{F234}or by virtue of section ^{F235} . . . [^{F236}[^{F237}444AB, ^{F238} . . .]]^{F239}444AEA,]^{F240}444AECA,] 444AF(2) or 444AK(2)] of this Act], the amount determined under subsection (2) above is increased by—

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$$\frac{\text{CAS}}{\text{AS}} \times \text{RP}$$

where—

CAS and AS have the same meanings as in subsection (2) above; and

[^{F241}RP is the amount or the aggregate of the amounts taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of any of the following provisions—

- (a) subsection (2B) of that section;
 - (aa) [^{F242}section 444AB ^{F243} . . . of this Act;]
 - (ab) [^{F244}section 444AEA [^{F245} or 444AECA] of this Act;]
 - (b) ^{F235}
 - (c) [^{F246}subsection (2) of section 444AF of this Act (and see subsections (5) and (6) of that section);
 - (d) subsection (2) of section 444AK of this Act (but only for the purposes mentioned in subsection (3) of that section).]
- (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 [^{F247}(but taking that mean to be nil if it would otherwise be below nil)] after deducting from it the mean of the opening and closing values of any assets of the relevant business [^{F248}linked] to that category of business [^{F249}and foreign currency assets], and
 - (b) the part of the net amount ^{F250} . . . that is attributable to assets [^{F248}linked] to that category of business [^{F251}and foreign currency assets].
- (4) [^{F252}Subject to subsection (4A) below, for] the purposes of subsection (3) above “the applicable percentage”, in any case, [^{F253}is—

$$\frac{A}{B} \times 100$$

where—

A is so much of the net amount as is brought into account in respect of the relevant business less such part of it as is attributable to linked assets and foreign currency assets; and

B 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 which are linked assets and foreign currency assets.]

- [If the mean of the opening and closing liabilities of the relevant business reduced by ^{F254}(4A) the opening and closing values of any assets of the relevant business which are linked assets [^{F255}or foreign currency assets] is nil then, for the purposes of subsection (3) above, “the applicable percentage” is such percentage as is just and reasonable.]

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(5) ^{F256}

(6) ^{F256}]

Textual Amendments

- F228** Ss. 432A-432E inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 4**
- F229** S. 432E(1)(1A) substituted for s. 432E(1) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(2)** (with Sch. 7 Pt. 2)
- F230** S. 432E(2)(a) repealed (with effect in accordance with Sch. 33 para. 10(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 10(3)(a), **Sch. 43 Pt. 3(12)**, Note 2
- F231** Words in s. 432E(2)(b) repealed (with effect in accordance with Sch. 33 para. 10(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 10(3)(b), **Sch. 43 Pt. 3(12)**, Note 2
- F232** Words in s. 432E(2) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(3)(b)** (with Sch. 7 Pt. 2)
- F233** Words in s. 432E(2A) substituted (with effect in accordance with Sch. 9 para. 5(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 5(2)(a)**
- F234** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 5(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 5(2)(b)**
- F235** Words in s. 432E(2A) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 2(3), **Sch. 27 Pt. 2(10)**, Note
- F236** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 11 para. 2(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 11 para. 2(2)**
- F237** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 4(2)(a)**; S.I. 2008/379, **art. 2**
- F238** Words in s. 432E(2A) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1)**, 6(a)
- F239** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 8(2)**; S.I. 2008/379, **art. 2**
- F240** Words in s. 432E(2A) 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), **arts. 1(1)**, 6(b)
- F241** Words in s. 432E(2A) substituted (with effect in accordance with Sch. 9 para. 5(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 5(3)**
- F242** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 4(2)(b)**; S.I. 2008/379, **art. 2**
- F243** Words in s. 432E(2A) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1)**, 6(c)
- F244** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 8(2)**; S.I. 2008/379, **art. 2**
- F245** Words in s. 432E(2A) 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), **arts. 1(1)**, 6(d)
- F246** Words in s. 432E(2A) inserted (with effect in accordance with Sch. 11 para. 2(4) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 11 para. 2(3)**
- F247** Words in s. 432E(3)(a) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031), **arts. 1(1)**, 7(2)
- F248** Words in s. 432E(3)(a)(b)(6)(a) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 12(1)(a)** (with Sch. 8 para. 55(2))

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- F249** Words in s. 432E(3)(a) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(4)(a)** (with Sch. 7 Pt. 2)
- F250** Words in s. 432E(3)(b) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(4)(b)(i)**, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F251** Words in s. 432E(3)(b) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(4)(b)(ii)** (with Sch. 7 Pt. 2)
- F252** Words in s. 432E(4) substituted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031)**, **arts. 1(1)**, 7(3)
- F253** Words in s. 432E(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(5)** (with Sch. 7 Pt. 2)
- F254** S. 432E(4A) inserted (17.4.2007 with effect in accordance with art. 1(2) of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/1031)**, **arts. 1(1)**, 7(4)
- F255** Words in s. 432E(4A) inserted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(6)** (with Sch. 7 Pt. 2)
- F256** S. 432E(5)(6) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 19(7)**, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

Modifications etc. (not altering text)

- C40** 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
- C41** S. 432E 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)**, 14 (as amended by S.I. 2004/822, **regs. 1**, 10)
- C42** S. 432E modified (12.8.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by **The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014)**, **regs. 1(1)**, 12 (as amended by S.I. 2007/2134, **regs. 1(1)(2)**, 12)
- C43** *For orders see Part III Vol.5 (under “Life assurance apportionment of participating funds: applicable percentage”).*

[^{F257}432FSection 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) ^{F258} . . . There shall be determined for each accounting period the amount (if any) by which the subsection (2) figure ^{F259} . . . 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.]

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Textual Amendments

- F257** 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))
- F258** Words in s. 432F(2) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 20(a), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F259** Words in s. 432F(2) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 20(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

Modifications etc. (not altering text)

- C44** Ss. 432B-432G applied (1.4.2010 with effect in accordance with s. 381(1) of the affecting Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), **s. 102(3)** (with Sch. 9)
- C45** 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**

Section 432B apportionment: business transfers-in

- (1) There is referable to the life assurance business of the transferee the appropriate fraction of the amount brought into account as a business transfer-in and of any amount taken into account as profits under section 444ABD(1).
- (2) For the purposes of subsection (1) above “the appropriate fraction” is—

$$\frac{\text{LABL}}{\text{TL}}$$

where—

LABL is the amount of the liabilities transferred that are referable to the life assurance business (but is nil if it would otherwise be below nil); and

TL is the whole of the liabilities transferred.

- (3) But if the amount of the liabilities transferred is nil, the appropriate fraction for the purposes of subsection (1) above is such fraction as is just and reasonable.
- (4) There is referable to the gross roll-up business of the transferee the relevant fraction of the amount brought into account as a business transfer-in and of any amount taken into account as profits under section 444ABD(1).
- (5) For the purposes of subsection (4) above “the relevant fraction” is—

$$\frac{\text{GRBL}}{\text{TL}}$$

where—

GRBL is the amount of the liabilities transferred that are referable to the gross roll-up business (but is nil if it would otherwise be below nil); and

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TL has the same meaning as in subsection (2) above.

- (6) But if the amount of the liabilities transferred is nil, the relevant fraction for the purposes of subsection (4) above is such fraction as is just and reasonable.]]

Textual Amendments

F260 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**

F261 S. 432G substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 7 para. 21** (with Sch. 7 Pt. 2)

Modifications etc. (not altering text)

C46 Ss. 432B-432G applied (1.4.2010 with effect in accordance with s. 381(1) of the affecting Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), **s. 102(3)** (with Sch. 9)

^{F262}433 Profits reserved for policy holders and annuitants.

.....

Textual Amendments

F262 S. 433 repealed (14.3.1989) by [Finance Act 1989 \(c. 26\)](#), s. 84(5), **Sch. 8 para. 2**, **Sch. 17 Pt. IV**, Note 3 (with s. 84(6))

^{F263}Miscellaneous provisions relating to life assurance business]

Textual Amendments

F263 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\(2\)](#))

434 Franked investment income etc.

^{F264}^{F265}^{F266}(1) Where an insurance company makes a payment representative of a distribution made by a company resident in the United Kingdom in respect of an asset of its long-term insurance fund, the payment is to be taken into account in computing its profits in accordance with the provisions applicable to Case I of Schedule D unless the amount taken into account in accordance with section 83(2)(a) of the Finance Act 1989 includes the amount of the payment.]]]

(2) ^{F267}

^{F268}(3) ^{F269}

(3A) ^{F270}So much of the policy holders' share of the franked investment income from investments of a company's long-term insurance fund as is referable to its] 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.]

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- [^{F271}(3B) ^{F272}.....]
- (3C) ^{F272}.....
- (3D) ^{F272}.....]
- (4) ^{M5}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”.
^{F273}
- (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.
^{F274}
- (6) ^{F269}.....
- [^{F275}(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,
^{F276}...
 - [^{F277}(aa) ^{F278}.....]
 - (ab) ^{F278}.....
 - (ac) ^{F278}.....]
 - (b) ^{F279}.....
- (7) ^{F267}.....
- (8) ^{F269}.....]

Textual Amendments

- F264** S. 434(1) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 19(2)** (with Sch. 8 para. 55(2))
- F265** S. 434(1)-(1B) substituted for s. 434(1) (with effect in accordance with Sch. 3 para. 3(5) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), **Sch. 3 para. 3(2)**
- F266** S. 434(1) substituted for s. 434(1)(1B) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 22(2)** (with Sch. 7 Pt. 2)
- F267** S. 434(2)(7) repealed (with effect in accordance with Sch. 29 Pt. 8(5) Note 2 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**
- F268** S. 434(3)(3A) substituted for s. 434(3) by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 3(1)**
- F269** S. 434(3)(6)(8) repealed (with effect in accordance with Sch. 3 para. 25(5)(6) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 25(2)-(4), **Sch. 27 Pt. 3(2)**, Note
- F270** Words in s. 434(3A) substituted (with effect in accordance with Sch. 33 para. 12(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 12(2)**
- F271** S. 434(3B)-(3D) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 5(4)**
- F272** S. 434(3B)-(3D) repealed (with effect in accordance with Sch. 6 para. 3(4) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 6(2), **Sch. 8 Pt. 2(11)**, Note

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- F273** 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.
- F274** 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.
- F275** 1990 s.45(7).
- F276** Word at the end of s. 434(6A)(a) repealed (3.5.1994) by Finance Act 1994 (c. 9), Sch. 16 para. 5(5), **Sch. 26 pt. 5(16)**
- F277** S. 434(6A)(aa)-(ac) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para 5(5)**
- F278** S. 434(6A)(aa)-(ac) repealed (with effect in accordance with Sch. 6 para. 6(4) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 6(3), **Sch. 8 Pt. 2(11)**, Note
- F279** S. 434(6A)(b) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 22(3), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

Modifications etc. (not altering text)

- C47** S. 434 amended (27.7.1993) by 1993 c. 34, s. 78(6)(11)

Marginal Citations

- M5** Source—1970 s.310(6)

^{F280} ^{F281} **436A Computation of losses and limitation on relief.**

- (1) ^{F282}
- ^{F283}(2) Where for any accounting period the loss arising to an insurance company from its life assurance business falls to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D—
- (a) the loss resulting from the computation shall be reduced (but not below nil) by ^{F284} . . . —
- (i) ^{F285}
- (ii) any relevant non-trading deficit for that period on the company's debtor relationships; and
- ^{F286}(iii) ^{F287}
- (b) if the whole or any part of that loss as so reduced is set off—
- (i) under section 393A, or
- (ii) under section 403(1),
- ^{F288} any loss for that period under section 436A shall be reduced (but not below nil) by the total of the amounts set off as mentioned in sub-paragraphs (i) and (ii) above.]]
- ^{F289}(2A) The reference in subsection ^{F290}(2)(a)(ii) above to a relevant non-trading deficit for any period on a company's debtor relationships is a reference to the non-trading deficit on the company's loan relationships which would be produced by any separate computation made under ^{F291}paragraph 2(1)] of Schedule 11 to the Finance Act 1996 for the company's basic life assurance and general annuity business if credits and debits given in respect of the company's creditor relationships (within the meaning of Chapter II of Part IV of that Act) were disregarded.]
- (3) In the case of a company carrying on life assurance business, no relief shall be allowable ^{F292}—
- (a) under Chapter II (loss relief) or Chapter IV (group relief) of Part X, or

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(b) in respect of any amount representing a non-trading deficit on the company's loan relationships that has been computed otherwise than by reference to debits and credits referable to that business,]

against the policy holders' share of the relevant profits for any accounting period.

For the purposes of this subsection "the policy holders' share of the relevant profits" has the same meaning as in section [F29389] of the Finance Act 1989.]]

Textual Amendments

- F280** S. 434A inserted by Finance Act 1989 (c. 26), s. 84(4)-(6), **Sch. 8 para. 4**
- F281** S. 434A substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para 20(1)** (with Sch. 8 para. 55(2))
- F282** S. 434A(1) repealed (with effect in accordance with Sch. 3 para. 4(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 4(1), **Sch. 8 Pt. 2(6)**, Note
- F283** S. 434A(2) substituted (with effect in accordance with Sch. 31 paras. 2(1), 10(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 31 para. 2(1)(a)(2)**
- F284** Words in s. 434A(2)(a) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 23(2)(a), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F285** S. 434A(2)(a)(i) repealed (with effect in accordance with s. 38(6) of the repealing Act) by Finance (No. 2) Act 2005 (c. 22), s. 38(4), **Sch. 11 Pt. 2(7)**, Note
- F286** S. 434A(2)(a)(iii) inserted (with effect in accordance with Sch. 27 para. 12(1) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 27 para. 8(a)**
- F287** S. 434A(2)(a)(iii) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 23(2)(b), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F288** Words in s. 434A(2)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 23(3)** (with Sch. 7 Pt. 2)
- F289** S. 434A(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 23(2)** (with Sch. 15)
- F290** Words in s. 434A(2A) substituted (with effect in accordance with Sch. 31 paras. 2(1), 10(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 31 para. 2(1)(b)**
- F291** Words in s. 434A(2A) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 15(2)**
- F292** Words in s. 434A(3) substituted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 23(3)** (with Sch. 15)
- F293** Words in s. 434A(3) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 6(7)(b)**

Modifications etc. (not altering text)

- C48** S. 434A(2) modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 23(1)** (with Sch. 15)
- C49** S. 434A(2) modified by Finance Act 1996 (c. 8), **Sch. 31 para. 2(3)**

VALID FROM 21/07/2009

[F294 434AZB] 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.

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- (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

F294 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

[^{F294} 434AZB] Abolitions 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,

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- (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

F294 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

^{F294} ~~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.

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(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
F294 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\(1\)](#)

[^{F295} **434B**] **Treatment of interest and annuities.**

- (1) ^{F296}
- (2) ^{F297}]

Textual Amendments
F295 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\(2\)](#))
F296 S. 434B(1) repealed (with effect in accordance with s. 165(4)(5) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), s. 165(3), [Sch. 41 Pt 5\(25\)](#), Note (with [Sch. 14 para. 24](#))
F297 S. 434B(2) repealed (with effect in accordance with s. 67(7), [Sch. 18 Pt. 6\(6\)](#) Note of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), s. 67(4), [Sch. 18 Pt. 6\(6\)](#)

[^{F298} **434C**] **Interest on repayment of advance corporation tax.**

- ^{F299}

Textual Amendments
F298 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\(2\)](#))
F299 S. 434C repealed (with effect in accordance with [Sch. 3 para. 26\(2\)](#) of the repealing Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 3 para. 26\(1\)](#), [Sch. 27 Pt. 3\(2\)](#), Note

[^{F300} **434D**] **Capital allowances: management assets.**

- ^{F301}

Textual Amendments
F300 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\(2\)](#))
F301 S. 434D repealed (with effect in accordance with s. 579 of the repealing Act) by [Capital Allowances Act 2001 \(c. 2\)](#), [Sch. 2 para. 39](#), [Sch. 4](#)

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434E Capital allowances: investment assets.

F302]

Textual Amendments

F300 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))

F302 S. 434E repealed (with effect in accordance with s. 579 of the repealing Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 39, Sch. 4

F303 435 Taxation of gains reserved for policy holders and annuitants.

.....

Textual Amendments

F303 S. 435 repealed (with effect in accordance with s. 84(5)(b) of the repealing Act) by Finance Act 1989 (c. 26), s. 84(4), Sch. 8 para. 5, Sch. 17 Pt. IV, Note 3 (with s. 84(6))

436 [F304 Pension business]: separate charge on profits.

F305

Textual Amendments

F304 Words in s. 436 sidenote substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 8 para. 51(5) (with Sch. 8 para. 55(2))

F305 S. 436 repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 24, Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)

[F306 436A Gross 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 [F307 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

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- (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

F306 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](#))

F307 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)

C50 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](#))

[^{F306}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

F306 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](#))

437 General annuity business.

[^{F308}[^{F309}(1A) In the computation [^{F310}under the I minus E basis] of the [^{F311}relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period], new annuities paid by the company in that period shall be brought into account by treating an amount equal to the income limit for that period [^{F312} as expenses payable which fall to be brought into account for that period at Step 3 in section 76(7)].]

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~~(1C) For the purposes of this section [F313 (but subject to subsections (1CA) to (1CD) below)]—~~

- (a) “new annuity” means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company’s basic life assurance and general annuity business;
- (b) “the income limit” for an accounting period of an insurance company is the difference between—
 - (i) the total amount of the new annuities paid by the company in that accounting period; and
 - (ii) the total of the capital elements [F314 and amounts exempt under section 717 of ITTOIA 2005] contained in the new annuities so paid;
F315 . . .
- (c) the capital element contained in an annuity shall be determined in accordance with Chapter V of Part XIV, but for this purpose—
 - (i) it is immaterial whether or not an annuitant claims any relief to which he is entitled under that Chapter; and
 - (ii) where, by virtue of subsection (2) of section 657, section 656 does not apply to an annuity, the annuity shall be treated as containing the capital element that it would have contained apart from that subsection; [F316 and
- (d) the amounts exempt under section 717 of ITTOIA 2005 shall be determined in accordance with Chapter 7 of Part 6 of that Act, but for this purpose—
 - (i) it is immaterial whether or not an annuitant claims any relief to which the annuitant is entitled under that section; and
 - (ii) where, by virtue of section 718 of that Act, section 717 does not apply to an annuity, the annuity shall be treated as being exempt to the same extent that it would have been apart from that section.]

[Where a new annuity (“the actual annuity”) is a steep-reduction annuity, the income F317 (1CA) limit for an accounting period of the company paying the annuity shall be computed for the purposes of this section as if—

- (a) the contract providing for the actual annuity provided instead for the annuities identified by subsections (1CB) and (1CC) below; and
- (b) the consideration for each of those annuities were to be determined by the making of a just and reasonable apportionment of the consideration for the actual annuity.

(1CB) The annuities mentioned in subsection (1CA)(a) above are—

- (a) an annuity the payments in respect of which are confined to the payments in respect of the actual annuity that fall to be made before the earliest time for the making in respect of the actual annuity of a reduced payment such as is mentioned in section 437A(1)(c); and
- (b) subject to subsection (1CC) below, an annuity the payments in respect of which are all the payments in respect of the actual annuity other than those mentioned in paragraph (a) above.

(1CC) Where an annuity identified by paragraph (b) of subsection (1CB) above (“the later annuity”) would itself be a steep-reduction annuity, the annuities mentioned in subsection (1CA)(a) above—

- (a) shall not include the later annuity; but

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~~(b) shall include, instead, the annuities which would be identified by subsection (1CB) above (with as many further applications of this subsection as may be necessary for securing that none of the annuities mentioned in subsection (1CA)(a) above is a steep-reduction annuity) if references in that subsection to the actual annuity were references to the later annuity.~~

(1CD) Subsections (1CA) to (1CC) above shall be construed in accordance with section 437A.]

(1D) In any case where—

- (a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in an accounting period beginning before 1st January 1992,
- (b) the company’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (c) the company’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall be treated for the purposes of this section, other than this subsection, as if the group annuity contract had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1E) In any case where—

- (a) a payment in respect of an annuity is made by a reinsurer under a reinsurance treaty made in an accounting period beginning before 1st January 1992,
- (b) the reinsurer’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (c) the reinsurer’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall, as respects the reinsurer, be treated for the purposes of this section, other than this subsection, as if the reinsurance treaty had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1F) In this section—

“group annuity contract” means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

“reinsurance treaty” means a contract under which one insurance company is obliged to cede, and another (in this section referred to as a “reinsurer”) to accept, the whole or part of a risk of a class or description to which the contract relates.]

F318(2)

F319(3)

F320(4)

F321(5)

(6) F322

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Textual Amendments

- F308** S. 437(1A)-(1F) substituted for s. 437(1) (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 5, 18
- F309** S. 437(1A) substituted for s. 437(1A)(1B) (with effect in accordance with s. 67(7) of the amending Act) by Finance Act 1997 (c. 16), s. 67(1)
- F310** Words in s. 437(1A) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 8 para. 6 (with Sch. 8 Pt. 2)
- F311** Words in s. 437(1A) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 6(9)
- F312** Words in s. 437(1A) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 18
- F313** Words in s. 437(1C) inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), s. 67(2)
- F314** Words in s. 437(1C)(b)(ii) 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. 178(2) (with Sch. 2)
- F315** Word at the end of s. 437(1C)(b) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 178(3), Sch. 3 (with Sch. 2)
- F316** S. 437(1C)(d) and preceding word 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. 178(4) (with Sch. 2)
- F317** S. 437(1CA)-(1CD) inserted (with effect in accordance with s. 67(8) of the amending Act) by Finance Act 1997 (c. 16), s. 67(2)
- F318** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F319** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F320** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F321** S. 437(2)-(5) repealed (for accounting periods beginning on or after 1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), ss. 48, 123, Sch. 7 paras. 4(4), 18, Sch. 19 Pt. V, Note 3
- F322** S. 437(6) repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(5), Note 2

Modifications etc. (not altering text)

- C51** S. 437 modified (10.8.1995) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), reg. 10A (as inserted by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1995 (S.I. 1995/1916), regs. 1, 6)
- C52** S. 437 modified (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), 21 (as amended (31.12.1997) with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment No. 2) Regulations 1997 (S.I. 1997/2877), regs. 1(1), 4)
- C53** S. 437 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), regs. 1(1), 14

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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.

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- (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

F323 S. 437A inserted (with effect in accordance with s. 67(8) of the amending Act) by [Finance Act 1997](#) (c. 16), s. 67(3)

438 Pension business: exemption from tax.

- (1) ^{M6}Exemption from corporation tax shall be allowed in respect of income [^{F324}from assets solely linked to pension business.]
- (2) ^{F325}
- (3) ^{F326}
- [^{F327}(3AA) ^{F326}]
- (4) ^{F325}
- (5) ^{F328}
- (6) ^{F328}
- [^{F329}(6A) ^{F330}]
- [^{F331}(6B) ^{F328}
- (6C) ^{F328}
- (6D) ^{F328}
- (6E) ^{F328}]
- (7) ^{F328}
- (8) ^{F332}
- [^{F333}(9) ^{F334}]

Textual Amendments

F324 Words in s. 438(1) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007](#) (c. 11), [Sch. 7 para. 26\(2\)](#) (with [Sch. 7 Pt. 2](#))

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- F325** S. 438(2)(4) repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 26(3), **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)
- F326** S. 438(3)(3AA) repealed (with effect in accordance with Sch. 3 para. 6(7) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 6(2), **Sch. 8 Pt. 2(6)**, Note
- F327** S. 438(3AA) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(2)**
- F328** S. 438(5)-(7) repealed (with effect in accordance with Sch. 3 para. 6(7)-(9) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 6(4)(5), **Sch. 8 Pt. 2(6)**, Note (with Sch. 3 para. 13(17))
- F329** 1990 s.45(9).
- F330** S. 438(5)-(7) repealed (with effect in accordance with Sch. 3 para. 6(7)(8), Sch. 8 Pt. 2(6) Note of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 6(4)(5), **Sch. 8 Pt. 2(6)**
- F331** S. 438(6B)-(6E) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 6(4)**
- F332** S. 438(8) repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3**, Note
- F333** S. 438(9) 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(2)** (with Sch. 8 para. 55(2))
- F334** S. 438(9) repealed (with effect in accordance with Sch. 3 para. 6(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 6(6), **Sch. 8 Pt. 2(6)**, Note

Modifications etc. (not altering text)

- C54** S. 438 amended (27.7.1993) by 1993 c. 34, **s. 78(6)(11)**
- C55** S. 438 modified (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 18 para. 1(5)**
- C56** S. 438 modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 14** (and as substituted (22.8.2000) by The Individual Savings Account (Insurance Companies) (Amendment) Regulations 2000 (S.I. 2000/2075), **regs. 1, 4**)
- C57** S. 438(1) modified (6.4.2005) by The Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680), **regs. 1, 4, 12**; S.I. 2004/3369, **art. 2(1)**

Marginal Citations

- M6** Source—1970 s.314(1); 1970(F) Sch.5 Part III 11(3), (6)(c)

[^{F335}438A Pension business: payments on account of tax credits and deducted tax.

^{F336}]

Textual Amendments

- F335** S. 438A inserted (2.10.1992) by Finance Act 1991 (c. 31, SIF 63:1), **s. 49(1)**; S.I. 1992/1746, **art.2**
- F336** S. 438A repealed (with effect in accordance with s. 87(2)(5) of the repealing Act) by Finance Act 2001 (c. 9), s. 87(1), **Sch. 33 Pt. 2(12)**

[^{F337}438B Income or gains arising from property investment LLP

^{F338}

Textual Amendments

- F337** Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, **Sch. 25 para. 5**
- F338** S. 438B repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 27, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

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

F339]

Textual Amendments

F337 Ss. 438B, 438C inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76, Sch. 25 para. 5

F339 S. 438C repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 28, Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)

439 **Restricted government securities.**

F340

Textual Amendments

F340 S. 439 repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 29, Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)

[F341] 439A Taxation of pure reinsurance business.

F342]

Textual Amendments

F341 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))

F342 S. 439A repealed (with effect in accordance with s. 39(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 8 para. 7, Sch. 27 Pt. 2(8), Note (with Sch. 8 Pt. 2)

[F343] 439B Life reinsurance business: separate charge on profits.

F344]

Textual Amendments

F343 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))

F344 S. 439B repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 30, Sch. 27 Pt. 2(7), Note (with Sch. 7 Pt. 2)

[F345] 440 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 ^{F346}fair] value at that time.

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(2) Where—

- [^{F347}(a) an asset is acquired by a company as a result of an insurance business transfer scheme which has effect to transfer long-term business from any person (“the transferor”) to the company, 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 [^{F346}fair] value at that time.

[^{F349}.....]
^{F348}(2A)

[^{F349}.....]
^{F350}(2B)

- (3) Where, apart from this subsection, section [^{F351}171 or 173 the 1992 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 [^{F352}paragraphs [^{F353}(a), (d) and (e)]] of subsection (4) below, that section shall not apply to the disposal or acquisition.

[^{F354}(4) The categories referred to in subsections (1) to (3) above are—

- [^{F355}(a) assets which are linked solely to gross roll-up business or are foreign currency assets;]
- (d) assets linked solely to basic life assurance and general annuity business;
- (e) assets of the [^{F356}long-term insurance fund] not within [^{F357}either] of the preceding paragraphs;
- (f) other assets.]

(5) [^{F358}.....]

[In a case where the profits of a company’s life assurance business are charged to tax
^{F359}(6) in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3).]]

Textual Amendments

- F345** Ss. 440, 440A substituted for s. 440 (1.1.1990) by Finance Act 1990 (c. 29), Sch. 6 paras. 8, **11(2)** (with Sch. 6 para. 12)
- F346** Words in s. 440(1)(2) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 10(2)(a)**
- F347** S. 440(2)(a) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 28(2) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 28(1)**
- F348** S. 440(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 25** (with Sch. 15)
- F349** S. 440(2A)(2B) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(b), **Sch. 27 Pt. 2(10)**, Note
- F350** S. 440(2B) inserted (with effect in accordance with s. 83(3) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 27 para. 5** (with Sch. 28)

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- F351** Words in s. 440(3) substituted (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. 289, 290(1), **Sch. 10 para. 14(22)(a)** (with ss. 60, 101(1), 171, 201(3))
- F352** Words in s. 440(3) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 5(2)** (with Sch. 8 para. 55(2))
- F353** Words in s. 440(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(2)** (with Sch. 7 Pt. 2)
- F354** S. 440(4) substituted (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by Finance Act 1995, Sch. 8 para. 5(3), s. 55(2)
- F355** S. 440(4)(a) substituted for s. 440(4)(a)-(c) (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(3)** (with Sch. 7 Pt. 2)
- F356** Words in s. 440(4)(e) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(g)**
- F357** Word in s. 440(4)(e) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 31(3)** (with Sch. 7 Pt. 2)
- F358** S. 440(5) repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 10(2)(b), **Sch. 27 Pt. 2(10)**, Note
- F359** S. 440(6) 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(3)** (with Sch. 8 para. 55(2))

Modifications etc. (not altering text)

- C58** S. 440 modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992 (S.I. 1992/1655), **reg 10C** (as inserted (10.8.1995) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1995 (S.I. 1995/1916), **regs. 1, 6**)
- C59** S. 440 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), 22** (as amended by: S.I. 2001/3629, **arts. 1(2)(b), 158(1), 165(2)(d)**; S.I. 2004/822, **regs. 1, 18**)
- C60** S. 440 modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 16** (as amended by S.I. 2007/2134, **regs. 1(1)(2), 16**)
- C61** S. 440(1) excluded (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, **Sch. 7 para. 6(4)**
- C62** S. 440(2) modified (with effect in accordance with reg. 1 of the modifying S.I.) by The Friendly Societies (Taxation of Transfers of Business) Regulations 1995 (S.I. 1995/171), **regs. 4, 5** (as amended (19.3.1997) by The Friendly Societies (Taxation of Transfers of Business) (Amendment) Regulations 1997 (S.I. 1997/472), **regs. 1, 3**)
- C63** S. 440(2) 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), 23** (as amended by S.I. 2001/3629, **arts. 1(2)(b), 158(2)**); and that modifying reg. 23 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. 19**
- C64** S. 440(2) modified (with effect in accordance with reg. 4A(3) of the modifying S.I.) by The Friendly Societies (Taxation of Transfers of Business) Regulations 1995 (S.I. 1995/171), **reg. 4A(1)(2)(a)** (as inserted (19.3.1997) by The Friendly Societies (Taxation of Transfers of Business) (Amendment) Regulations 1997 (S.I. 1997/472), **regs. 1, 4**)
- C65** S. 440(4) modified (20.3.1997 with effect in accordance with reg. 1(2) of the amending Regulations) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 24, 25**; and that modifying reg. 25 is omitted (8.4.2004 with effect in accordance with regs. 1, 20(2) of the revoking S.I.) by virtue of S.I. 2004/822, **reg. 20(1)**
- C66** S. 440(4) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 15**
- C67** S. 440(4)(f) modified by Finance Act 1989 (c. 26), **s. 83XA(12)** (as inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 2(1)**)

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^{F360}440 Securities.

- (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—
 - ^{F361}(a) so many of the securities as are identified in the company's records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of—
 - ^{F362}(i) basic life assurance and general annuity business, or
 - (ii) gross roll-up business,]
 shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,]
 - (c) ^{F363}.....
 - (d) so many of the securities as are included in the company's ^{F364}long-term insurance fund] but do not fall within ^{F365}paragraph (a)] shall be treated for those purposes as a separate holding which is an asset of that fund (but not of ^{F366}the description mentioned in that paragraph]), 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 ^{F367}section 104 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 ^{F367}section 104 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 ^{F368}105 of the 1992 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.

^{F369F370}(6) In this section—

- “1982 holding” has the same meaning as in section 109 of the 1992 Act;
- “^{F367}section 104 holding]” has the same meaning as in section 104(3) of that Act; and
- “securities” means shares, or securities of a company, and any other assets where they are of a nature to be dealt in without identifying the particular assets disposed or acquired.]

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~~[^{F369}(7) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(4).]~~

Textual Amendments

- F360** Ss. 440, 440A substituted for s. 440 (1.1.1990) by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 paras. 8, 11\(2\)](#) (with [Sch. 6 para. 12](#))
- F361** S. 440A(2)(a) substituted for s. 440A(2)(a)(b) (with effect in accordance with [Sch. 8 para. 57\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 6](#) (with [Sch. 8 para. 55\(2\)](#))
- F362** S. 440A(2)(a)(i)(ii) substituted for s. 440A(2)(a)(i)-(iii) (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 32\(a\)](#) (with [Sch. 7 Pt. 2](#))
- F363** S. 440A(2)(c) repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 32\(b\)](#), [Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))
- F364** Words in s. 440A(2)(d) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 52\(1\)\(h\)](#)
- F365** Words in s. 440A(2)(d) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 32\(c\)\(i\)](#) (with [Sch. 7 Pt. 2](#))
- F366** Words in s. 440A(2)(d) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 32\(c\)\(ii\)](#) (with [Sch. 7 Pt. 2](#))
- F367** Words in s. 440A(3)(4)(6) substituted (with effect in accordance with s. 123(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 123\(5\)\(a\)](#)
- F368** Words in s. 440A(5) substituted (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. 289, 290(1), [Sch. 10 para. 14\(23\)\(a\)](#) (with ss. 60, 101(1), 171, 201(3))
- F369** S. 440A(7) 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\(4\)](#) (with [Sch. 8 para. 55\(2\)](#))
- F370** S. 440A(6) substituted (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. 289, 290(1), [Sch. 10 para. 14\(23\)\(b\)](#) (with ss. 60, 101(1), 171, 201(3))

Modifications etc. (not altering text)

- C68** S. 440A(2) modified (31.7.1992 with effect in accordance with reg. 1 of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1992 \(S.I. 1992/1655\)](#), [regs. 1, 14, 15](#) (as amended (31.12.1993 with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 1993 \(S.I. 1993/3111\)](#), [regs. 1\(1\), 5](#))
- C69** S. 440A(2) modified (31.7.1992 with effect in accordance with reg. 1 of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1992 \(S.I. 1992/1655\)](#), [regs. 1, 16](#) (as substituted (31.12.1993 with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 1993 \(S.I. 1993/3111\)](#), [regs. 1\(1\), 10](#))
- C70** S. 440A(2) 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\(1\), 26, 27](#); and that modifying reg. 27 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. 21](#)
- C71** S. 440A(2) modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [regs. 1\(1\), 17](#) (as amended by [S.I. 2007/2134](#), [regs. 1\(1\)\(2\), 17](#))
- C72** See 1990 s.41 and Sch.6 para.12(2)—subs.(d) omitted for period 1 January 1990 to 19 March 1990 inclusive.

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C73	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”.
C74	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”.
C75	S. 440A(2)(e) modified by Finance Act 1989 (c. 26), s. 83XA(13) (as inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 2(1))

[^{F371}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 [^{F372}in accordance with section 431G(3)].

^{F373}(1A) [^{F374}.....]

(2) [^{F374}.....]

(3) [^{F375}Subsection (1) of section 440 applies] as if the only categories set out in subsection (4) of that section were—

- (a) assets of the [^{F376}long-term insurance fund], and
- (b) other assets.

(4) Section 440A applies as if for paragraphs [^{F377}(a), (d) and (e)] of subsection (2) there were substituted—

- [^{F378}(“ so many of the securities as are included in the company's long-term insurance fund shall be treated for the purposes of corporation tax as a separate holding which is an asset of that fund, 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.”.

^{F379}(4A) [Section 440(2) does not apply if either the transferor or the company by which the asset is acquired is a company whose profits are charged to tax in accordance with Case I of Schedule D (or if they both are).

(4B) Section 211 of the 1992 Act does not apply [^{F380}in relation to assets which are referable to the life assurance business of the transferor] if the transferor is a company whose profits are charged to tax in accordance with Case I of Schedule D.]

(5) [^{F381}.....]

Textual Amendments

F371 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))

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- F372** Words in s. 440B(1) inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(2)** (with Sch. 8 Pt. 2)
- F373** S. 440B(1A) inserted (with effect in accordance with Sch. 27 para. 5(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 27 para. 5(1)**
- F374** S. 440B(1A)(2) repealed (with effect in accordance with Sch. 3 para. 8(4)(5) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 3 para. 8(2)(3), **Sch. 8 Pt. 2(6)**, Note
- F375** Words in s. 440B(3) substituted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(3)** (with Sch. 8 Pt. 2)
- F376** Words in s. 440B(3)(a) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(i)**
- F377** Words in s. 440B(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 33(a)** (with Sch. 7 Pt. 2)
- F378** Words in s. 440B(4) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 33(b)** (with Sch. 7 Pt. 2)
- F379** S. 440B(4A)(4B) inserted (with effect in accordance with s. 39(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 8 para. 8(4)** (with Sch. 8 Pt. 2)
- F380** Words in s. 440B(4B) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 7**
- F381** S. 440B(5) repealed (with effect in accordance with s. 39(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 8 para. 8(5), **Sch. 27 Pt. 2(8)**, Note (with Sch. 8 Pt. 2)

[^{F382}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

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- (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
F382 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](#))

[^{F383}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
F383 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\(2\)](#)

441 Overseas life assurance business.

^{F384}

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Textual Amendments

F384 S. 441 repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007](#) (c. 11), Sch. 7 para. 34, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

[^{F385} 441] Section 441: distributions.

(1) ^{F386}

(2) ^{F387}

[^{F388} (3) ^{F387}

(4) ^{F387}

(5) ^{F387}]

(7) ^{F387}

(8) ^{F387}]

Textual Amendments

F385 Ss. 441, 441A substituted for s. 441 by [Finance Act 1990](#) (c. 29), Sch. 7 paras. 3, 10

F386 S. 441A(1) repealed (with effect in accordance with Sch. 3 para. 9(4) of the repealing Act) by [Finance \(No. 2\) Act 1997](#) (c. 58), Sch. 3 para. 9(2), **Sch. 8 Pt. 2(6)**, Note

F387 S. 441A(2)-(8) repealed (with effect in accordance with Sch. 4 para. 28(2), Sch. 8 Pt. 2(10) Note of the repealing Act) by [Finance \(No. 2\) Act 1997](#) (c. 58), Sch. 4 para. 28(1), **Sch. 8 Pt. 2(10)**

F388 S. 441A(3)-(5) substituted for s. 441A(3)-(6) (with effect in accordance with Sch. 8 para. 57(1) of the amending Act) by [Finance Act 1995](#) (c. 4), **Sch. 8 para. 31** (with Sch. 8 para. 55(2))

[^{F389} 441B] Treatment of UK land.

^{F390}

Textual Amendments

F389 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))

F390 S. 441B repealed (13.8.2007 with effect in accordance with reg. 1(2) of the repealing S.I.) by [The Insurance Companies \(Overseas Life Assurance Business\) \(Excluded Business\) \(Amendment\) Regulations 2007](#) (S.I. 2007/2086), **regs. 1(1), 6(2)(a)**

442 Overseas business of U.K. companies.

(1) ^{M7} Subsections (2) and (3) below apply where a company resident in the United Kingdom carries on insurance business outside the United Kingdom through a [^{F391} permanent establishment] 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

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- 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 ^{F392} . . . the profit or loss shall be treated for the purposes of the [^{F393}1992 Act] as a chargeable gain or allowable loss accruing to the transferor company on the transfer.
- (4) ^{F394}

Textual Amendments

- F391** Words in s. 442(1) substituted (with effect in accordance with s. 153(4) of the amending Act) by Finance Act 2003 (c. 14), s. 153(1)(a)
- F392** Words in s. 442(3) repealed (with effect in accordance with s. 164(5) of the amending Act) by Finance Act 1996 (c. 8), Sch. 41 Pt. 5(24), Note
- F393** Words in s. 442(3) substituted (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. 289, 290(1), Sch. 10 para. 14(24) (with ss. 60, 101(1), 171, 201(3))
- F394** S. 442(4) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(c), Sch. 27 Pt. 2(10), Note

Modifications etc. (not altering text)

- C76** S. 442(3) excluded by Income and Corporation Taxes Act 1970 (c. 10), s. 269C(8) (as inserted (retrospectively) by Finance (No. 2) Act 1992 (c. 48), s.48)

Marginal Citations

- M7** Source—1977 s.45(1)—(4); 1979(C) Sch.7

^{F395}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 [^{F396}while the risk remains reinsured by the company under] 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.

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- (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.

[Where a transfer of the reinsurance arrangement from one insurance company (“the transferor”) to another (“the transferee”) is effected by novation or an insurance business transfer scheme, for the purpose of calculating the investment return to be treated as accruing to the transferee in respect of the policy or contract after the transfer, the references to the company in subsection (3)(a), (b) and (c) above include (as well as the transferee)—

- ^{F397}(3A)
- (a) the transferor, and
 - (b) any insurance company from which the reinsurance arrangement was transferred on an earlier transfer effected by novation or an insurance business transfer scheme.]

- (4) The regulations shall provide that the amount of investment return to be treated as accruing ^{F398} . . . 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.]

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Textual Amendments

- F395** 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))
- F396** Words in s. 442A(1) substituted (with effect in accordance with Sch. 33 para. 23(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 23(2)**
- F397** S. 442A(3A) inserted (with effect in accordance with Sch. 33 para. 23(5) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 23(3)**
- F398** Words in s. 442A(4) repealed (with effect in accordance with Sch. 33 para. 23(5) of the repealing Act) by Finance Act 2003 (c. 14), Sch. 33 para. 23(4), **Sch. 43 Pt. 3(12)**, Note 4

Modifications etc. (not altering text)

- C77** 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**
- C78** 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**
- C79** S. 442A(1) modified (12.8.2005 with effect in accordance with reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1), 19**

443 Life policies carrying rights not in money.

F399

Textual Amendments

- F399** S. 443 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(d), **Sch. 27 Pt. 2(10)**, Note

444 Life policies issued before 5th August 1965.

F400

Textual Amendments

- F400** S. 444 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(3)(e), **Sch. 27 Pt. 2(10)**, Note

[^{F401}444A] Transfers of business.

[^{F402}(1) ^{F403} . . . 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”).]

[^{F404}(2) Any expenses payable which ([^{F405}making the assumptions in subsection (3B) below]) would have fallen to be brought into account by the transferor in determining the deduction for expenses payable to be allowed under section 76 in computing profits for an accounting period following the period which ends with the day on which the

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transfer takes place shall, instead, be brought into account under and in accordance with that section by the transferee as expenses payable by him (and giving effect in the case of acquisition expenses, to section 86(6) to (9) of the Finance Act 1989).]

- (3) Any loss which (^{F405}making the assumptions in subsection (3B) below)—
 - (a) would have been available under section [^{F406}436A(4)] 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, ^{F407}
 - (b) ^{F407}

shall, instead, be treated as a loss of the transferee (and available to be set off against profits of [^{F408}gross roll-up business]) [^{F409}if 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 the transfer).]

^{F410}(3ZA) [^{F411}]

^{F412}(3A) [Any subsection (2) excess (within the meaning of section 432F(2)) which (^{F405}making the assumptions in subsection (3B) below)] would have been available under section 432F(3) or (4) to reduce a subsection (3) figure (within the meaning of section 432F(1)) of the transferor in an accounting period following that which ends with the day on which transfer takes place—

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

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

^{F413}(3B) [The assumptions referred to in subsections (2), (3) and (3A) above are—

- (a) that the transferor had continued to carry on the business transferred after the transfer, and
- (b) where there is no accounting period of the transferor ending with the transfer date, that there was such an accounting period.]

(4) Where acquisition expenses are treated as [^{F414}expenses payable by 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 [^{F415}long-term] business, [^{F416}subsection (2), (3) or (3A)] 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) ^{F417}

(8) ^{F417}]

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Textual Amendments

- F401** S. 444A inserted (with effect in accordance with [Sch. 9 para. 7](#) of the amending Act) by [Finance Act 1990 \(c. 29\)](#), [Sch. 9 para. 4](#)
- F402** S. 444A(1) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 29(2) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 29\(1\)](#)
- F403** Words in s. 444A(1) repealed (with effect in accordance with [Sch. 9 para. 17\(1\)](#) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 2\(2\)](#), [Sch. 27 Pt. 2\(9\)](#), Note
- F404** S. 444A(2) substituted (28.9.2004 with effect in accordance with art. 1 of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), [Sch. para. 19\(2\)](#)
- F405** Words in s. 444A(2)(3)(3A) substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 8(2)
- F406** Words in s. 444A(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 35\(a\)](#) (with [Sch. 7 Pt. 2](#))
- F407** S. 444A(3)(b) and preceding word repealed (with effect in accordance with s. 38(2) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 35\(b\)](#), [Sch. 27 Pt. 2\(7\)](#), Note (with [Sch. 7 Pt. 2](#))
- F408** Words in s. 444A(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 7 para. 35\(c\)](#) (with [Sch. 7 Pt. 2](#))
- F409** Words in s. 444A(3) inserted (with effect in accordance with [Sch. 33 para. 24\(4\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 24\(2\)](#)
- F410** S. 444A(3ZA) inserted (with effect in accordance with [Sch. 33 para. 24\(4\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 24\(3\)](#)
- F411** S. 444A(3ZA) omitted (19.2.2008 with effect in accordance with art. 1(2) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 8(4)
- F412** S. 444A(3A) inserted (with effect in accordance with [Sch. 8 para. 53\(1\)\(3\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 17\(4\)](#) (with [Sch. 8 para. 55\(2\)](#))
- F413** S. 444A(3B) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 8(3)
- F414** Words in s. 444A(4) substituted (28.9.2004 with effect in accordance with art. 1 of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), [Sch. para. 19\(3\)](#)
- F415** Words in s. 444A(5) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2000/3629\)](#), [art. 52\(2\)\(h\)](#)
- F416** Words in s. 444A(5) substituted (with effect in accordance with [Sch. 8 para. 53\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 17\(5\)](#) (with [Sch. 8 para. 55\(2\)](#))
- F417** S. 444A(7)(8) repealed (with effect in accordance with [Sch. 9 para. 17\(1\)](#) of the repealing Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 2\(3\)](#), [Sch. 27 Pt. 2\(9\)](#), Note

Modifications etc. (not altering text)

- C80** S. 444A(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\(1\)](#), 30 (as amended (1.12.2001) by [S.I. 2001/3629](#), [arts. 1\(2\)\(b\)](#), 159); and that modifying reg. 30 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. 23](#)

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F418 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

F418 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](#)

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F418 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

F418 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**

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444ABD Transfers of business: deemed periodical returns

- (1) This section applies where the whole of the long-term business of a person (“the transferor”) is transferred from that person—
 - (a) by one insurance business transfer scheme, or
 - (b) by two or more insurance business transfer schemes which take effect on the same date.
- (2) Where (apart from this subsection) there would not be a periodical return of the transferor covering a period ending immediately before the transfer date, 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 date which is covered by a periodical return of the transferor, and
 - (b) ending immediately before the transfer date.
- (3) The periodical return deemed to exist by subsection (2) above is to be deemed to contain—
 - (a) such entries as would be included in an actual periodical return of the transferor covering the period mentioned in subsection (2) above, and
 - (b) such entries as would be included in an actual periodical return of the transferor covering the period—
 - (i) beginning immediately after the end of the period mentioned in subsection (2) above, and
 - (ii) ending immediately before the transfer had effect,and the period mentioned in subsection (2) above is to be deemed to be a period of account (but not an accounting period) of the transferor.
- (4) There is to be deemed for the purposes of corporation tax to be a periodical return of the transferor—
 - (a) covering the transfer date, and
 - (b) containing the appropriate entries.
- (5) In subsection (4) above “appropriate entries” means such entries as would be included in an actual periodical return covering the transfer date—
 - (a) in line 32 of Form 40, and
 - (b) in line 11 of Form 14, in both columns (treating references in that form to “current year” as references to the time immediately after the transfer date and to “previous year” as references to the time immediately before the transfer date).
- (6) A transfer date covered by a periodical return deemed to exist by subsection (4) above is to be deemed to be a period of account of the transferor only for the purpose of taking into account profits under section 444ABD.
- (7) Where—
 - (a) a periodical return deemed to exist by subsection (4) above is preceded by an actual periodical return of the transferor covering the period immediately before the transfer date, and
 - (b) profits are to be taken into account under section 444ABD in the period of account deemed to exist by subsection (6) above,

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those profits are to be deemed for the purposes of corporation tax to be profits arising on the last day of the period of account covered by the actual periodical return.

- (8) Any actual periodical return of the transferor covering a period which includes the transfer date is to be ignored for the purposes of corporation tax.
- (9) In this section and sections 444AB to 444AECC “the transfer date”, in relation to an insurance business transfer scheme, means the date on which it takes effect.]]

Textual Amendments

F419 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\(1\)](#)

F420 S. 444AA substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\), 10](#)

[^{F422}[^{F423}[^{F421}~~444A~~**Transfer schemes: transferor]**

[^{F424}(1) This section applies where—

- (a) an insurance business transfer scheme has effect to transfer long-term business of a person (“the transferor”) to another person (“the transferee”), and
- (b) condition A or condition B is met.]

(2) Condition A is met if any of the assets of the transferor's long-term insurance fund which are transferred ^{F425}. . . 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 [^{F426}or a friendly society, assets of a fund of the transferee which would be a with-profits fund if the transferee were an insurance company],

(“relevant non-transferred assets”).

(3) Condition B is met if, immediately after the transfer date, the transferor—

- (a) does not carry on long-term business, but
- (b) holds any assets which, immediately before the transfer date, were assets of its long-term insurance fund (“retained assets”).

(4) If there are relevant non-transferred assets or retained assets (or both) the relevant amount in relation to them (see subsection (5) 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 relevant period of account (see subsection (6) below).

(5) Section 444ABA makes provision for the calculation of the relevant amount in relation to relevant non-transferred assets; and section 444ABB makes provision for its calculation in relation to retained assets.

[^{F427}(5A) In this section references to assets held by the transferor after the transfer do not include—

- (a) assets held on trust for the transferee, or

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- (b) assets held to meet liabilities which have been wholly reinsured and which are intended to be transferred under an insurance business transfer scheme to the reinsurer.]

[^{F428}(6) In this section and sections 444ABA to 444AC “the relevant period of account” means—

- (a) the period of account of the transferor treated by section 444AA(2) as ending immediately before the transfer date, or
(b) where there is no such period, the period of account of the transferor including the transfer date.]

(7) See section 444AA for the meaning of “the transfer date” in this section.]]

Textual Amendments

- F421** S. 444AB heading substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(6)
- F422** 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)**
- F423** 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**
- F424** S. 444AB(1) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(2)
- F425** Words in s. 444AB(2) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(3)(a)
- F426** Words in s. 444AB(2)(b) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(3)(b)
- F427** S. 444AB(5A) 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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(4)
- F428** S. 444AB(6) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1)**, 11(5)

[^{F429}, ^{F430} **444AB** **Relevant non-transferred assets**

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

FVA – BTO

where—

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

[^{F431}BTO is the lesser of ABTO and AL13, where—

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- (a) 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
 - (b) AL13 is any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date.
- (2) ^{F432}
- (3) ^{F432}
- (4) ^{F432}
- (5) ^{F432}
- (6) ^{F432}
- (7) See section 444AA for the meaning of “the transfer date”^{F433} . . . in this section.]]]

Textual Amendments

F429 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)**

F430 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**

F431 Words in s. 444ABA(1) substituted (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), **arts. 1(1), 12(2)(b)**

F432 S. 444ABA(2)-(6) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 12(3)**

F433 Words in s. 444ABA(7) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 12(4)**

VALID FROM 16/12/2010

^{F434} **444ABA** 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

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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

F434 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)

[^{F435} 444AB Retained assets

- (1) For the purposes of section 444AB the relevant amount in relation to assets that are retained assets [^{F436} is—

$$FVA - ABDP - RL13 - RRL$$

where—

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

ABDP is the amount of the profits to be taken into account as profits under section 444ABD,

RL13 is the amount by which AL13 exceeds VE, and

RRL is the value of any relevant retained liabilities immediately after the transfer date.

But the relevant amount is nil if it would otherwise be below nil.]

[For the purposes of subsection (1) above—

- ^{F437}(1A) (a) AL13 is any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date;
- (b) VE is the amount (if any) by which VL32 exceeds VTL where—
- (i) VL32 is the value of the assets shown (or treated as shown) in line 32 of Form 40 in the periodical return of the transferor covering (or treated as covering) the transfer date, and
- (ii) VTL means the amount of the liabilities transferred by the insurance business transfer scheme; and

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(c) relevant retained liabilities are any liabilities of the company's long-term business which are owed by the company immediately after the transfer date and are shown (or treated as shown) in any of lines 17, 21 to 23 and 31 to 38 in Form 14 in a periodical return for the period of account ending (or treated as ending by section 444AA) immediately before the transfer date.]

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

Textual Amendments

- F435** 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
- F436** Words in s. 444ABB(1) substituted (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), arts. 1(1), 13(2)
- F437** S. 444ABB(1A) 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), arts. 1(1), 13(3)

^{F438} 444ABB **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 ^{M8} 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).

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

Textual Amendments

F438 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

M8 1970 c. 9

[^{F439} ~~444ABC~~ **Transfer scheme transferring part of business: transferor**

^{F440}]

Textual Amendments

F439 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**

F440 S. 444ABC omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), **arts. 1(1), 15**

[^{F441} ~~444ABD~~ **Transferor's period of account including transfer**

- (1) Any profits representing the amount by which—
- (a) the [^{F442}amount] 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 [^{F443}of Form 40] 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 [^{F444}in accordance with subsections (1A) and (1C) below].

[Where the profits of the life assurance business of the transferor for a period of
^{F445}(1A) account are charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), the appropriate fraction of the amount of the profits to which subsection (1) above applies is to be taken into account as profits of that period of account chargeable to tax in accordance with Case I of Schedule D (and not otherwise).

(1B) For the purposes of subsection (1A) above “the appropriate fraction” is the appropriate fraction for the purposes of section 432G(1).

(1C) Where the profits of the life assurance business of the transferor for a period of account are charged to tax under the I minus E basis, the relevant fraction of the amount of the profits to which subsection (1) above applies is to be taken into account as profits of that period of account chargeable to tax under section 436A (and not otherwise).

(1D) For the purposes of subsection (1C) above “the relevant fraction” is the relevant fraction for the purposes of section 432G(4).

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(1E) Where the value mentioned in paragraph (b) of subsection (1) above exceeds the amount mentioned in paragraph (a) of that subsection, the amount of the excess is not to be taken into account as a loss of the transferor.]

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

Textual Amendments

- F441** 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**
- F442** Word in s. 444ABD(1)(a) substituted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 16(2)(a)**
- F443** Words in s. 444ABD(1)(b) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 16(2)(b)**
- F444** Words in s. 444ABD(1) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 16(2)(c)**
- F445** S. 444ABD(1A)-(1E) inserted (19.2.2008 with effect in accordance with art. 1(2) of the amending S.I.) by The Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381), **arts. 1(1), 16(3)**

^{F447}444^{F446}AC Transfer schemes: reduction of income of transferee]

- (1) This section applies where an insurance business transfer scheme has effect to transfer ^{F448} . . . long-term business of a person (“the transferor”) to another person (“the transferee”) and [^{F449}the condition in subsection (2) below is] met.
- (2) [^{F450}The condition] is that the transferor did not carry on life assurance business that is mutual business during the relevant period of account.
- (3) ^{F451}
- (4) 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 [^{F452}lesser of the transferred surplus and any positive amount shown (or treated as shown) in line 13 of Form 14 in the periodical return for the last period of account of the transferor ending before the transfer date].
- (5) In subsection (4) above “the transferred surplus” [^{F453}is VE – RBTO where—
- (a) VE has the same meaning as in section 444ABB, and
 - (b) RBTO means so much of BTO as relates to relevant non-transferred assets transferred to the transferee where—
 - (i) BTO has the same meaning as in section 444ABA, and
 - (ii) “relevant non-transferred assets” has the same meaning as in section 444AB.]

^{F454}(5A) Where the transfer is to more than one transferee, the amount of any reduction to be made in accordance with subsection (4) above is to be apportioned to each transferee on a just and reasonable basis.]

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(6) See section 444AA for the meaning of “the transfer date”, and section 444AB for the meaning of “the relevant period of account”, in this section.]

Textual Amendments

- F446 S. 444AC heading substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 17(8)
- F447 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](#)
- F448 Words in s. 444AC(1) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 17(2)(a)
- F449 Words in s. 444AC(1) substituted (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 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 17(2)(b)
- F450 Words in s. 444AC(2) substituted (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 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 17(3)
- F451 S. 444AC(3) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 17(4)
- F452 Words in s. 444AC(4) substituted (19.2.2008 with effect in accordance with art. 1(4) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 17(5)
- F453 Words in s. 444AC(5) substituted (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 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 17(6)
- F454 S. 444AC(5A) 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 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 17(7)

[^{F455} **Transfer schemes transferring part of business: reduction in income of**
^{F456} **444ACZA transferee**

^{F457}]

Textual Amendments

- F455 Ss. 444AC-444AE inserted (with effect in accordance with [Sch. 33 para. 20\(3\)\(4\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 20\(1\)](#)
- F456 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](#)
- F457 S. 444ACZA omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), [arts. 1\(1\)](#), 18

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F458 Transfers of business: transferor shares are assets of transferee's long-term insurance fund etc

F459]

Textual Amendments

- F455** Ss. 444AC-444AE inserted (with effect in accordance with Sch. 33 para. 20(3)(4) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 20(1)**
- F458** 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)**
- F459** S. 444ACA repealed (with effect in accordance with Sch. 10 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 10 para. 2(2), **Sch. 27 Pt. 2(10)**, Note

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

F460]

Textual Amendments

- F455** Ss. 444AC-444AE inserted (with effect in accordance with Sch. 33 para. 20(3)(4) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 20(1)**
- F460** S. 444AD repealed (with effect in accordance with Sch. 9 para. 17(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 9 para. 7(1), **Sch. 27 Pt. 2(9)**, Note; S.I. 2008/379, **art. 2**

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.

444AE Transfer schemes: anti-avoidance rule

- (1) This section applies where—
 - (a) as a result of the whole ^{F461} . . . 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 ^{F461} . . . 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.

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- (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 ^{F462}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 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 ^{F463}period of account of the transferee in which the advantage is obtained by the transferee].
- (5) In this section and sections 444AEB ^{F464}to 444AECC]“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.

Textual Amendments

- F461** Words in s. 444AEA(1)(a)(b) omitted (19.2.2008 with effect in accordance with art. 1(4) of the repealing S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), 19(2)
- F462** Words in s. 444AEA(3) substituted (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 \(S.I. 2008/381\)](#), arts. 1(1), 19(3)
- F463** Words in s. 444AEA(4) substituted (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 \(S.I. 2008/381\)](#), arts. 1(1), 19(4)

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F464 Words in s. 444AEA(5) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 19(5)**

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 [^{F465}are, or at the relevant time are expected to be, less than they would be but for the whole] of the transfer scheme arrangements, or
 - (b) Case I losses of its life assurance business for such a period of account [^{F466}are, or at the relevant time are expected to be, greater than they would be but for the whole] 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 [^{F467}are, or at the relevant time are expected to be, less than they would be but for the whole of the transfer scheme arrangements], and
 - (b) the amounts (if any) by which Case I losses for each such period of account [^{F468}are, or at the relevant time are expected to be, greater than they would be but for the whole of the transfer scheme arrangements].
- (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.
- ^{F469}(4) In this section and sections 444AEC, 444AECB and 444AECC—

“Case I profits” and “Case I losses” means profits and losses computed in accordance with the provisions of Case I of Schedule D, and

“the relevant time” is the time at which any application under section 444AED is made, or, if no such application is made, the transfer date.]
- (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

- F465** Words in s. 444AEB(1)(a) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 20(2)(a)**
- F466** Words in s. 444AEB(1)(b) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 20(2)(b)**
- F467** Words in s. 444AEB(2)(a) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 20(3)(a)**

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- F468** Words in s. 444AEB(2)(b) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 20(3)(b)**
- F469** S. 444AEB(4) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 20(4)**

444AEC Case I advantage: transferee

- (1) A Case I advantage is obtained by the transferee if—
- Case I profits of its life assurance business for a period of account to which this section applies [^{F470}are, or at the relevant time are expected to be, less than they would be but for the whole] of the transfer scheme arrangements, or
 - Case I losses of its life assurance business for such a period of account [^{F471}are, or at the relevant time are expected to be, greater than they would be but for the whole] of the transfer scheme arrangements.
- (2) If a Case I advantage is obtained by the transferee, the amount of the Case I advantage is—
- the amount by which Case I profits for each period of account to which this section applies [^{F472}are, or at the relevant time are expected to be, less than they would be but for the whole of the transfer scheme arrangements], or
 - the amount by which Case I losses for each such period of account [^{F473}are, or at the relevant time are expected to be, greater than they would be but for the whole of the transfer scheme arrangements].
- (3) This section applies to a period of account if it is—
- 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),
 - 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
 - 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” [^{F474}and “the relevant time”], in this section.

Textual Amendments

- F470** Words in s. 444AEC(1)(a) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 21(2)(a)**
- F471** Words in s. 444AEC(1)(b) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 21(2)(b)**
- F472** Words in s. 444AEC(2)(a) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 21(3)(a)**

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- F473** Words in s. 444AEC(2)(b) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 21(3)(b)**
- F474** Words in s. 444AEC(4) 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 \(S.I. 2008/381\)](#), **arts. 1(1), 21(4)**

[^{F475} 444AECB 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 444AECB), 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

- F475** Ss. 444AECB-444AECB 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**

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444AECB 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 444AECB “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

F475 Ss. 444AECA-444AECB 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](#)

444AECB 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

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- (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

F475 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](#)

444AED Clearance: no avoidance or group advantage

- (1) [^{F476}Sections 444AEA and 444AECA do] 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

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- (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.

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Textual Amendments

F476 Words in s. 444AED(1) substituted (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 \(S.I. 2008/381\)](#), **arts. 1(1), 23**

^{F477}Surpluses of mutual and former mutual businesses

Textual Amendments

F477 [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—

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- (a) is recognised for the purposes of section 83 of that Act, and
- (b) is one in relation to which [^{F478}section 432C applies],
- 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 [^{F479}profits of the company chargeable under Case VI of Schedule D under section 436A (gross roll-up business)].
- (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).

Textual Amendments

F478 Words in s. 444AF(4)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 37(2) (with Sch. 7 Pt. 2)

F479 Words in s. 444AF(5)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 7 para. 37(3) (with Sch. 7 Pt. 2)

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—

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- (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.

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- (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,

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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,

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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 [F480 Mutual surplus: gross roll-up 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
 - [F481(b) the company carries on gross roll-up business.]
- (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 [F482 the company's gross roll-up business].
- (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—

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- (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 [^{F483}section 432C applies],
- 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.

Textual Amendments

- F480** S. 444AK heading substituted (with effect in accordance with s. 38(2) of the amending Act) by virtue of Finance Act 2007 (c. 11), **Sch. 7 para. 38(5)** (with Sch. 7 Pt. 2)
- F481** S. 444AK(1)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 38(2)** (with Sch. 7 Pt. 2)
- F482** Words in s. 444AK(3) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 38(3)** (with Sch. 7 Pt. 2)
- F483** Words in s. 444AK(5)(b) substituted (with effect in accordance with s. 38(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 7 para. 38(4)** (with Sch. 7 Pt. 2)

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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.]

[^{F484} Provisions applying in relation to overseas life insurance companies

Textual Amendments

F484 S. 444B and cross heading inserted (27.7.1993) by 1993 c.34, s. 97(1)

^{F485} 444B Modification of Act in relation to overseas life insurance companies.

^{F486}]

Textual Amendments

F485 S. 444B and cross heading inserted (27.7.1993) by 1993 c. 34, s. 97(1)

F486 S. 444B repealed (31.12.2006 with effect in accordance with reg. 1 of the repealing S.I.) by The Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271), reg. 43(1), Sch. Pt. 1

[^{F487} Equalisation reserves

Textual Amendments

F487 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 [^{F488} equalisation reserve rules], to maintain an equalisation reserve.
- (2) Those rules are—

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- (a) that amounts which, in accordance with [F488 equalisation reserve rules], 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 [F488 equalisation reserve rules] 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 [F488 equalisation reserve rules], 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 [F488 equalisation reserve rules].
- (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 [F488 equalisation reserve rules], 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

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- (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 [F488equalisation reserve rules] 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 [F488equalisation reserve rules];
- 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 [F488equalisation reserve rules] 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 [F488equalisation reserve rules] 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 [F489the rules].
- [F490(11) In this section, and in sections 444BB to 444BD, “equalisation reserves rules” means the rules in [F491chapter 7.5 of the Integrated Prudential Sourcebook].]

Textual Amendments

F488 Words in ss. 444BA-444BD substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(1\)](#)

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F489 Words in s. 444BA(10) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(3\)](#)

F490 S. 444BA(11) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(4\)](#)

F491 Words in s. 444BA(11) substituted (with effect in accordance with [Sch. 9 para. 9\(3\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 9\(2\)](#)

Modifications etc. (not altering text)

C81 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](#)

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 [^{F492}equalisation reserve rules], 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 [^{F493}in the United Kingdom through a permanent establishment],

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.

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(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.

Textual Amendments

F492 Words in ss. 444BA-444BD substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(1\)](#)

F493 Words in s. 444BB(3)(b) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 153\(1\)\(a\)](#)

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 ^{F494}9.3 of the Prudential Sourcebook (Insurers)], applied for any period an accounting method described in paragraph 52 or 53 of Schedule 9A to the ^{M9}Companies Act 1985 (accounting on a non-annual basis).

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- (2) Subsection (5) of section 444BB applies for the purposes of this section as it applies for the purposes of that section.

Textual Amendments

F494 Words in s. 444BC(1) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), **art. 30(5)**

Marginal Citations

M9 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 [^{F495}equalisation reserve rules].
- (2) For the purposes of this section a reserve is an equivalent reserve if—
- (a) it is maintained, otherwise than by virtue of [^{F495}equalisation reserve rules], either—
 - ^{F496}(i) by an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out contracts of insurance in the United Kingdom, or
 - (ii) by a firm which has permission under paragraph 4 of Schedule 4 to that Act (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to effect or carry out contracts of insurance in the United Kingdom, or
 - (iii) in respect of any business which consists of the effecting or carrying out of contracts of insurance and 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 [^{F495}equalisation reserve rules].
- (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—

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- (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 [^{F495}equalisation reserve rules], 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—
- [^{F497}“credit insurance business” means business which consists of the effecting or carrying out of contracts of insurance against risks of loss to the persons insured arising from—
- (a) the insolvency of debtors of theirs, or
- (b) from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due;]
- “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; ^{F498} . . .
- ^{F498}

Textual Amendments

- F495** Words in s. 444BC(1) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(5\)](#)
- F496** S. 444BD(2)(a)(i)-(iii) substituted for s. 444BD(2)(a)(i)(ii) (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(7\)](#)
- F497** Words in s. 444BD(7) substituted (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 30\(8\)\(a\)](#)

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F498 S. 444BD(7): definition of "EC company" and preceding word repealed (1.12.2001 with effect in accordance with arts. 1(2)(a), 30(9) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), **art. 30(8)(b)**

444C Modification of section 440.

F499

Textual Amendments
F499 Ss. 444C-444E repealed (with effect in accordance with Sch. 8 paras. 55, 57(1) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 29 Pt. 8(5)**, Notes 1, 2

444D Qualifying distributions, tax credits, etc.

F500

Textual Amendments
F500 Ss. 444C-444E repealed (with effect in accordance with Sch. 8 paras. 55, 57(1) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 29 Pt. 8(5)**, Notes 1, 2

444E Income from investments attributable to BLAGAB, etc.

F501]

Textual Amendments
F501 Ss. 444C-444E repealed (with effect in accordance with Sch. 8 paras. 55, 57(1) of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 29 Pt. 8(5)**, Notes 1, 2

Provisions applying only to overseas life insurance companies

F502 445

Textual Amendments
F502 S. 445 repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. 103(2)(a)(3)(4), 213, **Sch. 23 Pt. III(9)**, note

446 Annuity business.

F503 (1)

F504 (2)

F504 (3)

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^{F505} 447(4)

Textual Amendments

- F503** S. 446(1) repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. 103(2)(b)(3)(4), 213, **Sch. 23 Pt. III(9)**, note
- F504** S. 446(2)(3) repealed (for accounting periods beginning on or after 1.1.1992) by **Finance Act 1991** (c. 31, SIF 63:1), ss. 48, 123, **Sch. 7 para. 7(1)(b)**, **Sch. 19 Pt. V**, Note 3
- F505** S. 446(4) repealed by **Finance Act 1990** (c. 29, SIF 63:1), s. 132, **Sch. 19 Pt. IV**.

⁴⁴⁷_{F506} (1)

^{F506} (2)

^{F507} (3)

^{F506} (4)

Textual Amendments

- F506** S. 447(1)(2) and (4) repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. 103(2)(c)(3)(4), 213, **Sch. 23 Pt. III(9)**, note
- F507** S. 447(3) repealed (for accounting periods beginning on or after 1.1.1992) by **Finance Act 1991** (c. 31, SIF 63:1), ss. 48, 123, **Sch. 7 paras. 7(3), 18**, **Sch. 19 Pt. V**, Note 3

^{F508} 448

Textual Amendments

- F508** S. 448 repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, **ss. 103(2)(d)**, 213, **Sch. 23 Pt. III (9)**, note

^{F509} 449

Textual Amendments

- F509** S. 449 repealed (27.7.1993 with effect as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, **ss. 103(2)(e)**, 213, **Sch. 23 Pt. III (9)**, note

Underwriters

^{F510} 450

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Textual Amendments
F510 Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12) notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

^{F511}**451**

Textual Amendments
F511 Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the repealing Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes. 1 and 5

^{F512}**452**

Textual Amendments
F512 SS. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

^{F513}**453**

Textual Amendments
F513 Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **SCh. 23, Pt.III** (12), notes 1 and 5)

^{F514}**454**

Textual Amendments
F514 Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt.III** (12), notes 1 and 5

^{F515}**455**

Textual Amendments
F515 Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

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^{F516} **456**

Textual Amendments

F516 Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

^{F517} **457**

Textual Amendments

F517 Ss. 450-457 repealed (27.7.1993 with effect as mentioned in Sch. 23 Pt. III (12), notes 1 and 5 of the amending Act) by 1993 c. 34, s. 213, **Sch. 23 Pt. III** (12), notes 1 and 5

Capital redemption business

458 Capital redemption business.

^{F518}

Textual Amendments

F518 Ss. 458, 458A repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 39, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

[^{F519} **458A Capital redemption business: power to apply life assurance provisions.**

^{F520}]

Textual Amendments

F519 S. 458A inserted (29.4.1996) by Finance Act 1996 (c. 8), s. 168(3)

F520 Ss. 458, 458A repealed (with effect in accordance with s. 38(2) of the repealing Act) by Finance Act 2007 (c. 11), Sch. 7 para. 39, **Sch. 27 Pt. 2(7)**, Note (with Sch. 7 Pt. 2)

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