
STATUTORY INSTRUMENTS

2005 No. 3465

**The Insurance Companies (Corporation
Tax Acts) (Amendment) Order 2005**

Amendment of Chapter 1 of Part 12 of the Income and Corporation Taxes Act 1988

5.—(1) Amend section 432A (apportionment of income and gains) as follows.

(2) In subsection (6)—

- (a) in the words before paragraph (a) for “a category of business” substitute “basic life assurance and general annuity business”;
- (b) in paragraph (a)(i)—
 - (i) for “of the category” substitute “of that category of business”; and
 - (ii) for “to the category” substitute “to that category”;
- (c) at the end of paragraph (a)(i) omit “and”;
- (d) for sub-paragraph (ii) of paragraph (a) substitute—
 - “(ii) if there has been a relevant reattribution, the mean of the opening and closing amounts of the shareholders' excess assets, and
 - (iii) the mean of the appropriate parts of the opening and closing amounts of the free assets amounts; and”;
- (e) in paragraph (b)(ii) for “that paragraph” substitute “subsection (6A)(a) below”.

(3) After subsection (6) insert—

“(6A) For the purposes of subsection (5) above “the relevant fraction”, in relation to any other category of business other than basic life assurance and general annuity business and overseas life assurance business, is the fraction of which—

- (a) the numerator is the aggregate of—
 - (i) the mean of the opening and closing liabilities of the category, reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to the category, and
 - (ii) the mean of the appropriate parts of the opening and closing amounts of the free assets amounts; and
- (b) the denominator is the aggregate of—
 - (i) the numerator given by paragraph (a) above
 - (ii) the numerators given by that paragraph in relation to the other categories of business; and
 - (iii) the numerators given by subsection (6)(a) above in relation to the basic life assurance and general annuity business.”.

(4) In subsection (7)—

- (a) in the words before paragraph (a) for “(5) and (6)” substitute “(5), (6) and (6A)”; and
- (b) at the end of paragraph (a) omit “and”

- (c) after paragraph (b) insert—
- “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 438B(1), 441B(2) and 442A(3),
- (ii) section 85(2C)(c) of the Finance Act 1989(4).”.
- (5) For subsection (8) substitute—
- “(8) In subsections (6) and (6A) 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;
- 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—
- 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.
- (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;

(1) Section 438B was inserted by paragraph 5 of Schedule 25 to the Finance Act 2001, amended by article 52(1)(f) of 2001/3629, and further amended by paragraph 13 of Schedule 33 to the Finance Act 2003.

(2) Section 441B was inserted by paragraphs 32 and 55(1) of Schedule 8 to the Finance Act 1995, and amended by paragraph 41 of Schedule 5 to the Finance Act 1998.

(3) Section 442A was inserted by paragraph 34 of Schedule 8 to the Finance Act 1995 and amended by paragraph 23 of Schedule 33 to the Finance Act 2003.

(4) 1989 c. 26, Subsection (2C) was inserted by paragraph 7 of Schedule 6 to the Finance Act 2004 and amended by paragraph 15 of Schedule 9 to the Finance (No. 2) Act 2005.

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 Integrated Prudential Sourcebook; and

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

(6) In subsection (9)(b)(5)—

- (a) for “investment reserve” substitute “free assets amount”;
- (b) for “that reserve” substitute “that amount”.

(5) Subsection (9) was substituted by paragraph 13 of Schedule 8 to the Finance Act 1995.