

**2006 No. 1358**

**CORPORATION TAX**

**The Insurance Companies (Corporation Tax Acts) (Amendment)  
Order 2006**

<i>Made</i> - - - -	<i>18th May 2006</i>
<i>Laid before the House of Commons</i>	<i>19th May 2006</i>
<i>Coming into force</i> - -	<i>9th June 2006</i>

The Treasury make the following Order in exercise of the power conferred upon them by section 431A(3) and (6) of the Income and Corporation Taxes Act 1988(a):

**Citation, commencement and effect**

1.—(1) This Order may be cited as the Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 and comes into force on 9th June 2006.

(2) This Order has effect in relation to periods of account beginning on or after 1st January 2005 and ending before 1st October 2006, but subject as follows.

(3) If, in relation to any period of account ending before 9th June 2006 for which an election in accordance with Rule 9.10(c) of the Prudential Sourcebook (Insurers) has effect, there are shareholders' excess losses and a decrease in value of inherited estate assets—

- (a) the part of the amount mentioned in subsection (6) of section 432B of the Income and Corporation Taxes Act 1988 is not increased in accordance with that section, and
- (b) those losses and that decrease in value are carried forward to the next period of account as shareholders' excess losses and a decrease in value of inherited estate assets (as the case may be).

**Amendment of section 431 of the Income and Corporation Taxes Act 1988**

2. In section 431(2ZB)(d) of the Income and Corporation Taxes Act 1988 (interpretative provisions relating to insurance companies)(b) for "shareholder's" substitute "shareholders".

**Amendment of section 432B of the Income and Corporation Taxes Act 1988**

3.—(1) Section 432B of the Income and Corporation Taxes Act 1988 (apportionment of receipts brought into account)(c) is amended as follows.

- (2) For subsection (8) substitute—

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(a) 1988 c. 1. Section 431A was inserted by paragraph 2 of Schedule 6 to the Finance Act 1990 (c. 29) and substituted by section 42 of, and paragraph 3 of Schedule 9 to, the Finance (No. 2) Act 2005 (c. 22).  
(b) Section 431 (2ZB)(d) was inserted by section 170 of, and paragraph 22(1) of Schedule 33 to, the Finance Act 2003 (c.14) and amended by articles 2 and 3 of S.I. 2005/3465.  
(c) Section 432B was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990. The section has been amended. The relevant amendment is made by article 6 of S.I. 2005/3465.

“(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 the relevant fraction of the lower of amounts A and B.

(8B) The difference between amounts A and B is carried forward to the next period of account—

- (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 the relevant fraction of 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*

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.”.

(3) In subsection (9)—

- (a) in the definition of “relevant fraction”, in paragraph (b) after “annuity business” insert “and overseas life assurance business”;
- (b) in the definition of “the section 83 net amount” for “(7)” substitute “(8B)”;
- (c) in the definition of “shareholders' excess gains”—
  - (i) for paragraph (a) substitute “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(a) for the accounting periods comprised in the period of account exceeds”;
  - (ii) in paragraph (b), for “those gains that would be so referable” substitute “the aggregate amount that would be found under paragraph (a)”;
- (d) in the definition of “shareholders' excess income”, in paragraph (a) after “for the” insert “accounting periods comprised in the”;
- (e) in the definition of “shareholders' excess losses”—
  - (i) for paragraph (a) substitute “investment losses for the accounting periods comprised in the period of account exceeds”;
  - (ii) in paragraph (b), for “so referable” substitute “found under paragraph (a)”.

(4) In subsection (11)—

- (a) in paragraph (a)—
  - (i) in the introductory words after “LG” insert “+ OIG”;
  - (ii) for sub-paragraph (i) substitute “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”;
- (iii) after sub-paragraph (i) insert—

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(a) 1989 c.26. Subsection (2C) was inserted by sections 21 and 326 of, and paragraph 7 of Schedule 6 and Part 2(3) of Schedule 42 to, the Finance Act 2004 (c. 12).

- “(ia) OIG is the amount of offshore income gains accruing in each such accounting period and charged to corporation tax under Case VI of Schedule D by virtue of section 761(1)(b)(ii)(a);”;
- (iv) in sub-paragraph (ii) for the words “given by paragraph 2(1) of Schedule 11 to the Finance Act 1996” substitute “of account”; and
- (v) in sub-paragraph (iii) for the words “given by that paragraph” substitute “for the period of account”;
- (b) in paragraph (b)—
  - (i) in sub-paragraph (i) for the words “given by paragraph 2(1) of Schedule 11 to the Finance Act 1996” substitute “of account”;
  - (ii) after sub-paragraph (i) insert—
    - “(ia) annuities or other annual payments in each accounting period comprised in the period of account that are chargeable under Case III of Schedule D by virtue of paragraph (b) of that Case;”;
    - (iii) in sub-paragraph (ii) after “income” insert “for each such accounting period”; and
    - (iv) in sub-paragraph (iii) after “income” insert “for each such accounting period”
- (c) in paragraph (c)—
  - (i) in the introductory words for “of LA + NTD - NTC” substitute —
    - “of—
    - LA + NTD – OIG – NTC (where there is an amount LA in the period of account)
    - or
    - NTD – NTC – LG – OIG (where there is an amount LG in the period of account)”;
  - (ii) for sub-paragraph (i) substitute—
    - “(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”; and
    - (iii) in sub-paragraph (ii) at the beginning insert “LG, OIG,”.
- (5) After subsection (11) insert—
  - “(12) In subsection (11)—
    - “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.”.

**Amendment of paragraph 4(5) of Schedule 19AA of the Income and Corporation Taxes Act 1988**

4. In paragraph 4(5) of Schedule 19AA of the Income and Corporation Taxes Act 1988(b) omit the definition of “free assets amount”.

*Claire Ward*  
*Alan Campbell*

18th May 2006

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Section 761(1)(b)(ii) has been amended by paragraphs 1 and 11 of Schedule 14 to the Finance Act 1990 (c. 29), section 882 of, and paragraph 308 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

(b) Schedule 19AA was inserted by paragraphs 6 and 10(1) of Schedule 7 to the Finance Act 1990 and the definition of “free assets amount” was amended by article 3 of S.I. 2001/2188, section 170 of, and paragraph 27 to Schedule 33 to, the Finance Act 2003 (c. 14) and articles 2 and 7(1) and (4) of S.I. 2005/3465.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends Chapter 1 of Part 12 of the Income and Corporation Taxes Act 1988 (c. 1) in relation to the apportionment rules applying to companies carrying on life assurance business which attribute income and gains of such a company's inherited estate to categories of the company's business.

Article 1 provides for the citation, commencement and effect of the instrument. The effect of the Order is restricted in respect of periods of account ending before the instrument comes into force.

Article 2 corrects a grammatical error in section 431(2ZB)(d).

Article 3 amends section 432B of the Income and Corporation Taxes Act 1988 (apportionment of receipts brought into account) to allow an adjustment of amounts computed under section 83 of the Finance Act 1989 (c. 26) where, 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 account. New provisions provide for the calculation of the adjustment. Other amendments are made to section 432B which are consequent on the separate treatment of basic life assurance and general annuity business and other categories of life insurance business.

Article 4 amends paragraph 4(5) of Schedule 19AA of the Income and Corporation Taxes Act 1988 removing a definition which is unnecessary in consequence of amendments made by S.I. 2005/3465.

This Order does not impose any new costs on business.

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