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DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

**The Insurance Business Transfer Schemes  
(Amendment of the Corporation Tax Acts) Order 2008**

**Insertion of sections 444AZA to 444AZC**

9. After section 444A insert—

**“Transfers of life assurance business: Case VI losses of the transferor**

**444AZA.**—(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)(1), 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(2) (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

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(1) Section 431G was substituted by paragraph 4 of Schedule 8 to the Finance Act 2007.

(2) Section 436A was inserted by paragraph 25 of Schedule 7, and amended by paragraph 12 of Schedule 9, to the Finance Act 2007.

*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.

### **Transfers of life assurance business: Case I losses of the transferor**

**444AZB.**—(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.”

