



# Finance Act 2012

## 2012 CHAPTER 14

### PART 2

#### INSURANCE COMPANIES CARRYING ON LONG-TERM BUSINESS

### CHAPTER 8

#### ASSETS HELD FOR PURPOSES OF LONG-TERM BUSINESS

##### *Transfers of assets from different categories*

#### **116 UK life insurance companies**

- (1) If, at any time in a period of account of a UK life insurance company, an asset (or a part of an asset) held by the company—
- (a) ceases to be within one of the long-term business categories, and
  - (b) comes within another of those categories,
- the company is treated for the purposes of corporation tax on chargeable gains as if it had disposed of and immediately re-acquired the asset (or part) at that time for a consideration equal to the fair value of the asset (or part) at that time.
- (2) The long-term business categories in question are—
- (a) assets which are matched to BLAGAB liabilities of the company,
  - (b) assets which are matched to other long-term business liabilities of the company,
  - (c) assets which are held by the company for the purposes of any with-profits fund but which are not matched to its long-term business liabilities, and
  - (d) assets which are held for the purposes of the company's long-term business but which are not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) If the company has more than one with-profits fund within subsection (2)(c), the assets which are held by it for the purposes of a particular fund but which are not matched to its long-term business liabilities are treated as assets within a separate long-term business category.
- (4) Subsection (1) does not apply if all the income of the company's long-term business is chargeable to corporation tax on income under section 35 of CTA 2009.
- (5) If, at any time in a period of account of a UK life insurance company, an asset (or a part of an asset) held by the company—
  - (a) ceases to be within a category set out in subsection (6), and
  - (b) comes within the other category set out there,
 the company is treated for the purposes of corporation tax as if it had disposed of and immediately re-acquired the asset (or part) for a consideration equal to the fair value of the asset (or part) at that time.
- (6) The categories in question are—
  - (a) assets which are held for the purposes of the company's long-term business, and
  - (b) other assets.

## **117 Overseas life insurance companies: rule corresponding to s.116**

- (1) If, at any time in a period of account of an overseas life insurance company, an asset (or a part of an asset) held by the company—
  - (a) ceases to be within one of the UK long-term business categories, and
  - (b) comes within another of those categories,
 the company is treated for the purposes of corporation tax on chargeable gains as if it had disposed of and immediately re-acquired the asset (or part) at that time for a consideration equal to the fair value of the asset (or part) at that time.
- (2) The UK long-term business categories in question are—
  - (a) UK assets which are matched to BLAGAB liabilities of the company,
  - (b) UK assets which are matched to other long-term business liabilities of the company,
  - (c) UK assets which are held by the company for the purposes of any with-profits fund but which are not matched to its long-term business liabilities, and
  - (d) UK assets which are held for the purposes of the company's long-term business but which are not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds.
- (3) If the company has more than one with-profits fund within subsection (2)(c), the UK assets which are held by it for the purposes of a particular fund but which are not matched to its long-term business liabilities are treated as assets within a separate UK long-term business category.
- (4) Subsection (1) does not apply if all the income of the company's long-term business is chargeable to corporation tax on income under section 35 of CTA 2009.
- (5) If, at any time in a period of account of an overseas life insurance company, an asset (or a part of an asset) held by the company—
  - (a) ceases to be within a category set out in subsection (6), and

- (b) comes within another category set out there,  
the company is treated for the purposes of corporation tax as if it had disposed of and immediately re-acquired the asset (or part) for a consideration equal to the fair value of the asset (or part) at that time.
- (6) The categories in question are—
- (a) UK assets which are held for the purposes of the company’s long-term business,
  - (b) other UK assets, and
  - (c) assets which are held by the company but which are not UK assets.
- (7) For the purposes of this section and section 118, assets (whether situated in the United Kingdom or elsewhere) are “UK assets” of an overseas life insurance company if, in accordance with the provision made by or under Chapter 4 of Part 2 of CTA 2009, they fall to be attributed to the permanent establishment in the United Kingdom through which the company carries on life assurance business.

## **118 Transfers of business and transfers within a group**

- (1) If—
- (a) as a result of an insurance business transfer scheme transferring long-term business, a UK life insurance company or an overseas life insurance company acquires an asset, and
  - (b) the asset (or part of it) is within one of the applicable categories at the time immediately before the acquisition but is not within that category immediately after that time,
- the transferor is treated for the purposes of corporation tax on chargeable gains as if it had disposed of and immediately re-acquired the asset (or part) at the time immediately before the acquisition.
- (2) The consideration for this deemed disposal and re-acquisition is equal to the fair value of the asset (or part) at that time.
- (3) If the transferor or the transferee is an overseas life insurance company, an asset (or part of an asset) is taken as being in the same category immediately before and after the acquisition if the asset (or part)—
- (a) was within one category immediately before the acquisition, and
  - (b) was within a corresponding category immediately after the acquisition.
- (4) Subsections (1) to (3) do not apply if all the income of the long-term business of either the transferor or the transferee is chargeable to corporation tax on income under section 35 of CTA 2009.
- (5) For the purposes of subsections (1) to (3) “the applicable categories” means—
- (a) in the case of a UK life insurance company, the long-term business categories or a category of assets which are not held for the purposes of its long-term business, and
  - (b) in the case of an overseas life insurance company, the UK long-term business categories, a category of UK assets which are not held for the purposes of its long-term business or a category of assets which are held by it but which are not UK assets.
- (6) If—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) a UK life insurance company or an overseas life insurance company disposes of or acquires an asset (or part of an asset),
  - (b) immediately before or after doing so, the asset (or part) is within the applicable category, and
  - (c) section 171 or 173 of TCGA 1992 (transfers within a group) would, but for this subsection, apply to the disposal or acquisition,
- that section does not apply to the disposal or acquisition.
- (7) For the purposes of subsection (6) “the applicable category” means—
- (a) in the case of a UK life insurance company, the category of assets which are held for the purposes of its long-term business, and
  - (b) in the case of an overseas life insurance company, the category of UK assets which are held for the purposes of its long-term business.

### *Share pooling rules*

## **119 UK life insurance companies**

- (1) If the assets of a UK life insurance company include securities of a class all of which would, but for this section, be regarded as one holding for the purposes of corporation tax on chargeable gains, the following pooling rules apply instead for those purposes—
- (a) so many of the securities so far as matched to BLAGAB liabilities of the company are treated as a separate holding,
  - (b) so many of the securities so far as matched to other long-term business liabilities of the company are treated as a separate holding,
  - (c) so many of the securities as are held by the company for the purposes of any with-profits fund but are not matched to its long-term business liabilities are treated as a separate holding,
  - (d) so many of the securities as are held for the purposes of the company’s long-term business but are not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds are treated as a separate holding, and
  - (e) any remaining securities are treated as a separate holding which is held otherwise than for the purposes of the company’s long-term business.
- (2) If the company has more than one with-profits fund within subsection (1)(c), so many of the securities as are held by it for the purposes of a particular fund but are not matched to its long-term business liabilities are treated as a separate holding for the purposes of corporation tax on chargeable gains.
- (3) Subsection (1) does not apply if all the income of the company’s long-term business is chargeable to corporation tax on income under section 35 of CTA 2009.
- (4) In that case, if the company’s assets include securities of a class all of which would, but for this section, be regarded as one holding for the purposes of corporation tax on chargeable gains, the following pooling rules apply instead for those purposes—
- (a) so many of the securities as are held for the purposes of its long-term business are treated as a separate holding, and
  - (b) any remaining securities are treated as a separate holding which is held otherwise than for the purposes of its long-term business.

## **120 Overseas life insurance companies: rule corresponding to s.119**

- (1) If the assets of an overseas life insurance company include securities of a class all of which would, but for this section, be regarded as one holding for the purposes of corporation tax on chargeable gains, the following pooling rules apply instead for those purposes—
  - (a) so many of the securities so far as UK securities matched to BLAGAB liabilities of the company are treated as a separate holding,
  - (b) so many of the securities so far as UK securities matched to other long-term business liabilities of the company are treated as a separate holding,
  - (c) so many of the securities as are UK securities held by the company for the purposes of any with-profits fund but not matched to its long-term business liabilities are treated as a separate holding,
  - (d) so many of the securities as are UK securities held for the purposes of the company's long-term business but not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds are treated as a separate holding,
  - (e) any remaining UK securities are treated as a separate holding which is held otherwise than for the purposes of the company's long-term business, and
  - (f) any securities which are held by the company but which are not UK securities are treated as a separate holding.
- (2) If the company has more than one with-profits fund within subsection (1)(c), so many of the securities as are UK securities held by it for the purposes of a particular fund but are not matched to its long-term business liabilities are treated as a separate holding for the purposes of corporation tax on chargeable gains.
- (3) Subsection (1) does not apply if all the income of the company's long-term business is chargeable to corporation tax on income under section 35 of CTA 2009.
- (4) In that case, if the company's assets include securities of a class all of which would, but for this section, be regarded as one holding for the purposes of corporation tax on chargeable gains, the following pooling rules apply instead for those purposes—
  - (a) so many of the securities as are UK securities held for the purposes of its long-term business are treated as a separate holding,
  - (b) any remaining UK securities are treated as a separate holding which is held otherwise than for the purposes of its long-term business, and
  - (c) any securities which are held by the company but which are not UK securities are treated as a separate holding.
- (5) For the purposes of this section, securities (whether situated in the United Kingdom or elsewhere) are "UK securities" of an overseas life insurance company if, in accordance with the provision made by or under Chapter 4 of Part 2 of CTA 2009, they fall to be attributed to the permanent establishment in the United Kingdom through which the company carries on life assurance business.

## **121 Sections 119 and 120: supplementary**

- (1) The applicable pooling rules also apply if the assets of the company in question include securities of a class and but for this section—
  - (a) some of them would be regarded as a 1982 holding for the purposes of corporation tax on chargeable gains, and

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) the rest of them would be regarded as a section 104 holding for those purposes.
- (2) “The applicable pooling rules” means—
- (a) the pooling rules set out in section 119(1)(a) to (e) and (4)(a) and (b), or
  - (b) the pooling rules set out in section 120(1)(a) to (f) and (4)(a) to (c).
- (3) In applying the applicable pooling rules in a case within subsection (1)—
- (a) the reference in any of the paragraphs in section 119(1) or (4) or 120(1) or (4) to a separate holding is to be read, where necessary, as a reference to a separate 1982 holding and a separate section 104 holding, and
  - (b) the questions whether that reading is necessary for a paragraph and, if it is, how many securities falling within the paragraph constitute each of the two holdings are determined in accordance with paragraph 12 of Schedule 6 to FA 1990 and the identification rules applying on any subsequent acquisitions and disposals.
- (4) If the applicable pooling rules apply, section 105 of TCGA 1992 has effect as if securities regarded as included in different holdings as a result of those rules were securities of different classes.
- (5) In this section—
- “1982 holding” has the same meaning as in section 109 of TCGA 1992, and
  - “section 104 holding” has the same meaning as in section 104(3) of TCGA 1992.
- (6) In this section and sections 119 and 120 “securities” means—
- (a) shares,
  - (b) securities of a company, and
  - (c) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

*Long-term business fixed capital*

**122 Assets forming part of long-term business fixed capital**

For the purposes of this Chapter assets that form part of the long-term business fixed capital of an insurance company are to be regarded as assets held by the company otherwise than for the purposes of its long-term business.