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STATUTORY INSTRUMENTS

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**2007 No. 3430**

**CORPORATION TAX**

**The Insurance Companies (Taxation of Reinsurance Business) (Corporation Tax Acts) (Amendment) Order 2007**

<i>Made</i>	- - - -	<i>5th December 2007</i>
<i>Laid before House of Commons</i>		
- - - -	- -	<i>6th December 2007</i>
<i>Coming into force</i>	- -	<i>27th December 2007</i>

The Treasury make the following Order in exercise of the powers conferred upon them by section 431A(1) of the Income and Corporation Taxes Act 1988(1).

**Citation, commencement and effect**

1.—(1) This Order may be cited as the Insurance Companies (Taxation of Reinsurance Business) (Corporation Tax Acts) (Amendment) Order 2007 and comes into force on 27th December 2007.

(2) Subject to paragraph (3), this Order has effect in relation to periods of account beginning on or after 1st January 2008.

(3) Article 2 has effect in relation to periods of account ending on or after 1st January 2007.

**New insurance special purpose vehicles**

2.—(1) In section 431 of the Income and Corporation Taxes Act 1988 (interpretative provisions relating to insurance companies)(2), after subsection (2) insert—

“(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.”.

(2) In section 89 of the Finance Act 1989 (policy holders’ share of profits)(3), after subsection (7) insert—

“(7A) In a case where—

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(1) 1988 c. 1; section 431A was inserted by paragraph 2 of Schedule 6 to the Finance Act 1990 (c. 29) and substituted by paragraph 3 of Schedule 9 to the Finance (No. 2) Act 2005 (c. 22). Subsection (1) was amended by paragraphs 12 and 17(2) of Schedule 10 to the Finance Act 2007 (c. 11).

(2) Section 431 has been relevantly amended by the insertion of the definition of “insurance special purpose vehicle” by article 4 (2) of S.I. 2006/3270.

(3) 1989 c. 26.

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(a) the company becomes an insurance special purpose vehicle, and  
 (b) regulations made under section 84 of the Finance Act 2005<sup>(4)</sup> do not apply to it,  
 subsection (7B) applies in the first period of account in which the company is an insurance special purpose vehicle (“the first period”).

(7B) Where this subsection applies, in computing a company’s Case I profits there shall be brought into account as a trading receipt of the company the amount, if any, by which the amount shown in line 51 of Form 14 of the periodical return for the period preceding the first period exceeds—

(a) the fund for future appropriations shown in the company’s IAD accounts, or  
 (b) the unallocated divisible surplus shown in the company’s IAS accounts,  
 as the case may be, for that preceding period.

(7C) In subsection (7B)—

“IAD accounts” means accounts drawn up in accordance with the Council Directive of 19th December 1991 on the annual accounts of insurance undertakings (No.91/674/EEC)<sup>(5)</sup>;

“IAS accounts” means accounts prepared in accordance with international accounting standards.”.

### **BLAGAB group reinsurers**

3.—(1) The Income and Corporation Taxes Act 1988 is amended as follows.

(2) After section 440C (modifications for change of tax basis)<sup>(6)</sup> insert—

#### **“Modifications in relation to BLAGAB group reinsurers**

**440D.** Schedule 19ABA (which makes modifications of this Act in relation to BLAGAB group reinsurers) shall have effect.”.

(3) After Schedule 19AB (pension business: payments on account of tax credits and deducted tax)<sup>(7)</sup> insert—

“SCHEDULE 19ABA

Section 440D

### **MODIFICATION OF LIFE ASSURANCE PROVISIONS OF THE CORPORATION TAX ACTS IN RELATION TO BLAGAB GROUP REINSURERS**

## **PART 1**

### **INTRODUCTORY**

1.—(1) In their application to a BLAGAB group reinsurer the life assurance provisions of the Corporation Tax Acts shall have effect with the following modifications.

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(4) 2005 c. 7. Section 84 has been amended by section 101(1), (5) and (6) and section 178 of, and Part 3(19) of Schedule 26 to, the Finance Act 2006 (c. 25) and section 59(4) to (6) of the Finance Act 2007.

(5) O.J. L374, 31.12.1991, p7.

(6) Section 440C was inserted by paragraph 9 of Schedule 8 to the Finance Act 2007.

(7) Schedule 19AB was inserted by Schedule 8 to the Finance Act 1991 (c. 31) and repealed by section 87 and Part II(12) of Schedule 33 to the Finance Act 2001 (c. 9).

(2) In this paragraph “BLAGAB group reinsurer” means an insurance special purpose vehicle which—

- (a) would fall within the definition of “insurance company” in section 431(8) if the words after paragraph (b) of the definition were disregarded, and
- (b) meets the BLAGAB group reinsurer conditions.

(3) For the purposes of sub-paragraph (2), an insurance special purpose vehicle meets the BLAGAB group reinsurance conditions if—

- (a) it carries on basic life assurance and general annuity business,
- (b) all of its life assurance business is reinsurance business and that business is of a type excluded from section 431G(3)(9) by regulations made by the Board(10), and
- (c) section 431G(3)(b) does not apply.

## PART 2

### MODIFICATIONS OF THIS ACT

2. This Act shall have effect with the following modifications.

*Modification of section 76 (expenses of insurance companies)*

3.—(1) Modify section 76 (expenses of insurance companies)(11) as follows.

(2) In subsection (3) for the words from “means” to the end substitute—

“means—

- (a) in the case of a company preparing IAD accounts, expenses included in item II.8 or 9(a) of the long-term business technical account, and
- (b) in the case of a company preparing IAS accounts, such of the expenses included in the income statement in the IAS accounts as are equivalent to expenses that would be included in item II.8 or 9(a) of the long-term business technical account in IAD accounts,

but does not include any of the amounts falling within subsection (4), (5) or (6) below.”.

(4) In subsection (7)—

- (a) omit Step 6;
- (b) in Step 7—
  - (i) in paragraph (a) for “Subtotal 3” substitute “Subtotal 2”;
  - (ii) for “Subtotal 4” substitute “the expenses deduction”;
- (c) omit Step 8.

(5) In subsection (8) omit paragraphs (b) and (c).

(6) In subsection (12)(a) for “Step 8” insert “Step 7”.

(7) In subsection (15) after the definition of “expenses payable” insert—

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(8) The definition of “insurance company” was substituted by article 26(3) of [S.I. 2001/3629](#) and amended by article 4 of [S.I. 2006/3270](#).

(9) Section 431G was inserted by section 39 of, and paragraph 4 of Schedule 8 to, the Finance Act 2007.

(10) Relevant regulations are regulation 12 of [S.I. 1995/1730](#) as amended by regulation 8 of [S.I. 2007/2087](#).

(11) Section 76 was substituted by section 40(1) of the Finance Act 2004 ([c. 12](#)) and amended by paragraph 1 of Schedule 9 and Part 2(10) of Schedule 11 to the Finance (No. 2) Act 2005, paragraph 3 of Schedule 7, paragraph 2 of Schedule 8, paragraphs 14(1), (2), 16(1) and (3) and 17(2) of Schedule 10 and Part 2(7), (8) and (10) of Schedule 27 to the Finance Act 2007 and article 3 of [S.I. 2006/3270](#).

““long-term business technical account” means the technical account for life-assurance business included in the IAD accounts, or where the technical account included in the IAD accounts for non-life-insurance business of the company is used for all business, such part of that account as relates to the long-term business of the company;”.

*Modification of section 431 (interpretative provisions relating to insurance companies)*

4.—(1) Modify section 431(2) (interpretative provisions relating to insurance companies) as follows.

(2) Insert the following definitions in the appropriate places—

““IAD accounts” means accounts drawn up in accordance with the Council Directive of 19th December 1991 on the annual accounts of insurance undertakings (No. 91/674/EEC)(12);”.

““IAS accounts” means accounts prepared in accordance with international accounting standards;”.

(3) In the definition of “insurance company”(13) at the end insert “unless it meets the BLAGAB group reinsurer conditions (within the meaning of paragraph 1 of Schedule 19ABA”.

(4) For the definition of “liabilities”(14) substitute—

““liabilities” means—

- (a) technical provisions (item C), and
- (b) technical provisions for linked liabilities (item D),

in the liabilities in the balance sheet format in paragraph 9 of Schedule 9A to the Companies Act 1985 in the IAD accounts or equivalent provisions in the IAS accounts;”;

(5) For the definition of “long-term insurance fund”(15) substitute—

““long-term insurance fund” means—

- (a) the technical account for life assurance business of the company included in the IAD accounts,
- (b) where the technical account included in the IAD accounts for non-life-insurance business of the company is used for all business, such part of that account as relates to the long-term business of the company, or
- (c) such part of the income statement as relates to the life assurance business of the company included in the IAS accounts,

and references to assets of the long-term insurance fund shall be read as references to assets from which any income or gain is or would be included in that technical account or that part of the technical account or that part of the income statement;”.

(6) For the definition of “periodical return”(16) substitute—

““periodical return” means—

- (a) in relation to a company preparing IAD accounts, the IAD accounts, and
- (b) in relation to a company preparing IAS accounts, the IAS accounts;”;

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(12) O.J. L374, 31.12.1991, p7.

(13) The definition of “insurance company” was substituted by article 26(3) of S.I. 2001/3629 and amended by article 4 of S.I. 2006/3270.

(14) The definition of “liabilities” was inserted by paragraph 1(1) and (2)(b) of Schedule 6 the Finance Act 1990 (c. 29), substituted by paragraph 2 of Schedule 9 to the Finance (No. 2) Act 2005 (c. 22) and amended by article 4 of S.I. 2006/3270.

(15) The definition of “long-term insurance fund” was inserted by paragraph 1(1) and (2)(b) of Schedule 6 the Finance Act 1990 and amended by Part V(26) of Schedule 41 to the Finance Act 1996 (c. 8) and article 52(1)(b) of S.I. 2001/3629.

(16) The definition of “periodical return” was amended by article 26(7) of S.I. 2001/3629.

- (7) Omit the definition of “period of account”(17);
- (8) For the definition of “value”(18) substitute—  
““value” means the value taken into account for the purposes of IAD accounts or IAS accounts”.

*Modification of section 432B (apportionment of receipts brought into account)*

- 5.—(1) Modify section 432B (apportionment of receipts brought into account)(19) as follows.
- (2) In subsection (1) for “sections 432C to 432G” substitute “sections 432C and 432G”.
- (3) In subsection (2) for “sections 432C to 432G” substitute “sections 432C and 432G”.
- (4) Omit subsection (3).

*Modification of section 432E (section 432B apportionment: participating funds)*

- 6. Omit section 432E (section 432B apportionment: participating funds)(20).

*Modification of section 432F (section 432B apportionment: supplementary provisions)*

- 7. Omit section 432F (section 432B apportionment: supplementary provisions)(21).

*Modification of section 444AA (transfers of business: deemed periodic return)*

- 8. Omit section 444AA (transfers of business: deemed periodic return)(22).

*Modification of section 804C (insurance companies: allocation of expenses etc in computations under Case 1 of Schedule D)*

- 9. In section 804C (insurance companies: allocation of expenses etc in computations under Case 1 of Schedule D)(23) in subsection (14) for “construed—” and paragraphs (a) and (b) substitute “construed in accordance with section 804E (interpretation of section 804C in relation to other insurance business).”.

*Modification of section 804D (interpretation of section 804C in relation to life insurance business)*

- 10. Omit section 804D (interpretation of section 804C in relation to life insurance business)(24).

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(17) The definition of “period of account” was amended by paragraph 29 of Schedule 33 to the Finance Act 2003 (c. 14).

(18) The definition of “value” was amended by paragraph 2 of Schedule 9 to the Finance (No. 2) Act 2005 and article 4 of S.I. 2006/3270.

(19) Section 432B was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 (c. 29) and has been relevantly amended by section 38 of, and paragraph 16 of Schedule 7 to, the Finance Act 2007.

(20) Section 432E was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 (c. 29).

(21) Section 432F was inserted by paragraphs 17(3) and 53 of the Finance Act 1995 (c. 4).

(22) Section 444AA was substituted by paragraph 3(1) of Schedule 9 to the Finance Act 2007.

(23) Section 804C was inserted by paragraph 18 of Schedule 30 to the Finance Act 2000 (c. 17) and has been relevantly amended by paragraph 50 of Schedule 7 of the Finance Act 2007.

(24) Section 804D was inserted by paragraph 18 of Schedule 30 to the Finance Act 2000.

*Modification of section 804E (interpretation of section 804C in relation to other insurance business)*

11. In section 804E (interpretation of section 804C in relation to other insurance business)(25) in subsection (1) omit the words from “where” to the end.

## PART 3

### MODIFICATION OF THE FINANCE ACT 1989

*Modification of the Finance Act 1989*

12. The Finance Act 1989(26) shall have effect with the following modifications.

*Modification of section 82B (unappropriated surplus on valuation)*

13. Omit section 82B (unappropriated surplus on valuation)(27).

*Modification of section 82D (treatment of profits: life assurance—adjustment consequent on change in Insurance Prudential Sourcebook)*

14. Omit section 82D (treatment of profits: life assurance—adjustment consequent on change in Insurance Prudential Sourcebook)(28).

*Modification of section 82E (section 82D: treatment of transferors under insurance business transfer schemes)*

15. Omit section 82E (section 82D: treatment of transferors under insurance business transfer schemes)(29).

*Modification of section 82 (section 82D: treatment of transferees under insurance business transfer schemes)*

16. Omit section 82F (section 82D: treatment of transferees under insurance business transfer schemes)(30).

*Modification of section 83 (receipts to be taken into account)*

17. In section 83 (receipts to be taken into account)(31)—

(a) after paragraph (b) insert—

“(ba) a transfer from the fund for future appropriations.”;

(b) after subsection (2) insert—

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(25) Section 804E was inserted by paragraph 18 of Schedule 30 to the Finance Act 2000.

(26) 1989 c. 26.

(27) Section 82B was inserted by paragraph 1(1) of Schedule 33 to the Finance Act 2003 (c. 14).

(28) Section 82D was inserted by article 5 of S.I. 2006/3387.

(29) Section 82E was inserted by article 13 of S.I. 2007/1031.

(30) Section 82F was inserted by article 13 of S.I. 2007/1031.

(31) Section 83 was substituted by paragraph 16(1) of Schedule 8 to the Finance Act 1995 (c. 4).

“(2YA) A transfer to the fund for future appropriations shall be treated as brought into account for that period as a decrease in the value of non-linked assets and taken into account as an expense of the period of account.”;

- (c) omit subsections (2A) to (2E).

*Modification of section 83XA (structural assets)*

**18.** In section 83XA (structural assets)(**32**) in subsection (3) for the words from “means” to the end substitute “means assets listed under 1 and 2 in C(II) in Article 6 of the Council Directive of 19th December 1991 on the annual accounts and consolidated accounts of insurance undertakings (No. 91/674/EEC)(**33**)”.

*Modification of section 83YA (changes in value of assets brought into account: non-profit companies)*

**19.** Omit section 83YA (changes in value of assets brought into account: non-profit companies)(**34**).

*Modification of section 83YB (meaning of “appropriate line 51” amount for purposes of section 83YA)*

**20.** Omit section 83YB (meaning of “appropriate line 51” amount for purposes of section 83YA)(**35**).

*Modification of section 83A (meaning of brought into account)*

**21.**—(1) Modify section 83A (meaning of “brought into account”)(**36**) as follows.

(2) For subsection (2) substitute—

“(2) The accounts recognised for the purposes of those sections are—

- (a) such technical accounts (or such parts of those accounts) included in the IAD accounts, or
- (b) such parts of the income statements included in the IAS accounts,

as relate to the whole of the company’s long-term business.”.

(3) Omit subsections (3) to (4).

*Modification of section 83B (changes in recognised accounts: attribution of amounts carried forward under section 432F of Taxes Act 1988)*

**22.** Omit section 83B (changes in recognised accounts: attribution of amounts carried forward under section 432F of Taxes Act 1988)(**37**).

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(32) Section 83XA was inserted by paragraph 2 of Schedule 10 to the Finance Act 2007 (c. 11).

(33) O.J. L374, 31.12.1991, p.7.

(34) Section 83YA was inserted by paragraph 7(1) of Schedule 11 to the Finance Act 2006 (c. 25).

(35) Section 83YA was inserted by paragraph 7(1) of Schedule 11 to the Finance Act 2006.

(36) Section 83A was substituted by paragraph 16(1) of Schedule 8 to the Finance Act 1995.

(37) Section 83B was inserted by paragraph 14 of Schedule 9 to the Finance (No. 2) Act 2005.

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*Modification of section 85A (excess adjusted Case 1 profits)*

**23.** In section 85A (excess adjusted Case 1 profits)(**38**) in subsection (8)(a) for “Step 8” substitute “Step 7”.

*Modification of section 86 (spreading of relief for acquisition expenses)*

**24.** Omit section 86 (spreading of relief for acquisition expenses).

*Modification of section 89 (policy holders’ share of profits)*

**25.** In section 89 (policy holders’ share of profits)(**39**) omit subsection (6).”.

*Alan Campbell*

*Claire Ward*

Two of the Lords Commissioners of Her  
Majesty’s Treasury

5th December 2007

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**(38)** Section 85A was inserted by paragraph 14 of Schedule 8 to the Finance Act 2007.

**(39)** Section 89 was substituted by section 45(3) and (10) of the Finance Act 1990 (c. 29) and has been relevantly amended by paragraph 7(1) of Schedule 33 and Part 3(12) of Schedule 43 to the Finance Act 2003 (c. 14) and paragraph 16 of Schedule 8, paragraph 14(3) of Schedule 10 and Part 2(10) of Schedule 27 to the Finance Act 2007.



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## EXPLANATORY NOTE

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

This Order amends various life insurance tax provisions as a consequence of changes made by the Financial Services Authority (“FSA”) to their Handbook, and in particular gives effect to changes introduced by the EC reinsurance directive (No. 2005/68/EC) in relation to insurance special purpose vehicles.

Article 1 provides for citation, commencement and effect. Authority for the retrospective effect of article 2 of the Order is given by section 431A(2) of the Income and Corporation Taxes Act 1988 (c. 1) (“ICTA”) as the changes made to the FSA Handbook were retrospective.

Article 2 amends provisions of ICTA in relation to all insurance special purpose vehicles. Paragraph (2) makes provision that a company that becomes an insurance special purpose vehicle in the course of an accounting period will be treated as an insurance special purpose vehicle for the whole of the accounting period in which the conversion occurs. Paragraph (3) makes a transitional provision to bring into account amounts which would have been brought into account had the company produced a periodical return but which are not reflected in equivalent entries in the IAD or IAS accounts.

Article 3 makes provision amending ICTA in relation to insurance special purpose vehicles which carry on basic life assurance and general annuity business (“BLAGAB group reinsurers”). Paragraphs (2) and (3) insert a new section 440D and Schedule 19ABA into ICTA which modify the life assurance tax provisions of ICTA and the Finance Act 1989 (c. 26) in relation to BLAGAB group reinsurers to take account the fact that these companies do not produce periodical returns.

Paragraph 1 of the inserted Schedule ABA defines a BLAGAB group reinsurer. Paragraphs 2 to 11 of that Schedule modify provisions of ICTA as follows.

Paragraph 2 introduces the modifications. Paragraph 3 modifies section 76 (expenses of insurance companies) to substitute references relevant to Form 40 in the periodical return to IAD and IAS accounts and make other consequential amendments to the expenses calculation.

Paragraph 4 modifies section 431 (interpretation) to insert definitions of terms used in relation to BLAGAB group reinsurers and amend existing definitions based on periodical return entries. The definition of “insurance company” is amended in order to apply the life assurance tax provisions to BLAGAB group reinsurers. The definition of “period of account” is omitted so that section 832(1) applies.

Paragraph 5 modifies section 432B (apportionment of receipts brought into account) and paragraphs 6 and 7 omit section 432E (section 432B apportionment: participating funds) and section 432F (section 432B apportionment: supplementary provisions) respectively.

Paragraph 8 omits section 444AA (transfers of business: deemed periodic return) as it is based only on periodical return entries.

Paragraphs 9 to 11 modify section 804C (insurance companies: allocation of expenses etc in computations under Case 1 of Schedule D), section 804D (interpretation of section 804C in relation to life insurance business) and section 804E (interpretation of section 804C in relation to other insurance business) as only section 432C will apply to BLAGAB group reinsurers.

Paragraphs 12 to 24 modify provisions of the Finance Act 1989 as follows.

Paragraphs 13 to 17 omit section 82B (unappropriated surplus on valuation), section 82D (treatment of profits: life assurance—adjustment consequent on change in Insurance Prudential

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Sourcebook), section 82E (section 82D: treatment of transferors under insurance business transfer schemes), section 82F (section 82D: treatment of transferees under insurance business transfer schemes) and section 83 (receipts to be taken into account) subsections (2A) to (2E) as these provisions based on periodical returns.

Paragraph 18 modifies section 83XA (structural assets) to refer to Council Directive 91/674.

Paragraph 19 and 20 omit section 83YA (changes in value of assets brought into account: non-profit companies) and section 83YB (meaning of “appropriate line 51” amount for purposes of section 83YA) as these are based on periodical return entries.

Paragraph 21 modifies section 83A (meaning of “brought into account”) to refer to IAD and IAS accounts.

Paragraph 22 omits section 83B (changes in recognised accounts: attribution of amounts carried forward under section 432F of Taxes Act 1988) as this is based on section 432F which is omitted.

Paragraph 23 makes consequential modifications to section 85A (excess adjusted Case 1 profits).

Paragraph 24 and 25 omit section 86 (spreading of relief for acquisition expenses) and section 89(6) (policy holders’ share of profits) which are based on periodical returns.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.