

LIFE ASSURANCE MANUAL 2006

This edition of LAM is an interim publication. HMRC will no longer produce Manuals in Compiled Help File format (CHM) as LAM has been up to now. Over the next few months LAM will be migrated to the standard format of all HMRC Manuals. In so doing it will be rewritten into consecutively numbered Chapters and the present numbering within the Chapters will be amended.

It will also contain some new material, principally on the regulatory and accounting aspects of long-term assurance. CT & VAT Product and Process Group of HMRC who are responsible for this Manual would welcome any comments on this manual and on what changes the new version might contain. Comments should be sent to the editor and author, Richard Thomas, at Richard.thomas@hmrc.gsi.gov.uk.

WHAT'S NEW - October 2006

In general a great deal of material that is relevant only for accounting periods beginning before 1 January 1996 has been moved to Appendices, and the remaining material amended accordingly. In some cases material applicable only before 2 July 1997 or 6 April 1999 has been moved.

There has also been some other updating, e.g. following the formation of HMRC and the CRCA 2005, as well as cases where the FSMA rules are given as the main rule, with ICA 82 provisions shown as alternatives.

In addition changes made in Finance Act 2004, Finance (No. 2) Act 2005 and Finance Act 2006 and in a number of statutory instruments have also been reflected.

Chapter 1

Paragraph 53 recast to cover 1988-1989 Reforms and paragraphs 54 to 103 moved to Appendix

Paragraph 110 & 114 recast to cover 1990 & 1991 Reforms and paragraphs 111 to 113, 119, 131 and most of 132 moved to Appendix A1

Paragraph 150B describes FA 2004 changes

Paragraph 150C describes F(2)A 2005 changes

Chapter 2

Paragraphs 4 to 8 recast to cover post 1994 only (with some material in Appendix A2)

Paragraph 24 discussion of what "I minus E" basis & computation means

Paragraph 31 material added about cases where Crown Option not appropriate including section 83YA FA 1989 and changes to FSA's liability valuation rules.

Paragraph 43 moved to Appendix A2

Paragraph 52 updated to cover post FA 2004 expenses

Paragraphs 63 to 65 recast to cover post 1994 only (with some material in Appendix A2)

Paragraph 66 covers CTF/ISA/PB joint category

Paragraph 67 expanded to cover the relationship between section 440 and section 161 TCGA

Paragraph 67A signposts other box transfer provisions

Paragraph 71 moved to Appendix A2

Paragraph 92 rewritten and updated A2

Chapter 3

Paragraph 11 is expanded to give more detail about s 440(3)

Paragraph 11ZA inserted to cover share exchanges

Paragraph 11A reference to CT & VAT required where life company claimed as company B in s 171A TCGA transaction before 23/11/03

Paragraph 11B material on amendments to section 171A by FA 2003

Paragraphs 12 & 12A modified to refer to post-2004 position

Paragraph 16 material on interaction of section 210B & 106 TCGA - Bed & Breakfasting in a group

Paragraph 31 discusses repeal of section 403ZD in FA 2004

Paragraphs 32 – 34, 38, 39(pt) – omitted and moved to Appendix A3

Paragraph 35 warning inserted about spurious arguments about section 434A(2)

Paragraphs 37A & 37B – notes on restriction of expenses and acquisition expenses where loss surrendered post FA 2004.

Paragraph 42 material on non-inclusion of investment CAs in Case I loss

Paragraph 66 Post FA 04 transfer pricing

Paragraph 72A CFC Exempt activities test – FA 2003 changes

Paragraphs 76 – 77B CFC Life tax rules section 755A FA 2003 changes

Paragraph 81A added about interaction of s 755A and 804B

Paragraph 101 table updated

Chapter 4A

A substantial amount of old material has been removed to Appendix A4A. This includes material on income from land for periods before 1 April 1998 and material on dividends and tax credits before 2 July 1997. Other obsolescent material on stock loans and repos has been moved to the Appendix.

Paragraphs 101 and 171 are amended to reflect this

Paragraph 120 deals with derivative contracts in Schedule A computations.

Paragraph 132 amalgamates the IBA and ABA material and now deals with Flats over Shops

Material is updated generally to reflect the FA 2004 changes to section 76

Paragraph 267 expanded to deal with SSE

Paragraph 268 covers SSE in relation to share exchange within the LTIF

Paragraphs 294 to 298 deal with the bed & breakfasting rules in section 210B TCGA.

Chapter 4B

A substantial amount of old material has been removed to Appendix A4B. This is the pre-1996 material (4B.1 onwards) and the guidance on the loan relationships transitional provisions.

The existing material in paragraphs 4B.101 to 151 and 201 to 295 has been amended to cover the period 1996 to 2004, with certain material applicable only to periods beginning on or after 1 10 2002 split out.

Another range of new material on the 2005 onwards position has been included at paragraph 4B.301 to 551.

Material on apportionments has been moved to paragraphs 603 to 662B.

Chapter 4C

Paragraph 17 omitted

Paragraph 21 amended to reflect AIF regulations (SI 2006/964) and revocation of OEIC regulations.

Paragraph 24 added to reflect AIF regulations (SI 2006/964) and revocation of OEIC regulations

Paragraph 41 added about QIS holdings

Paragraph 123 amended to remove historical material about commencement of section 212.

Paragraph 161 amended and 162 to 171 removed to Appendix (replacement relief)

Paragraph 181 amended and 182 to 200 removed to Appendix (run-off relief)

Paragraph 305 amended to cover section 100(2B) TCGA – ban on investing in exempt UUTs lifted

Paragraph 315 added about offshore property unit trusts

Paragraphs 322C, 322E amended to reflect changes to offshore fund rules

Paragraph 346 amended to deal with failure to agree on content of fund of funds regulations, and approach to be taken.

Paragraph 371 covers life company holdings of REITs and what cannot be in a group REIT.

Table at paragraph 401 updated

Chapter 4D

Paragraph 2 material added about IAS & FRS26

Material in paragraphs 11 and 12 removed to Appendix A4D. Paragraph 11 amended

Paragraph 42 removed as obsolete

Paragraphs 88 to 90D added with material on post-2004 derivative contracts rules for insurers including embedded derivative contracts

Material on Sch 9A accounts added to paragraph 91

Paragraph 151 (pre 2002) now mentions PVIF

Paragraphs 161 and 162 explain that PVIF is not within Schedule 29 either for life assurance business or non-life long-term business

Chapter 5

Paragraph 1 has been recast to be a real introduction

Paragraph 32 is omitted – see paragraph 127B

Paragraph 41 containing discussion of definitions of terms used in section 432A has been split as follows

Paragraph 41A – “liabilities”, including new material for 2004 onwards

Paragraph 41B “opening” and closing” liabilities

Paragraph 41C “investment reserve” and new material on the “free assets amount”

Paragraph 41D – “long term business”

Paragraph 41E – “long term business fund” and “long-term insurance fund” (references to pre 1996 material removed)

Paragraph 41F – “value” including new material on different types of “value”

Paragraph 41G – “class” and “category” including material on FA 2005 changes

Paragraph 42 containing discussion of definitions of terms used in section 432ZA (linked items) has been split as follows

Paragraph 42A Linked assets including new material on SI 2005/3465 change to section 432ZA(1) – assets held partly as linked and partly not

Paragraph 42B - “solely linked” (pre 1995 material removed to Appendix A5)

Paragraph 42C – “Net value”

Paragraph 42D “internal linked fund”

Paragraph 42E Linked liabilities

Paragraph 101 – explains that pre 1995 material from old paragraphs 101 to 119 removed to Appendix A5

Paragraph 123 - covers new material on SI 2005/3465 change to section 432ZA(1) and 432A(7)

Paragraph 127B expansion of section 432A to cases where “not necessary”

Paragraph 130D – 130K Amendments to section 432A by SI 2005/3465 - “inherited estates”

Paragraph 131 – expanded

Paragraphs 141 to 144 – apportionment of section 85 FA 1989 receipts

Chapter 6

Paragraph 13 – obsolete material removed

Paragraphs 41A to 41P material on section 83YA & 83YB FA 1989

Paragraph 43 – minor clarification

Paragraphs 50A to 50J – material on section 82C FA 1989 (fin re)

Paragraphs 50K to 50T – material on sections 444AF to 444AM mutual surplus

Paragraphs 51 and 52 – revisions

Paragraph 54A added to incorporate revisions issued in 2005 Budget Day letter

Paragraph 57 contains further material on the circumstances in which an addition to a fund should be treated as a Case I receipt.

Paragraph 113 – updated for L&G case

Appendix D – detailed guidance on Mutual surplus measures

Chapter 7

Paragraphs 2, 3 & 6 reflect new Forms 41, 42 & 43

Paragraphs 34, 35, 41, 92 (pt), 93(pt), 201 to 206, 211, 213, 214, 220, 221, 303, 305 & 306 moved to Appendix A7

Paragraph 214A rewritten to cover post 1996 minimum profits test (MPT)

Paragraph 251 deals with post 2004 MPT and signposts to Chapter 12A.

Paragraph 304 rewritten as consequential

Chapter 8

Paragraph 11 expands on the non-application to PHI

Paragraph 21A amended in relation to apportionment of business transfers-in.

Paragraphs 26E to 26G deal with the 2005 version of section 83A FA 1989.

Paragraphs 44 to 50C cover the amendments to section 432B in relation to the “inherited estate” and corresponding adjustments.

Paragraph 101A covers the case where there is a reorganisation of funds or subfunds within the LTIF and section 432F applies.

Chapter 9

Paragraphs 3 to 7 contain further material on the pre A-day meaning of pension business, on the post A-day meaning and on the transitional rules.

Paragraph 17 is updated to reflect the changes to ISA business from 6 4 2005

Paragraphs 18 and 19 cover CTF business.

Paragraph 28 – clarifies the position under reg 11A SI 1995/1730 where a treaty is involved

Paragraph 31 material on the tax definition of pension business in moved to paragraph 3.

Paragraph 36 replaced by paragraph 36D 1st paragraph and moved to Appendix A9, as is paragraph 36B and 37.

Paragraphs 39 to 44 (section 438(6) etc) moved to Appendix A9.

Paragraph 75A deals with offset of ISAB losses against CTFB profits

Paragraph 76 is modified in the light of the new 2005 FSA Forms 41 to 43.

Paragraph 78 covers the ending of ISAB payable tax credits.

Paragraphs 80G to 80R cover the computation of CTFB and the interaction with ISAB

Paragraph 84 – pre 1997 LRB distributions removed to Appendix A9

Paragraph 86 – transition for LRB removed to Appendix A9.

Chapter 10

Paragraphs 3 to 6 moved to Appendix A10 or reproduced in part in paragraph 1.

Paragraphs 13 & 14 combined and reduced

Paragraphs 21 to 25 moved to Appendix A10.

Paragraph 28A deals with changes to reinsurance OLAB and reg 11A SI 1995/1730.

Paragraph 30 updated

In paragraphs 32 and 33 references to free assets amount added

Paragraph 34 and 35 amalgamated and expanded, and paragraph 36A inserted to cover post 1995 pecking order only.

Paragraph 36B & 36C expanded and reproduce the old paragraphs 55 & 56 on UK land.

Paragraph 36D covers the initial establishment of an OLAF, and that is also reflected in additions to paragraph 40 & 41 .

Paragraph 42A & 42B reproduce the old paragraphs 54 & 55 on UK land.

Paragraphs 51 to 58 & 60 amalgamated in paragraph 36 or 36B and 36C or moved to Appendix A10.

Paragraph 62ZA deals with the regulatory rules for identifying OLAB for 2005

Paragraph 63A & 63B deal with loan relationships, annuities etc.

Paragraphs 68 to 70 removed pending rethink.

Paragraphs 71 to 79 and 80E moved to Appendix A10.

Chapter 11

Paragraphs 7 8 & 9 recast as 7 & 8

Paragraph 16 updated for post FA 2002 loan relationships changes

Paragraph 16A inserted for FI & derivative contracts

Paragraphs 17 to 20E moved to Appendix A11.

Paragraph 11.20GA deals with PVIF

Paragraph 11.20K moved to Appendix A1.

Paragraph 11.20KG deals with Forex post FA 2002

Chapter 12

Paragraphs 21A to 21E give background to the treatment of commissions

Chapter 12A

A completely new Chapter covering section 76 ICTA expenses payable (formerly management expenses). The Chapter deals with expenses in periods beginning on or after 1 April 2004 and also the straddling period including 31st March and 1st April.

Chapter 13

Paragraph 2 describes the reduction in the scope of charges on income

Paragraphs 63 to 63C moved to Appendix A13.

Paragraph 64 amplified as to charitable payments

Paragraph 81 pre-1995 material moved to Appendix A13.

Paragraph 82 moved to Appendix A13.

Paragraph 83 modified accordingly

Paragraphs 101 to 107 moved to Appendix A13.

Chapter 14

Paragraph 2C covers “referable to BLAGAB” in section 88

Paragraph 3B covers relevant profits in section 88 for 2004 onwards

Paragraph 12 reflects the abolition of the “starting rate” of CT

Paragraphs 62 to 118 moved to Appendix A14 (apart from signposts)

Paragraph 121A moved to Appendix A14.

Paragraph 131 amended and signposted to Appendix A14.

Chapter 14A

Paragraph 13 updated in respect of the case of *Legal & General v Viv Thomas*

Paragraph 53A updated in respect of the case of *Legal & General v Viv Thomas*

Paragraph 69A describes the power in section 8904B(7A) to make regulations

Chapter 15

Paragraph 3 amended to remove out of date material to Appendix A15

Paragraphs 12 to 15 moved to Appendix A15

Paragraph 18 covers CTSA return

Paragraph 19 covers the QIPs rules

Paragraph 20 introduces the current position about Sch 19AB

Paragraphs 25, 26, 31 to 34B, 41 to 52, 72 to 101 moved to Appendix A15

Chapter 16

This has been extensively rewritten.

Paragraph 1 is expanded to give more historical and other background

Paragraph 6 explains when the wider definition of “insurance business transfer scheme” covering non-EEA transfers is used

Paragraph 13 contains material about SSE

Paragraph 16 is rewritten

Paragraphs 18B, 18C & 19 update the treatment of loan relationship transfers

Paragraphs 20BA & 20BB update the treatment of derivative contract transfers

Paragraph 27 is expanded to cover section 12(7C) ICTA – accounting periods on transfer

Paragraph 28 is expanded to cover section 444AA(7) ICTA – composites

Paragraph 28A summaries the rules on periods of account and accounting periods where there is a transfer

Paragraphs 30, 30A & 30D deal with the new concepts of free assets amount and shareholders excess assets in relation to section 431(2ZC) and 431(2ZD) (apportionment where transfer part way through accounting period)

Paragraph 32A deals with carry forward of new section 76 expenses payable on a transfer

Paragraph 38 reflects the new section 83(2)(e) dealing with business transfers-in on line 31 of

Form 40

Paragraph 38A covers the addition of “relevant debts” to the section 444AC(2) calculation

Paragraphs 38B to 38H deal with the case where liabilities transferred exceed assets in section 444AC(2A) to (11)

Paragraphs 38J to 38M cover section 444ACA – transferor asset of transferee’s long-term fund

Paragraph 39A is expanded to cover the correction to section 444AD made by FA 2004

Paragraphs 57A to 57D cover the amendments to section 444AB and the inserted section 444ABA providing relief where liabilities are retained along with assets.

Paragraph 60 deals with the carry over of elections under regulation 11A SI 1995/1730 to keep business as OLAB.

Paragraphs 61A to 63 are about clearance applications and have been rewritten to set out HMRC’s attitude to informal clearances and the information required in formal clearance applications

Paragraph 101 is deleted

Chapter 17

Paragraphs 1 to 8 removed to Appendix B; with paragraphs 9 and 9A covering 1993 reforms

The “Gill letter” previously in an Appendix is now in paragraph 291

The following paragraphs are moved to Appendix A17:

171 to 177C, 177E, 178A, 179, 180, 203 to 208, 231 to 237, 241 to 246, 262, 271 – 275, and 284.

Chapter 18

Some of the opening paragraphs moved to Chapter 19 and remainder moved to Appendix A.18

Chapter 19

Now covers directive societies since 1995 and contains background material at paragraphs 1 to 22

Paragraphs 74, 94, 121, 146, 161, 171, 175, 177 to 179 and 182 to 200A moved to Appendix A19.

Many paragraphs updated and new paragraphs 72A, 76A, 84A, 92A, 116, 128, 176 and 216C inserted to reflect the 2004 Modification regulations, the 2005 Pre-consolidation regulations and the 2005 Modification regulations.

Minor errors in paragraph 212 corrected and paragraph 213 omitted.

Chapter 20

Paragraphs 1 & 2 amended to cover the 2005 regulations etc.

Paragraph 12 omitted as duplicating Chapter 19

Paragraph 22 omitted as no longer relevant

Paragraph 31, 32 and 42 omitted as duplicating Chapter 19

Many paragraphs updated and new paragraphs 57A, 57B inserted to reflect the 2005 Modification regulations.

Paragraphs 114 – 117, 162 and much of 141 moved to become part of Appendix A19.