

1 Gross roll-up business etc

- (1) Part 1 of Schedule 1 contains provisions relating to gross roll-up business, capital redemption business and miscellaneous minor matters relating to insurance companies.
- (2) The amendments made by that Part of that Schedule have effect –
 - (a) for the purposes of corporation tax, for accounting periods of insurance companies beginning on or after 1st January 2007, and
 - (b) for the purposes of income tax, for the tax year 2007-08 and subsequent tax years.
- (3) Subsection (2) is subject to the transitional provisions in Part 2 of that Schedule.

SCHEDULES

SCHEDULE 1

Section

GROSS ROLL-UP BUSINESS ETC

PART 1

AMENDMENTS

Taxes Management Act 1970 (c. 9)

- 1 In section 98 of TMA 1970 (special returns etc), in the Table, omit the entries relating to section 333B of ICTA.

Income and Corporation Taxes Act 1988 (c. 1)

- 2 ICTA is amended as follows.
- 3 (1) Section 76 (expenses of insurance companies) is amended as follows.
 - (2) In subsection (1), omit the second sentence.
 - (3) In subsection (7), in Step 5, for “436 or 439B” substitute “436A”.
 - (4) In subsection (11), in the definition of “relevant income”, in paragraph (c), for “436, 439B or 441” substitute “436A”.
 - (5) Omit subsection (14).
 - (6) In subsection (15), omit the definition of “capital redemption business”.
- 4 Omit section 333B (involvement of insurance companies with plans and accounts).
- 5 In section 403E (relief for overseas losses of UK resident companies), omit subsection (3).
- 6 (1) Section 431 (interpretative provisions relating to insurance companies) is amended as follows.
 - (2) In subsection (2), insert at the appropriate places –
 - ““child trust fund business” has the meaning given by section 431BA;”,
 - ““gross roll-up business” has the meaning given by section 431EA;”,
 - ““individual savings account business” has the meaning given by section 431BB;”,

““overseas PE assets”, in relation to an insurance company, means assets, other than assets linked to gross roll-up business, which –

- (a) are managed under the control of a person whose normal place of work is at a permanent establishment outside the United Kingdom at or through which the company carries on gross roll-up business; or
- (b) are shown in the books of the company as being held as assets of a fund where all, or all but an insignificant part, of the liabilities of the fund are in respect of gross roll-up business carried on by the company at or through a permanent establishment outside the United Kingdom;”, and

““PHI business” means long-term business other than life assurance business (including the reinsurance of such long-term business);”.

(3) In subsection (2), omit –

- (a) the definition of “annuity business”;
- (b) the definition of “overseas life assurance fund”.

(4) In subsection (2), for the definition of life assurance business” substitute –

““life assurance business” means business which consists of the effecting or carrying out of contracts of insurance which fall within paragraph I, II, III or VII(b) of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 but –

- (a) includes capital redemption business; and
- (b) does not include business which consists of the effecting or carrying out of immediate needs annuities (within the meaning of section 725 of ITTOIA 2005);”

(5) In subsection (2), for the definition of “reinsurance business” substitute –

““reinsurance” includes retrocession;”.

(6) After subsection (2ZE) insert –

“(2ZF) In this Chapter “capital redemption business” means any business of a company carrying on insurance business in so far as it consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period.”

7 In section 431A(3)(a) (power to amend), omit “and Schedule 19AA”.

8 After section 431B insert –

“431BA Meaning of “child trust fund business”

- (1) In this Chapter “child trust fund business” means so much of a company’s life assurance business as is referable to child trust fund policies (but not including the reinsurance of such business).

- (2) In this section “child trust fund policy” means a policy of life insurance which is an investment under a child trust fund (within the meaning of the Child Trust Funds Act 2004).

431BB Meaning of “individual savings account business”

- (1) In this Chapter “individual savings account business” means so much of a company’s life assurance business as is referable to individual savings account policies (but not including the reinsurance of such business).
- (2) In this section “individual savings account policy” means a policy of life insurance which is an investment of a kind specified in regulations made by virtue of section 695(1) of ITTOIA 2005.”

- 9 (1) Section 431D (meaning of “overseas life assurance business”) is amended as follows.

- (2) For subsection (1) substitute –

“(1) In this Chapter “overseas life assurance business” means so much of a company’s relevant life assurance business as is with a policy holder or annuitant not residing in the United Kingdom (but not including the reinsurance of such business).

- (1A) In subsection (1) above “relevant life assurance business” means life assurance business other than –

- (a) pension business, or
(b) business of any description excluded from this section by regulations made by the Commissioners for Her Majesty’s Revenue and Customs.”

- (3) In subsections (2) and (4), for “(1)” substitute “(1A)”.

- 10 After section 431E insert –

“431EA Meaning of “gross roll-up business”

In this Chapter “gross roll-up business” means business of any of the following kinds –

- (a) pension business;
(b) child trust fund business;
(c) individual savings account business;
(d) life reinsurance business; and
(e) overseas life assurance business.”

- 11 In section 431F (meaning of “basic life assurance and general annuity business”), for the words from “(including” to the end substitute “other than gross roll-up business”.

- 12 In section 432ZA(7) (linked assets), for “long-term business other than life assurance” (in both places) substitute “PHI”.

- 13 (1) Section 432A (apportionment of income and gains) is amended as follows.

- (2) In subsection (1A), for “shall be” substitute “is”.

- (3) In subsection (2), for paragraphs (a) to (f) substitute –

“(a) basic life assurance and general annuity business,

- (b) gross roll-up business, and
- (c) PHI business.”

(4) In subsection (3), for “(apart from overseas life assurance business) shall be” substitute “is”.

(5) Omit subsection (4).

(6) Before subsection (5) insert –

“(4A) Income arising from, and gains or losses accruing on the disposal of, overseas PE assets is referable to gross roll-up business.”

(7) In subsection (5) –

- (a) for “shall be” substitute “is”, and
- (b) omit “(apart from overseas life assurance business)”.

(8) For subsections (6) and (6A) substitute –

“(6) For the purposes of subsection (5) above “the relevant fraction”, in relation to basic life assurance and general annuity business, is –

$$\frac{A}{A + B + C}$$

where –

A is the aggregate of –

- (a) the mean of the opening and closing liabilities of that category of business, reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category,
- (b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts, and
- (c) if there has been a relevant reattribution, the mean of the opening and closing amounts of the shareholders’ excess assets;

B is the aggregate of –

- (a) the mean of the opening and closing liabilities of the gross roll-up business, reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category of business, and
- (b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts; and

C is the aggregate of –

- (a) the mean of the opening and closing liabilities of the PHI business, reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category of business, and
- (b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts.

- (6A) For the purposes of subsection (5) above “the relevant fraction”, in relation to gross roll-up business, is –
- $$\frac{B}{A + B + C}$$
- where A, B and C have the same meaning as in subsection (6) above.
- (6B) For the purposes of subsection (5) above “the relevant fraction”, in relation to PHI business, is –
- $$\frac{C}{A + B + C}$$
- where A, B and C have the same meaning as in subsection (6) above.”
- (9) In subsection (7) –
- for “and (6A)” substitute “, (6A) and (6B)”,
 - for “(4)” substitute “(4A)”, and
 - omit “438B,”.
- (10) In subsection (8), for “subsections (6) and (6A)” substitute “subsection (6)”.
- (11) Omit subsection (9).
- (12) In subsection (9A), for “sections 432C and 432D” substitute “section 432C”.
- 14 (1) Section 432AA (Schedule A business or overseas property business) is amended as follows.
- Omit subsection (3).
 - In subsection (4), for paragraphs (a) to (d) substitute –
 - basic life assurance and general annuity business;
 - gross roll-up business; and
 - PHI business.”
 - In subsection (5), omit “(3) or”.
- 15 In section 432AB (losses from Schedule A business or overseas property business), omit subsection (6).
- 16 (1) Section 432B (apportionment of receipts brought into account) is amended as follows.
- In subsection (1) –
 - for “432F” substitute “432G”, and
 - for “any category of life assurance business” substitute “gross roll-up business”.
 - In subsection (2), for “432F” substitute “432G”.
 - In subsection (3) –
 - for “Sections 432C and 432D apply” substitute “Section 432C applies”, and
 - insert at the end “(and section 432G applies in either case)”.
 - In subsection (4) –
 - for “sections 432C and 432D” substitute “section 432C”,
 - for “apply” substitute “applies”, and
 - omit paragraph (b) and the word “and” before it.

- (6) In subsection (5), for the words from “any category” to the end of paragraph (b) substitute “gross roll-up business”.
- (7) In subsection (6), for the words from “432D” to “annuity business” substitute “432C to gross roll-up business”.
- (8) In subsection (7), omit “the relevant fraction of” (in both places).
- (9) In subsection (9), omit the definitions of –
 - (a) “the relevant fraction”, and
 - (b) “the section 83 net amount”.
- (10) In subsection (10) –
 - (a) in paragraphs (a) and (b), for “paragraph (a)(ii)” substitute “the definition of A, in paragraph (c)”, and
 - (b) for paragraph (c) substitute –
 - “(c) the substitution for the definitions of B and C of –
“B is the amount that would be given by A if A
applied in relation to gross roll-up business;
and
C is the amount that would be given by A if A
applied in relation to PHI business.””

17 For section 432C substitute –

“432C Section 432B apportionment: non-participating funds

- (1) This section specifies the extent to which the amount brought into account –
 - (a) as investment income,
 - (b) as an increase or decrease in the value of assets, or
 - (c) as other income, (“the relevant amount”) is referable to life assurance business or to gross roll-up business.
- (2) To the extent that the relevant amount is attributable to linked assets, it is referable to life assurance business.
- (3) There is also referable to life assurance business the appropriate fraction of so much of the relevant amount as is not attributable to linked assets.
- (4) For the purposes of subsection (3) above “the appropriate fraction” is –

$$\frac{A}{A + B}$$

where –

A is the mean of the opening and closing liabilities of the relevant business so far as referable to life assurance business, reduced (but not below nil) by the aggregate of the mean of the opening and closing net values of linked assets; and
B is the mean of the opening and closing liabilities of the relevant business so far as referable to PHI business.

- (5) To the extent that the relevant amount is attributable to –
 - (a) assets linked to gross roll-up business, or

- (b) overseas PE assets,
it is referable to gross roll-up business.
- (6) There is also referable to gross roll-up business the relevant fraction of so much of the relevant amount as is not attributable to assets linked to any category of business.
- (7) For the purposes of subsection (6) above “the relevant fraction” is –
- $$\frac{C}{C + D}$$
- where –
- C is the mean of the opening and closing liabilities of the relevant business so far as referable to gross roll-up business, reduced (but not below nil) by the aggregate of –
- (a) the mean of the opening and closing net values of any assets of the relevant business linked to gross roll-up business, and
 - (b) so much of the relevant amount as is referable to gross roll-up business under subsection (5)(b) above; and
- D is the mean of the opening and closing liabilities of the relevant business so far as referable to basic life assurance and general annuity business or PHI business, reduced (but not below nil) by the mean of the opening and closing net values of any assets of the relevant business linked to either of those categories of business.
- (8) For the purposes of this section, so much of the relevant amount –
- (a) as is brought into account as other income in an internal linked fund of the company, and
 - (b) as is not attributable to assets of that fund,
- is to be treated as linked to a category of business to the same extent as income attributable to an asset of the fund would, by virtue of section 432ZA, be referable to that category of business.
- (9) In subsection (8)(a) above “internal linked fund” has the same meaning as in section 432ZA (see subsection (6) of that section).”
- 18 Omit section 432D (section 432B apportionment: value of non-participating funds).
- 19 (1) Section 432E (section 432B apportionment: participating funds) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) The part of the net amount which is referable to life assurance business or to gross roll-up business is –
- (a) the amount determined in accordance with subsections (2) and (2A) below, or
 - (b) if greater, the amount determined in accordance with subsection (3) below.
- (1A) In this section “the net amount” means the aggregate of the amounts brought into account –
- (a) as investment income,

- (b) as an increase in the value of assets, or
 - (c) as other income,
- less the aggregate of the amounts brought into account as a decrease in the value of assets.”

- (3) In subsection (2) –
- (a) in the definition of CAS, for “the category of business concerned” substitute “life assurance business or of gross roll-up business”, and
 - (b) in the definition of CS, for “business of the category concerned” substitute “life assurance business or to gross roll-up business”.
- (4) In subsection (3), omit “mentioned in subsection (1) above”.
- (5) In subsection (4), for the words following “case,” substitute “is –

$$\frac{A}{B} \times 100$$

where –

A is the so much of the net amount as is brought into account in respect of the relevant business less such part of it as is attributable to linked assets; and

B is the mean of the opening and closing liabilities of the relevant business reduced by the mean of the opening and closing values of any assets of the relevant business which are linked assets.”

- (6) Omit subsections (5) and (6).
- 20 In section 432F(2) (section 432B apportionment: supplementary provisions) –
- (a) omit “For each category of business in relation to which section 432E falls to be applied”, and
 - (b) omit “, after making any reduction required by section 432E(5),”.

- 21 For section 432G substitute –

“432G Section 432B apportionment: business transfers-in

- (1) There is referable to the life assurance business of the transferee the appropriate fraction of the amount brought into account as a business transfer-in.
- (2) For the purposes of subsection (1) above “the appropriate fraction” is –

$$\frac{LABL}{TL}$$

where –

LABL is the amount of the liabilities transferred that are referable to the life assurance business; and

TL is the whole of the liabilities transferred.

- (3) There is referable to the gross roll-up business of the transferee the relevant fraction of the amount brought into account as a business transfer-in.

- (4) For the purposes of subsection (3) above “the relevant fraction” is –
- $$\frac{\text{GRBL}}{\text{TL}}$$

where –

GRBL is the amount of the liabilities transferred that are referable to the gross roll-up business; and

TL has the same meaning as in subsection (2) above.”

- 22 (1) Section 434 (franked investment income etc) is amended as follows.
- (2) In subsection (1B)(b), for “category of life assurance business” substitute “gross roll-up business”.
- (3) Omit subsection (6A)(b).
- 23 (1) Section 434A (computation of losses and limitation on relief) is amended as follows.
- (2) In subsection (2)(a) –
- (a) omit “the aggregate of”, and
- (b) omit sub-paragraph (iii).
- (3) In subsection (2)(b), for the words following sub-paragraph (ii) substitute –
- “any loss for that period under section 436A shall be reduced (but not below nil) by the total of the amounts set off as mentioned in sub-paragraphs (i) and (ii) above.”
- 24 Omit section 436 (pension business: separate charge on profits).
- 25 Before section 437 insert –

“436A Gross roll-up business: separate charge on profits

- (1) Profits arising to an insurance company from gross roll-up business –
- (a) are to be treated as income within Schedule D, and
- (b) are chargeable under Case VI of that Schedule.
- (2) For that purpose –
- (a) the gross roll-up business is to be treated separately, and
- (b) the profits from it are to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) In making that computation, sections 82 and 82B to 83AB of the Finance Act 1989 apply with the necessary modifications.
- (4) If in any accounting period an insurance company incurs a loss, to be computed on the same basis as the profits, arising from its gross roll-up business –
- (a) the loss must be set off against the amount of any profit chargeable under this section for any subsequent accounting period, and
- (b) accordingly, the amount of the company’s profit so charged in any such accounting period is to be treated as reduced by the amount of the loss or so much of that amount as cannot be relieved under this section against a profit of an earlier accounting period.

- (5) Section 396 does not apply to a loss incurred by an insurance company on its gross roll-up business.
- (6) No loss to which section 396 applies may be set off under subsection (4) above against the amount of any profit chargeable under this section.
- (7) This section does not apply in relation to an insurance company for an accounting period if the profits of its long-term business for the accounting period are charged to tax under Case I of Schedule D.

436B Gains referable to gross roll-up business not to be chargeable gains

- (1) Gains referable to gross roll-up business are not chargeable gains.
 - (2) For the purposes of this section “gains referable to gross roll-up business” means gains which—
 - (a) accrue to an insurance company on the disposal by it of assets of its long-term insurance fund, and
 - (b) are referable (in accordance with section 432A) to gross roll-up business.”
- 26 Omit section 438 (pension business: exemption from tax).
- 27 Omit section 438B (income or gains arising from property investment LLP).
- 28 Omit section 438C (determination of policy holders’ share for purposes of s.438B).
- 29 Omit section 439 (restricted government securities).
- 30 Omit section 439B (life reinsurance business: separate charge on profits).
- 31 (1) Section 440 (transfers of assets etc) is amended as follows.
- (2) In subsection (3), for “paragraphs (a) to (e)” substitute “paragraphs (ca) to (e)”.
 - (3) In subsection (4), for paragraphs (a) to (d) substitute—
 - “(a) assets linked solely to basic life assurance and general annuity business;
 - (b) assets linked solely to gross roll-up business;”.
- 32 In section 440A(2) (securities)—
- (a) in paragraph (a), for sub-paragraphs (i) to (iii) substitute—
 - “(i) basic life assurance and general annuity business, or
 - (ii) gross roll-up business,”
 - (b) omit paragraph (c), and
 - (c) in paragraph (d)—
 - (i) for “any of the preceding paragraphs” substitute “paragraph (a)”, and
 - (ii) for “any of the descriptions mentioned in those paragraphs” substitute “the description mentioned in that paragraph”.
- 33 In section 440B(4) (modifications where tax charged under Case I of Schedule D)—
- (a) for “(a) to (e)” substitute “(a), (d) and (e)”, and

- (b) for the notionally substituted paragraph (a) substitute –
- “(a) so many of the securities as are included in the company’s long-term insurance fund shall be treated for the purposes of corporation tax as a separate holding which is an asset of that fund, and”.
- 34 Omit section 441 (overseas life assurance business).
- 35 (1) Section 441B (treatment of UK land) is amended as follows.
- (2) In subsection (1)(a), for “overseas life assurance business” substitute “gross roll-up business (but see subsection (1A))”.
- (3) After subsection (1) insert –
- “(1A) In determining for the purposes of subsection (1)(a) above whether land is held by a company as an asset linked to the company’s gross roll-up business, the company’s gross roll-up business is to be taken to consist of only so much of that business as constitutes overseas life assurance business.”
- (4) For subsection (5) substitute –
- “(5) In this section “land” includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude, right or licence in or over land.”
- 36 In section 444(2) (life policies issued before 5th August 1965), for “life assurance fund” (in both places) substitute “long-term insurance fund”.
- 37 In section 444A(3) (transfers of business) –
- (a) for “436(3)(c) or 439B(3)(c)” substitute “436A(4)”,
- (b) omit paragraph (b) and the word “or” before it, and
- (c) for “the same category of business as that in which it arose)” substitute “gross roll-up business)”.
- 38 (1) Section 444AC (transfers of business: excess of assets or liabilities) is amended as follows.
- (2) In subsection (2B) –
- (a) for “each category of its life assurance business” substitute “its gross roll-up business”,
- (b) for “a category of the transferee’s life assurance business” substitute “the transferee’s gross roll-up business”, and
- (c) for “that category” substitute “gross roll-up business”.
- (3) In subsection (2D), for “a category of its life assurance business” substitute “its gross roll-up business”.
- (4) In subsection (10), in the definition of “the transferor’s business”, for paragraph (b) substitute –
- “(b) its gross roll-up business.”
- 39 In section 444ACA(3)(b)(ii) (transfers of business: transferor shares are assets of transferee’s long-term insurance fund etc), for “any category of its life assurance business to which the amount is referable” substitute “any gross roll-up business of the transferee”.

- 40 (1) Section 444AF (demutualisation surplus: life assurance business) is amended as follows.
- (2) In subsection (4)(b), for “sections 432C and 432D apply” substitute “section 432C applies”.
- (3) In subsection (5)(b), for “the profits of any category of the company’s life assurance business chargeable to tax under Case VI of Schedule D” substitute “profits of the company chargeable under Case VI of Schedule D under section 436A (gross roll-up business)”.
- 41 (1) Section 444AK (mutual surplus: Case VI categories of life assurance business) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute –
“(b) the company carries on gross roll-up business.”
- (3) In subsection (3), for “any category of the company’s life assurance business chargeable to tax under Case VI of Schedule D” substitute “the company’s gross roll-up business”.
- (4) In subsection (5)(b), for “sections 432C and 432D apply” substitute “section 432C applies”.
- (5) The heading accordingly becomes “Mutual surplus: gross roll-up business”.
- 42 Omit sections 458 and 458A (capital redemption business).
- 43 In section 460(2) (registered friendly societies: exemption from tax in respect of life or endowment business) –
- (a) for “pension business” substitute “gross roll-up business”,
- (b) at the end of paragraph (ca), insert “and”, and
- (c) omit paragraph (cb).
- 44 (1) Section 466 (interpretation of Chapter 2 of Part 12) is amended as follows.
- (2) In subsection (1), omit paragraphs (b) and (c).
- (3) In subsection (2) –
- (a) omit the definition of “life assurance business”, and
- (b) insert the following definition at the appropriate place –
““gross roll-up business” shall be construed in accordance with section 431;”.
- (4) Omit subsections (2A) and (2B).
- 45 (1) Section 502H (insurance company as lessor) is amended as follows.
- (2) In subsections (2)(a)(ii) and (4)(b), for “long-term business which is not life assurance” substitute “PHI”.
- (3) In subsection (9)(b), for “any category of life assurance business” substitute “gross roll-up business”.
- 46 In section 539(3) (life policies, life annuities and capital redemption policies), in the definition of “capital redemption policy”, for “as defined in section 458(3)” substitute “, within the meaning of Chapter 1 of Part 12”.
- 47 (1) Section 553B (overseas life assurance business: capital redemption policies) is amended as follows.

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- (2) In subsection (2), in the definition of “overseas policy”, for “431D(1)(a)” substitute “431D(1)”.
- (3) In subsection (3), for the words from “after” to the end substitute “on or after 23rd March 1999”.
- 48 In section 730A(7) (treatment of price differential on sale and repurchase of securities), omit “438,”.
- 49 In section 737D(1) (power to provide for manufactured payments to be eligible for relief), omit “438,”.
- 50 (1) Section 755A (treatment of chargeable profits and creditable tax apportioned to company carrying on life assurance business) is amended as follows.
- (2) In subsection (4), for the words after “referable to” substitute “gross roll-up business carried on by the UK company”.
- (3) In subsection (6)(c), for “a category of business specified in paragraphs (a) to (c) of subsection (4) above” substitute “gross roll-up business”.
- (4) In subsection (13), for paragraphs (a) to (c) substitute –
- (a) basic life assurance and general annuity business, or
- (ba) gross roll-up business,”.
- 51 In section 804A(1) (life assurance companies with overseas branches etc: restriction of credit), for “any category of life assurance business” substitute “gross roll-up business”.
- 52 (1) Section 804B (insurance companies carrying on more than one category of business: restriction of credit) is amended as follows.
- (2) In subsection (1)(a), after “category of” insert “long-term”.
- (3) In subsection (2), omit “or section 438B”.
- (4) For subsection (3) substitute –
- “(3) Where the relevant income arises from an asset which is linked solely to a category of business, the whole of the foreign tax is attributable to that category of business, unless the case is one where subsection (7) below applies in relation to that category of business.”
- (5) In subsection (4) –
- (a) for “long-term business which is not life assurance” substitute “PHI”, and
- (b) omit “or 438B”.
- (6) In subsection (5), for “long-term business which is not life assurance” substitute “PHI”.
- (7) In subsection (6), omit “or 432D” (in both places).
- (8) For subsection (9) substitute –
- “(9) Where for the purposes of this section an amount of foreign tax is attributable to gross roll-up business, credit in respect of the foreign tax so attributable shall be allowed only against corporation tax in respect of profits chargeable under section 436A.”

- 53 In section 804C(14) (insurance companies: allocation of expenses etc in computations under Case I of Schedule D), for –
- (a) “a category of life assurance business”, and
 - (b) “any category of life assurance business”,
- substitute “gross roll-up business”.
- 54 (1) Section 804D (interpretation of section 804C in relation to life assurance business etc) is amended as follows.
- (2) In subsection (1), for “a category of life assurance business” substitute “gross roll-up business”.
 - (3) In subsection (3), for “432F” substitute “432G”.
- 55 In section 804E (interpretation of section 804C in relation to other insurance business), for “any category of life assurance business” substitute “gross roll-up business”.
- 56 In section 806L(5) (carry forward or carry back of unrelieved foreign tax), for paragraph (b) substitute –
- “(b) included in the profits of gross roll-up business chargeable under Case VI of Schedule D by virtue of section 436A.”
- 57 In section 808 (restriction on deduction of interest or dividends from trading income), for “436” substitute “436A”.
- 58 Omit Schedule 19AA (overseas life assurance fund).
- 59 In paragraph 2(1A)(a) of Schedule 25 (cases where section 747(3) does not apply), for “436, 439B or 441” substitute “436A”.

Finance Act 1989 (c. 26)

- 60 FA 1989 is amended as follows.
- 61 In section 88(3A) (corporation tax: policy holders’ fraction of profits), for paragraph (b) substitute –
- “(b) profits of the company chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 (gross roll-up business).”
- 62 In section 89(1A) (policy holders’ share of profits), for paragraph (a) substitute –
- “(a) deducting from any profits of the company for the period chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 so much of the Case I profits of the company for the period in respect of its life assurance business as does not exceed the amount of any profits of the company for the period so chargeable, and”.

Taxation of Chargeable Gains Act 1992 (c. 12)

- 63 TCGA 1992 is amended as follows.
- 64 In section 204(10) (policies of insurance and non-deferred annuities) –
- (a) for “as defined in section 458(3)” substitute “within the meaning of Chapter 1 of Part 12”, and

- (b) omit “other”.
- 65 In section 212(2) (annual deemed disposal of holdings of certain assets), for the words from “pension business” to the end substitute “gross roll-up business”.
- 66 In section 213(1A) (spreading of gains and losses under section 212), omit the words following “general annuity business”.

Finance Act 1996 (c. 8)

- 67 FA 1996 is amended as follows.
- 68 In paragraph 12(3) of Schedule 9 (loan relationships: special computational provisions), for “440(4)(a) to (e)” substitute “440(4)(a), (b) and (e)”.
- 69 (1) Schedule 11 (loan relationships: special provisions for insurers) is amended as follows.
- (2) In paragraph 1(1)(a), omit “or capital redemption business”.
- (3) In paragraph 1(2) –
- (a) omit “or capital redemption business”,
 - (b) after “basis shall be” insert “(subject to the following provisions of this Schedule)”, and
 - (c) omit “(subject to the following provisions of this Schedule)”.
- (4) In paragraph 2, for sub-paragraph (1) substitute –
- “(1) Where an insurance company carries on basic life assurance and general annuity business, a separate computation, using only the non-trading credits and non-trading debits referable to that business, shall be made for the purposes of this Chapter in relation to that business.”
- (5) In paragraph 2(3), for the words from “carries on–” to “the credits” substitute “carries on life assurance business or gross roll-up business, the credits”.
- (6) In paragraph 3A(5) –
- (a) after “(6A)” insert “, (6B)”,
 - (b) for “subsections (6)(a) and (6A)(a)” substitute “subsection (6)”, and
 - (c) omit paragraph (c) and the word “and” before it.
- (7) In paragraph 4 –
- (a) in sub-paragraph (1), omit paragraph (b) and the word “or” before it,
 - (b) in sub-paragraph (2)(a), for “the relevant category of business” substitute “basic life assurance and general annuity business”,
 - (c) in sub-paragraph (7), for “the relevant category of business” substitute “its basic life assurance and general annuity business”,
 - (d) in sub-paragraph (10), for “the relevant category of business” (in both places) substitute “basic life assurance and general annuity business”, and
 - (e) omit sub-paragraph (16).

(8) For paragraph 6 substitute –

“Interpretation of Part 1

- 6 Expressions used in this Part of this Schedule and in Chapter 1 of Part 12 of the Taxes Act 1988 have the same meaning in this Part as in that Chapter.”

Finance Act 1997 (c. 16)

- 70 (1) Paragraph 19 of Schedule 12 to FA 1997 (leasing arrangements: finance leases and loans) is amended as follows.
- (2) In sub-paragraph (2), for the words from “any computation” to the end substitute “computing in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D the profits of life assurance business, or gross roll-up business, carried on by the company.”
- (3) After sub-paragraph (4) insert –
- “(5) Expressions used in this paragraph and in Chapter 1 of Part 12 of the Taxes Act 1988 have the same meaning in this paragraph as in that Chapter.”

Capital Allowances Act 2001 (c. 2)

- 71 CAA 2001 is amended as follows.
- 72 (1) Section 255 (apportionment of allowances and charges) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) Except where subsection (3) applies, any allowance to which the company is entitled, and any charge to which it is liable, for a chargeable period in respect of a management asset must be apportioned between basic life assurance and general annuity business, gross roll-up business and PHI business in accordance with subsections (1A) and (1B).
- (1A) The allowance or charge is to be apportioned to basic life assurance and general annuity business using the formula –

$$A \times \frac{B}{C}$$

where –

- A is the amount of the allowance or charge,
B is so much of any expenses in connection with the asset as fall to be brought into account at Step 1 in subsection (7) of section 76 of ICTA for the chargeable period, and
C is the amount of any expenses in connection with the asset.

- (1B) The allowance or charge is to be apportioned to gross roll-up business using the formula –

$$A \times \frac{D}{C}$$

where –

A and C have the same meaning as in subsection (1A), and
D is so much of any expenses in connection with the asset as is referable to gross roll-up business.

(1C) The allowance or charge shall be apportioned to PHI business to the extent that it is not apportioned to basic life assurance and general annuity business or gross roll-up business.”

(3) Omit subsection (2).

(4) In subsection (3) –

- (a) in paragraph (a), for “section 441 of ICTA in respect of its overseas life assurance business” substitute “section 436A of ICTA (gross roll-up business)”, and
- (b) in paragraph (b), for “provided outside the United Kingdom for use for the management of that business” substitute “held for the purposes of a permanent establishment outside the United Kingdom at or through which the company carries on gross roll-up business”.

73 (1) Section 256 (different giving effect rules for different categories of business) is amended as follows.

(2) In subsection (3), for paragraphs (a) to (c) substitute “section 436A of ICTA (gross roll-up business)”.

(3) In subsection (4) –

- (a) in paragraph (a), for “any particular category of business” substitute “gross roll-up business” and for “that category of business” substitute “its gross roll-up business”, and
- (b) in paragraph (b), for “any particular category of business” substitute “gross roll-up business” and for “that category of business” substitute “its gross roll-up business”.

74 (1) Section 545 (investment assets) is amended as follows.

(2) In subsection (3), in the second sentence, omit “, or section 438B,”.

(3) In subsection (5) –

- (a) for the words from “under –” to “no allowance” substitute “under section 436A of ICTA (gross roll-up business), no allowance”, and
- (b) for “the category of life assurance business in question” substitute “gross roll-up business”.

Finance Act 2001 (c. 9)

75 In paragraph 20 of Schedule 22 to FA 2001 (remediation of contaminated land), for the words from the beginning to “Schedule D,” substitute “In computing in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D the profits for any accounting period arising to an insurance company from its life assurance business, or from its gross roll-up business,”.

Finance Act 2002 (c. 23)

76 FA 2002 is amended as follows.

- 77 (1) Schedule 12 (tax relief for expenditure on research and development) is amended as follows.
- (2) In paragraph 13, for sub-paragraph (3) substitute –
- “(3) Part 3 of this Schedule has effect in relation to any gross roll-up business of the company as if the references to the trade carried on by the company were references to that business (and sub-paragraph (2) does not apply in relation to that business).”
- (3) In paragraph 15(3) –
- (a) for “(profits of life assurance business chargeable to tax under Case VI of Schedule D)” substitute “(gross roll-up business)” and for “a part of the life assurance business” substitute “the gross roll-up business”, and
- (b) for “that part” substitute “the gross roll-up business”.
- 78 (1) Schedule 13 (tax relief for expenditure on vaccine research etc) is amended as follows.
- (2) In paragraph 23, for sub-paragraph (3) substitute –
- “(3) Part 3 of this Schedule has effect in relation to any gross roll-up business of the company as if the references to the trade carried on by the company were references to that business (and sub-paragraph (2) does not apply in relation to that business).”
- (3) In paragraph 25(3) –
- (a) for “(profits of life assurance business chargeable to tax under Case VI of Schedule D)” substitute “(gross roll-up business)” and for “a part of the life assurance business” substitute “the gross roll-up business”, and
- (b) for “that part” substitute “the gross roll-up business”.
- 79 (1) Schedule 26 (derivative contracts) is amended as follows.
- (2) In paragraph 12(2), for “section 458” substitute “Chapter 1 of Part 12”.
- (3) In paragraph 29(1), for “440(4)(a) to (e)” substitute “440(4)(a), (b) and (e)”.
- 80 (1) Schedule 29 (gains and losses of a company from intangible fixed assets) is amended as follows.
- (2) In paragraph 36(5) –
- (a) in the opening words, for “any category of life assurance business” substitute “gross roll-up business”, and
- (b) in paragraph (a), for “that business or category of business” (in both places) substitute “life assurance business or gross roll-up business”.
- 81 In paragraph 138 (interpretation provisions relating to insurance companies), in sub-paragraph (1), after “fund” insert “, “gross roll-up business””.

Income Tax (Trading and Other Income) Act 2005 (c. 5)

- 82 ITTOIA 2005 is amended as follows.

- 83 In section 473(2) (policies and contracts to which Chapter 9 applies), in the definition of “capital redemption policy”, for “as defined in section 458(3)” substitute “within the meaning of Chapter 1 of Part 12”.
- 84 In section 476(3) (special rules: foreign policies), in the definition of “foreign capital redemption policy”, for “431D(1)(a)” substitute “431D(1)”.
- 85 In Schedule 2 (transitionals and savings etc), in paragraph 118(2), for “from “other than” onwards in the definition of “annuity business”” substitute “following paragraph (b) in the definition of “life assurance business””.

PART 2

TRANSITIONALS

Introduction

- 86 (1) A loss incurred by an insurance company in a pre-commencement period may not be set off against profits of the company chargeable under section 436A of ICTA in a post-commencement period, except in accordance with this Part.
- (2) In this Part of this Schedule –
- “the commencement period”, in relation to an insurance company, means the first accounting period of the company to begin on or after 1st January 2007,
 - “pre-commencement period”, in relation to an insurance company, means an accounting period of the company beginning before 1st January 2007, and
 - “post-commencement period”, in relation to an insurance company, means an accounting period of the company beginning on or after 1st January 2007.
- (3) Expressions which are –
- (a) used in this Part of this Schedule in relation to an accounting period, and
 - (b) used in Chapter 1 of Part 12 of ICTA,
- have the same meaning in this Part of this Schedule in relation to that accounting period as they have in that Chapter (as that Chapter has effect in relation to that accounting period).

Carry forward of unused pension business losses

- 87 (1) An unused pension business loss of an insurance company (see sub-paragraph (4)) is to be treated as if it were a loss incurred by the company on its gross roll-up business in the accounting period immediately preceding the commencement period.
- (2) Subsections (4) and (5) of section 436A of ICTA accordingly apply to the loss, but subject to sub-paragraph (3) (and to subsection (7) of that section).
- (3) The amount by which the company’s profit charged under that section in an accounting period is to be treated as reduced under subsection (4)(b) of that section by virtue of this paragraph must not exceed –

$$CP \times \frac{PBL}{GRBL}$$

where –

“CP” is the amount of the company’s profit chargeable under that section in the accounting period,

“PBL” is the mean of the opening and closing liabilities of the company’s pension business for the accounting period, and

“GRBL” is the mean of the opening and closing liabilities of the company’s gross roll-up business for the accounting period.

- (4) In this paragraph “unused pension business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its pension business in any pre-commencement period as cannot be set off under section 436(3)(c) of ICTA against profits in any such period.

Carry forward of unused non-pension business losses

- 88 (1) An unused non-pension business loss of an insurance company (see paragraph 89) is to be treated as if it were a loss incurred by the company on its gross roll-up business in the accounting period immediately preceding the commencement period.

- (2) Subsections (4) and (5) of section 436A of ICTA accordingly apply to the loss, but subject to sub-paragraph (3) (and to subsection (7) of that section).

- (3) The amount by which an insurance company’s profit charged under that section in an accounting period is to be treated as reduced under subsection (4)(b) of that section is to be determined –

(a) first by giving effect to subsection (4)(b) in respect of a loss treated as incurred by the company on its gross roll-up business by virtue of paragraph 86, and

(b) then by giving effect to subsection (4)(b) in respect of a loss treated as incurred by the company on its gross roll-up business by virtue of this paragraph,

(before giving effect to subsection (4)(b) in respect of losses incurred by the company on its gross roll-up business in post-commencement periods).

- 89 (1) In paragraph 88 “unused non-pension business loss”, in relation to an insurance company, means the aggregate of the following amounts –

(a) any unexhausted individual savings account business loss (see sub-paragraph (2)),

(b) any unexhausted child trust fund business loss (see sub-paragraph (3)),

(c) any unexhausted life reinsurance business loss (see sub-paragraph (4)), and

(d) any unexhausted overseas life assurance business loss (see sub-paragraph (5)).

- (2) In this paragraph “unexhausted individual savings account business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its individual savings account business in any pre-commencement period as cannot be set off by virtue of a relevant provision (see sub-paragraph (6)) against profits in any such period.

- (3) In this paragraph “unexhausted child trust fund business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its child trust fund business in any pre-commencement period

as cannot be set off by virtue of a relevant provision against profits in any such period.

- (4) In this paragraph “unexhausted life reinsurance business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its life reinsurance business in any pre-commencement period as cannot be set off under section 439B(3)(c) of ICTA against profits in any such period.
- (5) In this paragraph “unexhausted overseas life assurance business loss”, in relation to an insurance company, means so much of any losses incurred by the company on its overseas life assurance business in any pre-commencement period as cannot be set off under section 441(4)(b) of ICTA against profits in any such period.
- (6) In this paragraph “relevant provision” means –
- (a) regulation 13 of the Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), or
 - (b) regulation 11 of the Child Trust Funds (Insurance Companies) Regulations 2004 (S.I. 2004/2680).

“Section 432F(2) excesses”

- 90 Where there is a subsection (2) excess (within the meaning of section 432F of ICTA) for any category of business of an insurance company in the last pre-commencement accounting period it shall be taken to be, or form part of, the subsection (2) excess falling to be carried forward under subsection (3) of that section (as amended by this Schedule) and used in a post-commencement accounting period.

SCHEDULE 2

Section

REPEALS

INSURANCE COMPANIES: GROSS-ROLL UP BUSINESS ETC

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxes Management Act 1970 (c. 9)	In section 98, in the Table, the entries relating to section 333B of the Income and Corporation Taxes Act 1988.
Income and Corporation Taxes Act 1988 (c. 1)	In section 76 – (a) in subsection (1), the second sentence, (b) subsection (14), and (c) in subsection (15), the definition of “capital redemption business”. Section 333B. Section 403E(3). In section 431(2), the definitions of “annuity business” and “overseas life assurance fund”. In section 431A(3)(a), the words “and Schedule 19AA”.

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1) – <i>cont.</i>	<p>In section 432A –</p> <ul style="list-style-type: none"> (a) subsection (4), (b) in subsection (5), the words “(apart from overseas life assurance business)”, (c) in subsection (7)(c)(i), the word “438B,” and (d) subsection (9). <p>In section 432AA –</p> <ul style="list-style-type: none"> (a) subsection (3), and (b) in subsection (5), the words “(3) or”. <p>Section 432AB(6).</p> <p>In section 432B –</p> <ul style="list-style-type: none"> (a) in subsection (4), paragraph (b) and the word “and” before it, (b) in subsection (7), the words “the relevant fraction of” (in both places), and (c) in subsection (9), the definitions of “the relevant fraction” and “the section 83 net amount”. <p>Section 432D.</p> <p>In section 432E –</p> <ul style="list-style-type: none"> (a) in subsection (3)(b), the words “mentioned in subsection (1) above”, and (b) subsections (5) and (6). <p>In section 432F(2), the words –</p> <ul style="list-style-type: none"> (a) “For each category of business in relation to which section 432E falls to be applied”, and (b) the words “, after making any reduction required by section 432E(5),”. <p>Section 434(6A)(b).</p> <p>In section 434A(2)(a), the words “the aggregate of” and sub-paragraph (iii).</p> <p>Section 436.</p> <p>Section 438.</p> <p>Section 438B.</p> <p>Section 438C.</p> <p>Section 439.</p> <p>Section 439B.</p> <p>Section 440A(2)(c).</p> <p>Section 441.</p> <p>In section 444A(3), paragraph (b) and the word “or” before it.</p> <p>Sections 458 and 458A.</p> <p>Section 460(2)(cb).</p> <p>In section 466 –</p> <ul style="list-style-type: none"> (a) subsection (1)(b) and (c), (b) in subsection (2), the definition of “life assurance business”, and (c) subsections (2A) and (2B). <p>In section 730A(7), the word “438,”.</p>

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1) – <i>cont.</i>	In section 737D(1), the word “438,”. In section 804B – <ul style="list-style-type: none"> (a) in subsection (2), the words “or section 438B”, (b) in subsection (4), the words “or 438B”, and (c) in subsection (6), the words “or 432D” (in both places). Schedule 19AA.
Finance Act 1989 (c. 26)	In Schedule 8, paragraph 6.
Finance Act 1990 (c. 29)	In Schedule 6 – <ul style="list-style-type: none"> (a) in paragraph 1(2)(b), the entry relating to “overseas life assurance fund”, and (b) paragraph 7. In Schedule 7, paragraphs 3, 6 and 10(2).
Finance Act 1991 (c. 31)	In Schedule 7, paragraph 4(1)(b). In Schedule 15, paragraph 16.
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 204(10)(b), the word “other”. In section 210B(6), paragraph (b) and the word “or” before it. In section 213(1A), the words following “general annuity business”.
Finance Act 1995 (c. 4)	In Schedule 8 – <ul style="list-style-type: none"> (a) in paragraph 1, the entries relating to “overseas life assurance business” and “reinsurance business”, (b) paragraph 5(2), (c) paragraph 3, (d) paragraph 8, (e) paragraph 9(2), (f) in paragraph 12(1)(a), the words “section 432C(1), section 432D(1) (in both places) and” and “and (6)(a)”, (g) paragraph 13(5), (h) paragraph 14, (i) paragraph 15, (j) paragraph 16(3), (k) paragraph 17(2), (l) paragraph 27(1) and (2), (m) paragraph 51(5), and (n) in paragraph 55(1), the word “3,”. In Schedule 9, paragraph 1(3).
Finance Act 1996 (c. 8)	Section 167(2). Section 168(1) and (3).

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Finance Act 1996 (c. 8) – <i>cont.</i>	In Schedule 11 – <ul style="list-style-type: none"> (a) in paragraph 1, in sub-paragraph (1)(a), the words “or capital redemption business” and, in sub-paragraph (2), the words, “or capital redemption business” and the words “(subject to the following provisions of this Schedule)”, (b) in paragraph 3A(5), paragraph (c) and the word “and” before it, and (c) in paragraph 4, in sub-paragraph (1), paragraph (b) and the word “or” before it, and sub-paragraph (16). In Schedule 31, paragraph 7(2).
Finance (No. 2) Act 1997 (c. 58)	In Schedule 3, paragraph 6(3).
Finance Act 1998 (c. 36)	Section 77.
Finance Act 2000 (c. 17)	Section 108(1). Section 109(3), (4) and (9)(b). In Schedule 27, paragraph 8.
Capital Allowances Act 2001 (c. 2)	Section 255(2). In section 545(3), in the second sentence, the words “, or section 438B,”.
Finance Act 2001 (c. 9)	In Schedule 22, in paragraph 14(10), “or (6)”. In Schedule 25, paragraphs 5, 6 and 8(1).
Finance Act 2003 (c. 14)	In section 153(1)(a), the words “in Schedule 19AA, paragraph 5(5)(c);”. In Schedule 33, paragraphs 1(3)(a) and (4)(a), 6(7)(a), 9, 10(2) and 13(6)(b).
Child Trust Funds Act 2004 (c. 6)	Section 14.
Finance Act 2004 (c. 12)	Section 147(1), (2) and (4). In Schedule 7, paragraph 9(1). In Schedule 35, paragraph 22(3).
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraphs 143 and 175.
Finance (No. 2) Act 2005 (c. 22)	In Schedule 9, paragraph 19(1) to (3).
Income Tax Act 2007 (c.)	In Schedule 1, paragraph [74].

These repeals have effect in accordance with section 1.

Explanatory Notes

Life Insurance Company Taxation: “Five into One”

BACKGROUND

- 1 These notes give context to the draft section and Schedule headed “Gross Roll-up Business”. This clause and Schedule build on the draft clause and Schedule published in as part of the Consultation Document on the taxation of life assurance companies in May 2006. Where there have been significant changes from the May draft that is indicated in the text. Many of the changes are purely consequential are not separately mentioned here (though they will be if they appear in the Finance Bill 2007).
- 2 Some of the changes here do not directly derive from the amalgamation of 5 categories into 1. These include changes as a result of the incorporation in primary legislation of regulations relating to capital redemption business and changes to that business. These points are also specifically indicated where they fall to be mentioned.

DETAIL

- 3 Clause 1 introduces the Schedule and provides for commencement
- 4 Subsection (1) relates what the Schedule contains – provisions relating to gross roll-up business, capital redemption business and other miscellaneous matters.
- 5 Subsection (2) is the commencement rule – the corporation tax provisions (nearly all of them) apply for accounting periods beginning on or after 1 January 2007 (and since the start of a period of account always coincides with an accounting period, also means that commencement is for periods of account so beginning where that is relevant (e.g. where legislation depends on the contents of a periodical return made to the Financial Services Authority (“FSA”)).
- 6 Some provisions, mostly those which use a deflection of capital redemption business, are income tax provisions – they have effect for the tax year 2007/08 onwards.
- 7 Subsection (3) qualifies the main commencement rule for the transitional provisions.
- 8 The Schedule makes the substantive and consequential changes. The major changes, the definition of the new category of gross roll-up business (“GRB”) and the rules for its taxation are found in section 431EA and 436A Income and Corporation Tax Act 1988 (“ICTA”).
- 9 Paragraph 10 inserts into the Income and Corporation Taxes Act 1988 (“ICTA”) a new section 431EA to define “gross roll-up business” (GRB). It defines GRB as meaning any of the existing kinds of life assurance business which are not basic life assurance and general annuity business (“BLAGAB”) namely pension, child trust fund, individual savings account, life reinsurance and overseas life assurance business. In a change from the May Condoc the power to add business to GRB has been removed.
- 10 Paragraph 3(3) replaces references to section 436 or 439B Income and Corporation Tax Act 1988 in step 5 of section 76(7) ICTA with a reference to section 436A. This reflects a change which is also reflected in the amendments to section 434A ICTA made by paragraph 23. In that section a Case I loss is reduced by the amount of any overseas life assurance business (“OLAB”) Case VI loss under section 441 ICTA before surrender. This rule was introduced in Finance Act (“FA”) 2000 to compensate for the fact that the limitations on the use of overseas permanent establishment (“PE”) losses set out in section 403E ICTA did not apply to life assurance companies. It is not appropriate to retain this distinction between OLAB and any other class of gross roll-up business so the limitation of a Case I loss in section 434A is no longer made: conversely however section 403E will in future apply to a life assurance company. The reference in section 76(7) Step 5 is to a reduction of expenses by the amount of any Case I loss surrendered after reducing it by Case VI losses from pension business (“PB”) or life reinsurance business (“LRB”) but not OLAB. Under these changes the Case I loss is reduced by the total amount of gross roll-up business loss under section 436A.

- 11 Paragraph 25 inserts a new section 436A into ICTA. This section sets out the way in which profits from gross roll-up business are taxed. It is based very closely on the current provisions in section 436 dealing with pension business and also section 439B dealing with life reinsurance business.
- 12 Section 436A(1) provides that the profits of gross roll-up business are treated as income falling within Schedule D and chargeable under Case VI of that Schedule just as in the case of pension business etc.
- 13 Section 436A(2) provides, as in the case of pension business etc, that gross roll-up business is treated as a separate business and the profits are computed in accordance with the provisions of Case I of Schedule D.
- 14 Section 436A(3) provides that various sections of the Finance Act 1989 dealing with Case I computations apply to the Case VI computation with any necessary modifications. This is also a feature of section 436 and 439B.
- 15 Section 436A(4) deals with losses on gross roll-up business. The subsection updates the language used in section 436 etc. which had changed very little over many decades. It specifically provides that a loss on gross roll-up business must be set against the first subsequent amount of profits arising and that only any amount left over after that set-off is carried forward again to the next period.
- 16 Section 436A(5) and (6) disapply the standard rule for all other Case VI losses and also prevent a Case VI loss which does not arise from gross roll-up business being set against any gross roll-up business profit chargeable under section 436A.
- 17 Section 436A(7) ensures that section 436A does not apply to a company which is actually charged to tax under Case I of Schedule D on its long-term business profits for the period. This is because that charge under Case I covers both the profits from BLAGAB and from gross roll-up business.
- 18 A new section 436B is also inserted into ICTA to provide that gains referable to GRB are not chargeable gains and defines gains referable to GRB by reference to section 432A ICTA.
- 19 This provision mirrors section 438(1) ICTA in part and sections 439B(6) and 441(8) *ibid*. It is necessary because there is not always an exact correspondence between the gains attributable to gross roll-up business given by section 432A ICTA and the gains from the disposal of assets brought into charge in the Case VI computation under section 436A; nor is it easy in every circumstance to apply sections 37 and 39 Taxation of Chargeable Gains Act 1992 (“TCGA”) to prevent double counting of gains or losses.
- 20 Much of the rest of the Schedule is consequential upon these changes.
- 21 Paragraph 4 omits section 333B ICTA (Individual Savings Account (“ISA”) business). Any regulations that could be made under section 333B other than those dealing with the taxation of ISA business can still be made under provisions of the Income Tax (Trading and Other Income) Act 2005 (“ITTOIA”). As a result the Individual Savings Account (Insurance Companies) Regulations (SI 1999/1871) will cease to have any effect.
- 22 Paragraph 6(2) inserts a number of new definitions into section 431 ICTA which contains the general interpretative rules for life assurance companies.
- 23 There are signposts to specific sections dealing with the definition of Child Trust Fund (“CTF”) business and ISA business which replace definitions given by regulations. There is a signpost to the new definition of gross roll-up business in section 431EA and there is a definition of overseas PE assets relevant for changes to sections 432A and 432C ICTA and to section 255 Capital Allowances Act 2001 (“CAA”). This definition is changed from the May Condoc in that it omits any excision for UK land.
- 24 Paragraph 6(4) also inserts a new definition of “life assurance business”. Up to now there has not really been a definition of life assurance business: merely a statement that it includes annuity business and, by virtue of regulations, capital redemption business.
- 25 It is now defined as meaning business of the kinds within paragraphs I, II, III or VII(b) of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order SI 2001/544. It also includes capital redemption business but doesn’t include

immediate needs annuity business. It has never been entirely clear whether paragraph II business (marriage and birth) is life assurance business, but the point is now put beyond doubt for tax purposes.

26 Paragraph 6(6) inserts new subsection (2ZF) into section 431 to define capital redemption business replacing section 458 ICTA. It follows the definition in the EC consolidated life directive that specifies that the business must be the business of an insurer. In a change from the May draft, the distinction between contracts made before 1 January 1938 and those made after 31 December 1937 is abolished..

27 Paragraph 8 inserts a new section 431BA into ICTA defining child trust fund business by reference to child trust fund policies as defined in the Child Trust Funds Act 2004. Section 14 of that Act will be repealed and the Child Trust Funds (Insurance Companies) Regulations (SI 2005/2680) will cease to have any effect.

28 Paragraph 8 also inserts a section 431BB defining individual savings account business by reference to policies of a kind specified in regulations made under section 695 of ITTOIA.

29 Neither of these new sections changes the meaning of child trust fund business or individual savings account business except that in neither case does it include the reinsurance of that business.

30 Paragraph 9 amends section 431D(1) ICTA, the definition of overseas life assurance business ("OLAB") to ensure that it does not include reinsurance business. It also moves the exclusion of PB and of business excluded by regulations to a new subsection (1A).

31 Note that draft regulations published in May made under section 431C bring to an end the limited exclusion from LRB of reinsured OLAB where an election is made under regulation 11A of SI 1995/1730. Draft OLAB Compliance regulations published then also remove all references to OLAB which is reinsurance business.

32 Paragraph 11 amends the definition in section 431F ICTA of BLAGAB so that it now merely means any life assurance business which is not gross roll-up business. It implicitly includes any reinsurance of BLAGAB which is excluded from being LRB by section 431C regulations.

33 Paragraph 13 simplifies section 432A ICTA so that there are only three categories of business, BLAGAB, gross roll-up business and PHI business. The rules concerning the separating out of OLAB in section 432A(4) are omitted but in their place new section 432A(4A) attributes income and gains from overseas PE assets as directly referable to gross roll-up business.

34 Section 432A(6) and (6A) have been rewritten using formulae but not so as to change the meaning. Because there are three categories of business, there is also a C appearing in denominator of the formulae in subsections (6) and (6A) as well as in the numerator in a new subsection (6B) dealing with PHI business. And because there is only one category of business other than BLAGAB appearing in subsection (6A), that subsection is substantially simplified

35 PHI business is defined in a new definition in section 431 ICTA inserted by paragraph 6(2) to mean long-term business other than life assurance business. It therefore includes not only PHI (paragraph 4 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) but also any other business apart from capital redemption business which is included in that part of the schedule and which is not life assurance business, such as Part VII(a) – Pension Fund Management where there is no insurance contract. .

36 The rules concerning the separating out of OLAB in section 432A are omitted but in their place subsection (4A) attributes income and gains from overseas PE assets as directly referable to gross roll-up business.

37 Paragraphs 17 and 18 make substantial changes to sections 432C and 432D ICTA. Paragraph 18 repeals section 432D as there is now no longer any need to distinguish between cases where there is OLAB and cases where there is not. Section 432C is completely revised (and changed from the May Condoc) and subsection (1) provides that it covers all forms of income and gains falling within section 83(2) Finance Act 1989 apart from business transfers-in (as to which see section 432G) and also provides that the section

covers allocation of income etc. to gross roll-up business or life assurance business as a whole. The latter is necessary where a company also writes PHI which is not subject to the provisions in section 83. References to a separate rule for OLAB are omitted but an equivalent of the new section 432A(4A) for overseas PE assets is provided in a new section 432C(5)(b).

38 A new section 432C(4) mirrors the new section 432A(6).

39 A new section 432C(8) deals with the possibly rare case where other income arises on an internal linked fund.

40 Paragraph 19 makes substantial revisions to section 432E and many are changes from the May Condoc. Again as with section 432C the section deals only with allocation to GRB of life assurance business. Revised section 432E(4) now incorporates in the section the terms of SI 2003/####.

41 Paragraph 21 amends section 432G and in a change from the May Condoc provides for the division between life assurance business and PHI business as well as between GRB and BLAGAB.

42 A number of paragraphs omit entire sections which relate to individual categories of non-BLAGAB business or are superseded elsewhere. These are paragraphs 24, 26 to 30, 34, 42 and 56 which omit sections 436, 438, 438B, 438C, 439, 439A, 439B, 441, 458, 458A and Schedule 19AA ICTA

43 Paragraphs 31 and 32 simplify sections 440 and 440A ICTA reducing the numbers of categories of business to which the “box” rules apply.

44 Paragraph 33 makes a minor correction to a long standing error in section 440B ICTA (“boxes” where actual Case I applies).

45 Paragraph 37 modifies section 444A ICTA (transfers of business) to remove the special rule for OLAB transfers. Section 444A is also amended by the Schedule dealing with transfers of business.

46 Paragraph 42 omits sections 458 and 458A ICTA dealing with capital redemption business. Accordingly the capital redemption business regulations (SI 1999/498) also fall away and there are a number of changes to the primary legislation reflecting the revocation of those regulations.

47 Paragraph 72 recasts section 255 CAA so that it provides rules for BLAGAB and GRB that follow closely the rules for attributing section 76 rather than retain its own separate rules for allocation of capital allowances on management assets. It also provides that any allowances not allocated to BLAGAB or GRB are attributed to PHI business.

48 Part 2 provides the transitional provisions.

49 Paragraph 86 defines “commencement period” as the first accounting period to begin on or after 1 January 2007 and a “pre-commencement period” as any accounting period beginning before that date.

50 Paragraph 86(1) provides the general rule that a pre-commencement loss is not to be set-off against a post-commencement profit except as provided by the Schedule.

51 Paragraph 87 provides for the ring-fencing of unused pension business losses at commencement. Where there are such losses then the amount of profit under section 436A against which they can be set is limited by a simple formula looking at opening and closing liabilities of pension business compared with the opening and closing liabilities of gross roll-up business as a whole for the accounting period. To the extent that the unused pension business loss cannot be fully utilised against the reduced amount of the section 436A profit first arising after commencement the unused pension business loss is carried forward to the next period for use only against the restricted amount of section 436A profit for that period and so on.

52 Sub-paragraph (4) defines unused pension business loss as meaning any amounts which have not been set-off under section 436(3)(c) ICTA in any pre-commencement period.

53 Paragraph 88 deals with the carry-forward of unused non-pension business losses. The general rule is that all unused non-pension business losses are treated as a loss incurred on gross roll-up business in the period immediately preceding the commencement period so that the loss carry-forward rules in section 436A apply to this unused loss.

54 Sub-paragraph (3) explains that where there is a profit under section 436A priority is given first to any unused pension business loss against the proportion of the gross roll-up business profit attributable to pension business and then any unused non-pension business loss is set against the remaining section 436A profit and this operation is done before any losses arising in post-commencement periods are set-off.

55 Paragraph 89 defines unused non-pension business loss in relation to each of the five non-pension categories of gross roll-up business.

56 Paragraph 90 amalgamates any section 432F(2) excesses for the pre-commencement period into a single GRB amount.

57 The provisions that reflect miscellaneous “tidying-up” amendments are

- Paragraph 6(5) – definition of reinsurance
- Paragraph 19(4) – the “Floor” SI incorporated
- Paragraphs 27 and 28 – omission of sections 438B and 438C (property investment LLPs)
- Paragraph 33(b) – amendment of error in section 440B
- Paragraph 36 - updating of section 444
- Paragraph 69(4) - clarifying paragraph 2(1) Schedule 11 FA 1996