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| *SC 164 | 386 | 41 |

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(Brent South - Lab)

Amendment 164

Schedule 33, page 386, leave out lines 41 to 43 and insert ‘In arriving at the policy holders’ share of chargeable gains accruing to an insurance company under subsection (10) above there is to be ignored—’.

EXPLANATORY NOTE

SUMMARY

1. The amendment clarifies how section 210A(11) of the Taxation of Chargeable Gains Act 1992 (“TCGA”), inserted by paragraph 13 Schedule 33 to the Bill, is intended to work.

DETAILS

2. The new section 210A TCGA introduces explicit ring-fencing rules for capital gains and losses accruing on the assets of a life insurance company. In particular they insulate the “policy holders share of gains” from being reduced by losses external to the company’s long-term insurance fund.
3. Section 210A(10) defines what is meant by the “policy holders’ share”. It is calculated by reference to the position for the year concerned, taking into account losses brought forward.
4. But there are some types of relevant loss which may be carried back - these include in particular losses on the deemed disposal of holdings in unit trusts and OEICs (section 213(3) TCGA 1992) and non-trading deficits on loan relationships. If these amounts had to be factored into the calculation of the policy holders’ share for the period to which they are carried back, not only would the share have to be revised constantly for that year, but, in the case of

section 213(3) TCGA 1992 the share for subsequent years would have to be recalculated as well.

5. Section 210A(11) was intended to prevent this happening. But the opening words, while apt enough to deal with the capital losses mentioned in paragraphs (a) and (b), do not really fit with the scheme of the legislation in paragraph (c). The amendment makes sure that all three paragraphs can all be ignored when computing the policy holders' share.