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Mr. Stephen Timms (Lab. East Ham)

**Government Amendment 130**

Schedule 10, page 163, line 16, leave out ‘by an insurance company held in a non-profit fund’ and insert ‘held by an insurance company in a non-profit fund.

(1A) For the purposes of subsection (1) above—

- (a) an increase in the value of structural assets includes any amount by which their fair value when they cease to be structural assets, or come to be held otherwise than in any of the company’s non-profit funds, exceeds their admissible value at the end of the preceding period of account, and
- (b) a decrease in the value of structural assets includes any amount by which the admissible value of the assets at the end of the period of account in which they become structural assets, or come to be held in any of the company’s non-profit funds, exceeds their historic cost.’.

**Government Amendment 131**

Schedule 10, page 163, line 29, after ‘be’ insert ‘a structural asset or comes to be held otherwise than in any of the company’s non-profit funds and, immediately before it came to be a structural asset held in any of the company’s non-profit funds it (or any part of it) was’.

**Government Amendment 132**

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Schedule 10, page 163, line 34, leave out ‘the’ to end of line 46 and insert ‘relevant period of account.

(4A) For the purposes of subsection (4) above “the relevant value difference”, in relation to an asset, is—  
HC – AV

where—

HC is its historic cost, and

AV is its admissible value at the relevant time.

(4B) In subsection (4) above “the relevant period of account” means—

(a) in a case within paragraph (a) of that subsection, the period of account in which the asset ceases to be a structural asset or comes to be held otherwise than in any of the company’s non-profit funds, and

(b) in a case within paragraph (b) of that subsection, the period of account in which the asset first comes to be held otherwise than by the company or (where the company is a member of a group) otherwise than by a company which is a member of the group; and section 170 of the Taxation of Chargeable Gains Act 1992 (meaning of “group” etc) has effect for the interpretation of this subsection.

(4C) In this section “historic cost”, in relation to an asset which is or has been held in any of the company’s non-profit funds, means—

(a) where the asset came to be held in any of the company’s non-profit funds on acquisition from another person, the consideration given by the company for the acquisition of the asset, and

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(b) otherwise, its fair value when it came to be held in any of the company's non-profit funds.

(4D) In subsection (4A) above "admissible value", in relation to an asset and a time, means the value of the asset as shown in column 1 of Form 13 of the periodical return for the period ending with that time (or as would be so shown if there were a periodical return covering a period ending with that time).

(5) In subsection (4A) above "the relevant time" means—

(a) in a case where assets become structural assets held in any of the company's non-profit funds by virtue of the commencement of this section, 1st January 2007, and

(b) otherwise, the time when the assets become structural assets held in any of the company's non-profit funds.'

### **Government Amendment 133**

Schedule 10, page 164, line 3, after 'to' insert 'its'.

### **Government Amendment 91**

Schedule 10, page 164, line 20, at end insert—

'(4) In section 211 of TCGA 1992 (transfers of business: application of section 139 of that Act), as amended by paragraph 14 of Schedule 9 to this Act, after subsection (2) insert—

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“(2A) The reference in subsection (2) above to assets included in the transfer does not include structural assets within the meaning of section 83XA of the Finance Act 1989.”

(5) In paragraph 17 of Schedule 7AC to TCGA 1992 (substantial shareholdings exemption: special rules for assets of insurance company’s long-term insurance fund), after sub-paragraph (4) insert—

“(4A) The reference in sub-paragraph (2) to an asset of the investing company’s long-term insurance fund, and the references in sub-paragraphs (3) and (4) to shares or an interest in shares held as assets of its long-term insurance fund, do not include a structural asset, or structural assets, within the meaning of section 83XA of the Finance Act 1989.”’.

**Government Amendment 93**

Schedule 10, page 170, line 35, at end insert—

‘( ) But the amendment made by paragraph 3(4) does not apply where the transfer of business concerned took place before 10th May 2007.’.

EXPLANATORY NOTE

**SUMMARY**

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1. These amendments modify section 83XA of Finance act 1989, a new section inserted by paragraph 3 of Schedule 10. Section 83XA covers the tax treatment of “structural assets”. Structural assets are assets which an insurance company holds as part of its trading structure as opposed to as assets expected to be turned over in the course of its trade. A major example, and one included in the legislation, is shares in subsidiary companies which themselves are insurance companies.

#### **DETAILS**

2. Amendment 130, inserting a new section 83XA(1A), clarifies the operation of subsection (1) of section 83XA. It makes clear that subsection (1) operates in the period when a structural asset is acquired and when it is disposed of. Representations have suggested that there was some doubt about whether the terms of subsection (1) were sufficiently precise to capture the changes in value in these periods: the amendment puts it beyond doubt.
3. Amendments 131 and 132 deal with the mechanism for ensuring that when an asset becomes a structural asset, having previously not been one, and where a write down or increase in value of the asset would have been reversed on a subsequent sale, the reversal, the “relevant value difference” (RVD) is brought into account when the structural asset ceases to be held in a company’s non-profit fund.

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4. Amendment 131 makes it clear that only in certain circumstances does the RVD arise: previously the rule appeared to apply even if the assets had been newly acquired by the company.
5. Amendment 132 changes the way the RVD is calculated, in the new section 83XA(4A), but only to ensure that there can be a negative amount. The amendment, in new section 83XA(4B) differentiates between the period of account when an RVD is recognised for tax purposes. If it is a profit amount, it is recognised when the structural asset ceases to be an asset held in a non-profit fund. If it is a negative amount it is recognised when the asset ceases to be held by the company, or any company in the group. This differentiation is to prevent companies transferring assets within the group tax free in order just to recognise the loss.
6. New section 83XA(4C) redefines “historic cost”, one of the measures on which the RVD calculation is based. It ensures that in a non-acquisition case, fair value is used.
7. New section 83XA(4D) defines “admissible value”. This is the other measure for the RVD. It means the amount that is shown in a Form 13 in the company's periodical return to the FSA. This is known as the “admissible value” and, in the case of structural assets is often much lower than the fair , or Markey value or purchase price. Where the time at which the “admissible value” falls to be determined is not the end of a period of account, the admissible value is what it would be if a return were made ending with that time.

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8. Substituted section 83XA(5) defines that time – the “relevant time”. In a case where the structural asset becomes one because of the commencement of paragraph 3, the time is 1<sup>st</sup> January 2007; otherwise it is the time when the asset becomes a structural asset in a non-profit fund.
9. Government amendment 133 makes a typographical change.
10. Government amendment 91 inserts two further sub-paragraphs into paragraph 3 of Schedule 10. That paragraph deals with the tax treatment of structural assets – assets held by a company in its long-term insurance fund, but which are not held primarily, to meet liabilities to policy holders. The new sub-paragraph (4) provides that structural assets are not counted in determining which assets of an insurance company have to meet a 30% holding test rather than a 10% one when the question of whether exemption for tax under Schedule 7AC to the Taxation of Chargeable Gains Act 1992 is in point (the substantial shareholdings exemption). The new sub-paragraph (5) means that structural assets are not subject to the tax neutrality rules in section 21 of that Act, as amended by paragraph 14 of Schedule 9. They will still be entitled to tax neutrality if they meet other requirements of that Act, for example in section 171.
11. Government amendment 93 also modifies the commencement rules in paragraph 18 of Schedule 10, so that amendment to section 211 TCGA 1992 has effect for transfers taking place on or after 10<sup>th</sup> May 2007.