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Mr Chancellor of the Exchequer

Amendment 129

Page **391**, line **3** [*Schedule 33*], leave out from ‘transferor’)’ to ‘is’ in line 6 and insert—

‘(2) Where the last period covered by a periodical return of the transferor ends otherwise than immediately before the transfer, there’.

Amendment 130

Page **391**, line **11** [*Schedule 33*], leave out ‘takes place’.

Amendment 131

Page **391**, [*Schedule 33*], leave out lines 15 to 17 and insert—

‘(2A) Where the last period covered by a periodical return of the transferor (whether or not by virtue of subsection (2)) ends immediately before the transfer, there is to be deemed for the relevant purpose to be a periodical return of the transferor—

- (a) covering the time of the transfer, and
- (b) containing such entries as would have been included in an actual periodical return covering the time of the transfer, (and so making the time of the transfer a period of account of the transferor for the relevant purpose).

(2B) Where the last period covered by a periodical return of the transferor ends after the transfer, the periodical return covering that period is to be ignored for all purposes of corporation tax other than the relevant purpose.

(3) In this section ‘the relevant purpose’ means’.

Amendment 132

Page **396**, line **7** [*Schedule 33*], at end insert—

‘(2ZCA)For the purposes of subsection (2ZB) above—

- (a) closing liabilities of the transferee are to be taken not to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferor with the transferee, but
- (b) closing liabilities of the transferee are to be taken to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferee with the transferor if the business transferred consists of or includes that reinsurance business.’.

Amendment 133

Page **397**, line **10** [Schedule 33], after ‘431(2)’ insert ‘of the Taxes Act 1988’.

Amendment 134

Page **397**, line **32** [Schedule 33], at end insert—

‘Meaning of “period of account”

‘26A In section 431(2) of the Taxes Act 1988 (interpretative provisions relating to insurance companies), after the definition of ‘periodical return’ insert—

“‘period of account’ means the period covered by a periodical return;”.’.

EXPLANATORY NOTE

SUMMARY

1. These amendments modify new rules in Schedule 33 that apply where there is a court approved transfer of business. The rules apply to the regulatory returns a company does, or is deemed to, draw up on such a transfer and to the apportionment of income and gains when there is a transfer.

DETAILS

2. Amendments 129 to 131 modify section 444AA of the Income and Corporation Taxes Act 1988 inserted by paragraph 16 of Schedule 33 to the Bill. That section requires a company to produce a deemed regulatory return for the period ending immediately before a transfer of business if there is not an actual return for that period.
3. The reason for having the deemed return for this period is so that apportionments of income required by e.g. section 432A ICTA or sections 432C to 432E ICTA work properly for the pre-transfer period.
4. The actual period in which the transfer takes place will then only show the effects of the transfer, which is usually tax neutral. But because another new anti-avoidance rule, that in section 83(2B) Finance Act 1989 (inserted by paragraph 2 Schedule 33 to the Bill), gives an inappropriate result (and a windfall for the Exchequer) in a case where a regulatory return is not actually drawn up for the period including the transfer, section 444AA is amended to require there to be a deemed return for the very short period during which the transfer takes place. The entries in the deemed return will consist only of the transfer of assets in the revenue account – but this entry will be sufficient to stop section 83(2B) FA 1989 running.
5. The alternative to having this rule would have been for a company to request the Financial Services Authority to demand that the company draw up and send in a regulatory return, when the FSA may have no interest in such a return (as the company will have ceased to be an insurance company by the time the return needs to be filed).
6. Amendments 129 and 130 reform subsections (1) and (2) of section 444AA in preparation for new subsections.
7. Amendment 131 inserts new section 444AA(2A) and (2B) and reforms subsection (3). The effect is to require a deemed return for the period of time during which the transfer takes place, and for any actual return ending after the transfer to be ignored.
8. Amendment 132 inserts a new section 431(2ZCA) into ICTA. This subsection ensures firstly in paragraph (a), that there is no inappropriate scaling down under section 431(2ZC) of liabilities of

a transferee company under a court approved business transfer if the liabilities assumed by the transferee were previously reinsured with the transferee by the transferor. Section 431(2ZCA)(b) ensures in the converse case that closing liabilities of a transferee are indeed scaled down if they were reinsured with the transferor before the transfer. It is not clear if section 431(2ZC) requires this.

9. Amendments 133 and 134 modify the interpretation rules. The sixth amendment inserts a definition of “period of account” into section 431(2) ICTA - the main interpretative provisions for life assurance tax legislation. This is required as a result of the changes made to section 444AA by the first three amendments. The sixth amendment correct a slip in relation to other changes to section 431(2)