



Finance Act 1989

1989 CHAPTER 26

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Life assurance

82 Calculation of profits

- (1) Where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D, then, in calculating the profits for any period of account,—
 - (a) there shall be taken into account as an expense (so far as not so taken into account apart from this section) any amounts which, in respect of the period, are allocated to or expended on behalf of policy holders or annuitants; and
 - (b) if, at the end of the period, the company has an unappropriated surplus on valuation, as shown in its return for the purposes of the Insurance Companies Act 1982, then, subject to subsection (3) below, the closing liabilities of the period may include such amount, forming part of that surplus, as is required to meet the reasonable expectations of policy holders or annuitants with regard to bonuses or other additions to benefit of a discretionary nature.
- (2) For the purposes of this section an amount is allocated to policy holders or annuitants if, and only if,—
 - (a) bonus payments are made to them; or
 - (b) reversionary bonuses are declared in their favour or a reduction is made in the premiums payable by them;

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and the amount of the allocation is, in a case within paragraph (a) above, the amount of the payments and, in a case within paragraph (b) above, the amount of the liabilities assumed by the company in consequence of the declaration or reduction.

- (3) The amount which, apart from this subsection, would be included in the closing liabilities of a period of account by virtue of subsection (1)(b) above shall be reduced or, as the case may be, extinguished by deducting therefrom the total of the amounts which—
- (a) for periods of account ending before 14th March 1989 have been excluded, by virtue of section 433 of the Taxes Act 1988, as being reserved for policy holders or annuitants, and
 - (b) have not before that date either been allocated to or expended on behalf of policy holders or annuitants or been treated as profits of an accounting period on ceasing to be so reserved.
- (4) Where the closing liabilities of a period of account include an amount by virtue of subsection (1)(b) above, the like amount shall be included in the opening liabilities of the next following period of account.
- (5) This section has effect with respect to periods of account ending on or after 14th March 1989; and the following provisions of this section shall apply for the purposes of the application of this section to any such period which begins before that date (in this section referred to as a “straddling period”).
- (6) For the purposes referred to in subsection (5) above, it shall be assumed that the straddling period consists of two separate periods of account,—
- (a) the first beginning at the beginning of the straddling period and ending on 13th March 1989 (in this section referred to as “the first notional period”); and
 - (b) the second beginning on 14th March 1989 and ending at the end of the straddling period (in this section referred to as “the second notional period”);
- and any reference in subsection (7) or subsection (8) below to a time apportionment is a reference to an apportionment made by reference to the respective lengths of the two notional periods.
- (7) To determine the profits of the first notional period and the amount excluded from the profits of that period by virtue of section 433 of the Taxes Act 1988 as being reserved for policy holders or annuitants,—
- (a) in the first instance the profits of the straddling period and the amount so excluded from those profits shall be computed as if subsections (1) to (4) above did not apply with respect to any part of the straddling period; and
 - (b) there shall then be determined that part of the profits and the amount computed under paragraph (a) above which, on a time apportionment, is properly attributable to the first notional period.
- (8) To determine the profits of the second notional period,—
- (a) in the first instance the profits of the straddling period shall be computed as if subsections (1) to (4) above applied to the whole of the straddling period; and
 - (b) there shall then be determined that part of the profits computed under paragraph (a) above which, on a time apportionment, is properly attributable to the second notional period.

83 Receipts to be brought into account

- (1) Where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D, then, so far as referable to that business, the following items, as brought into account for a period of account (and not otherwise), namely,—
 - (a) the company's investment income from the assets of its long-term business fund, and
 - (b) any increase in the value (whether realised or not) of those assets,shall be taken into account as receipts of the period; and if for any period of account there is a reduction in the value referred to in paragraph (b) above (as brought into account for the period), that reduction shall be taken into account as an expense of that period.
- (2) Except in so far as regulations made by the Treasury otherwise provide, in subsection (1) above "brought into account" means brought into account in the revenue account prepared for the purposes of the Insurance Companies Act 1982.
- (3) Subject to subsection (5) below, this section has effect with respect to periods of account ending on or after 1st January 1990; and the following provisions of this section shall apply for the purposes of the application of this section to any such period which begins before that date (in this section referred to as a "straddling period").
- (4) Subject to subsection (5) below, for the purposes referred to in subsection (3) above, it shall be assumed that the straddling period consists of two separate periods of account,—
 - (a) the first beginning at the beginning of the straddling period and ending on 31st December 1989 (in this section referred to as "the first notional period"); and
 - (b) the second beginning on 1st January 1990 and ending at the end of the straddling period (in this section referred to as "the second notional period");and any reference in subsection (6) or subsection (7) below to a time apportionment is a reference to an apportionment made by reference to the respective lengths of the two notional periods.
- (5) In the case of any company which, by notice in writing given to the inspector on or before 31st December 1992, so elects,—
 - (a) subsections (3) and (4)(b) above shall have effect as if for "1st January 1990" there were substituted "14th March 1989"; and
 - (b) subsection (4)(a) above shall have effect as if for "31st December" there were substituted "13th March".
- (6) To determine the profits of the first notional period,—
 - (a) in the first instance the profits of the straddling period shall be computed as if subsections (1) and (2) above did not apply with respect to any part of that period; and
 - (b) there shall then be determined that part of the profits computed under paragraph (a) above which, on a time apportionment, is properly attributable to the first notional period.
- (7) To determine the profits of the second notional period,—

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- (a) in the first instance the profits of the straddling period shall be computed as if subsections (1) and (2) above applied with respect to the whole of that period; and
- (b) there shall then be determined that part of the profits computed under paragraph (a) above which, on a time apportionment, is properly attributable to the second notional period.

84 Interpretation of sections 85 to 89 and further provisions about insurance companies

- (1) In sections 85 to 89 below “basic life assurance business” means life assurance business other than general annuity business and pension business.
- (2) Any reference in the sections referred to in subsection (1) above or the following provisions of this section to a straddling period is a reference to an accounting period which begins before 1st January 1990 and ends on or after that date.
- (3) For the purposes of the sections referred to in subsection (1) above and for the purposes of subsection (5)(b) below it shall be assumed that a straddling period consists of two separate accounting periods—
 - (a) the first beginning at the beginning of the straddling period and ending on 31st December 1989; and
 - (b) the second beginning on 1st January 1990 and ending at the end of the straddling period;
 and in those sections and subsection (5)(b) below the first of those two notional accounting periods is referred to as “the 1989 component period” and the second is referred to as “the 1990 component period”.
- (4) Chapter I of Part XII of the Taxes Act 1988 (insurance companies) shall have effect subject to the amendments in Schedule 8 to this Act, being—
 - (a) amendments relating to franked investment income, loss relief and group relief; and
 - (b) amendments consequential on or supplemental to sections 82 and 83 above and sections 85 to 89 below.
- (5) Subject to subsection (6) below, in Schedule 8 to this Act,—
 - (a) paragraphs 2 and 6 shall be deemed to have come into force on 14th March 1989; and
 - (b) the remainder shall have effect with respect to accounting periods beginning on or after 1st January 1990 (including the 1990 component period).
- (6) Nothing in subsection (5) above affects the operation, by virtue of any provision of sections 82 and 83 above and sections 85 to 89 below, of any enactment repealed or amended by Schedule 8 to this Act and, so long as the provisions of that Schedule do not have effect in relation to sections 434 and 435 of the Taxes Act 1988, nothing in subsection (5)(a) above affects the continuing operation of section 433 of that Act for the purpose only of determining the fraction of the profits referred to in subsection (6) of section 434 and subsection (1)(b) of section 435.

85 Charge of certain receipts of basic life assurance business

- (1) Subject to subsection (2) below, where the profits of an insurance company in respect of its life assurance business are not charged under Case I of Schedule D, there shall

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be chargeable under Case VI of that Schedule any receipts referable to the company's basic life assurance business—

- (a) which, if those profits were charged under Case I of Schedule D, would be taken into account in computing those profits; and
- (b) which would not be within the charge to tax (except under Case I of Schedule D) apart from this section;

and for the purposes of paragraph (a) above, the provisions of section 83 above as to the manner in which any item is to be taken into account shall be disregarded.

- (2) The receipts referred to in subsection (1) above do not include—
 - (a) any premium; or
 - (b) any sum received by virtue of a claim under an insurance contract (including a re-insurance contract); or
 - (c) any repayment or refund (in whole or in part) of a sum disbursed by the company as acquisition expenses falling within paragraphs (a) to (c) of subsection (1) of section 86 below; or
 - (d) any sum which is taken into account under section 76(1)(a) of the Taxes Act 1988 as a deduction from the amount treated as expenses of management of the company; or
 - (e) any sum which is not within the charge to tax (except under Case I of Schedule D) because of an exemption from tax.
- (3) This section has effect with respect to the receipts of accounting periods beginning on or after 1st January 1990 (including the 1990 component period).

86 Spreading of relief for acquisition expenses

- (1) For the purposes of this section, the acquisition expenses for any period of an insurance company carrying on life assurance business are such of the following expenses of management as are for that period attributable to the company's basic life assurance business,—
 - (a) commissions (however described), other than commissions in respect of industrial life assurance business carried on by the company,
 - (b) any other expenses of management which are disbursed solely for the purpose of the acquisition of business, and
 - (c) so much of any other expenses of management which are disbursed partly for the purpose of the acquisition of business and partly for other purposes as are properly attributable to the acquisition of business,less any such repayments or refunds falling within section 76(1)(c) of the Taxes Act 1988 as are received in the period.
- (2) The exclusion from paragraph (a) of subsection (1) above of commissions in respect of industrial life assurance business shall not prevent such commissions constituting expenses of management for the purposes of paragraph (b) or paragraph (c) of that subsection.
- (3) Nothing in subsections (1) and (2) above applies to commissions (however described) in respect of insurances made before 14th March 1989, but without prejudice to the application of those subsections to any commission attributable to a variation on or after that date in a policy issued in respect of an insurance made before that date; and, for this purpose, the exercise of any rights conferred by a policy shall be regarded as a variation of it.

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- (4) In subsection (1) above “the acquisition of business” includes the securing on or after 14th March 1989 of the payment of increased or additional premiums in respect of a policy of insurance issued in respect of an insurance already made (whether before, on or after that date).
- (5) In relation to any period, the expenses of management attributable to a company’s basic life assurance business are expenses—
 - (a) which are disbursed for that period (disregarding any treated as so disbursed by section 75(3) of the Taxes Act 1988); and
 - (b) which, disregarding subsection (6) below, are deductible as expenses of management in accordance with sections 75 and 76 of the Taxes Act 1988.
- (6) Notwithstanding anything in sections 75 and 76 of the Taxes Act 1988 but subject to subsection (7) below, only one-seventh of the acquisition expenses for any accounting period (in this section referred to as “the base period”) shall be treated as deductible under those sections for the base period, and in subsections (8) and (9) below any reference to the full amount of the acquisition expenses for the base period is a reference to the amount of those expenses which would be deductible for that period apart from this subsection
- (7) In the case of the acquisition expenses for an accounting period or part of an accounting period falling wholly within 1990, subsection (6) above shall have effect as if for “one-seventh” there were substituted “five-sevenths”; and, in the case of the acquisition expenses for an accounting period or part of an accounting period falling wholly within 1991, 1992 or 1993, the corresponding substitution shall be “four-sevenths”, “three-sevenths” or “two-sevenths” respectively.
- (8) Where, by virtue of subsection (6) (and, where appropriate, subsection (7)) above, only a fraction of the full amount of the acquisition expenses for the base period is deductible under sections 75 and 76 of the Taxes Act 1988 for that period, then, subject to subsection (9) below, a further one-seventh of the full amount shall be so deductible for each succeeding accounting period after the base period until the whole of the full amount has become so deductible, except that, for any accounting period of less than a year, the fraction of one-seventh shall be proportionately reduced.
- (9) For any accounting period for which the fraction of the full amount of the acquisition expenses for the base period which would otherwise be deductible in accordance with subsection (8) above exceeds the balance of those expenses which has not become deductible for earlier accounting periods, only that balance shall be deductible.
- (10) This section has effect for accounting periods beginning on or after 1st January 1990 (including the 1990 component period).

87 Management expenses

- (1) Section 76 of the Taxes Act 1988 shall be amended in accordance with subsections (2) and (3) below.
- (2) In subsection (1), after paragraph (b) there shall be inserted “and
 - (c) there shall be deducted from the amount treated as the expenses of management for any accounting period any repayment or refund (in whole or in part) of a sum disbursed by the company (for that or any earlier period) as acquisition expenses; and

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- (d) the amount treated as expenses of management shall not include any amount in respect of expenses referable to general annuity business or pension business; and
- (e) the amount of profits from which expenses of management may be deducted for any accounting period shall not exceed the net income and gains of that accounting period referable to basic life assurance business;

and for this purpose “net income and gains” means income and gains after deducting any reliefs or exemptions which fall to be applied before taking account of this section.”

(3) For subsection (8) there shall be substituted—

“(8) In this section—

“acquisition expenses” means expenses falling within paragraphs (a) to (c) of subsection (1) of section 86 of the Finance Act 1989;

“basic life assurance business” has the meaning assigned by section 84(1) of that Act;

and other expressions have the same meaning as in Chapter I of Part XII.”

(4) In consequence of the amendment made by subsection (2) above, section 436(3)(b) of the Taxes Act 1988 (no deduction of expenses of management in certain cases) shall cease to have effect.

(5) This section has effect with respect to accounting periods beginning on or after 1st January 1990; and, in relation to a straddling period, sections 75, 76 and 436 of the Taxes Act 1988—

- (a) shall have effect in relation to the 1989 component period without regard to the amendments made by subsections (2) to (4) above; and
- (b) shall have effect in relation to the 1990 component period as amended by those subsections.

(6) If, for the 1989 component period, there is an amount of expenses of management available to be carried forward to the 1990 component period under section 75(3)(a) of the Taxes Act 1988 (as applied by section 76 thereof),—

- (a) that amount shall form a pool to which the following provisions of this section shall apply and to which section 75(3)(b) of that Act (in this subsection referred to as “the carry-forward provision”) shall apply only to the extent specified in paragraph (c) below;
- (b) if, for the 1990 component period or any subsequent accounting period, the amount which (disregarding the pool) may be deducted in respect of expenses of management is less than the amount of the profits from which, disregarding section 76(1)(e) of that Act (as set out in subsection (2) above), the expenses of management are deductible, paragraph (c) below shall apply for that period; and in that paragraph the difference between the amount which may be so deducted and that amount of profits is referred to as “the potential deficiency” for the period;
- (c) where this paragraph applies for an accounting period (including the 1990 component period) the carry-forward provision shall be taken to have had effect to carry forward to the accounting period (as if disbursed as expenses for that period) so much of the pool as does not exceed the potential deficiency

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for the period and is permitted under section 76(2) of the Taxes Act 1988; and the amount of the pool shall be reduced accordingly.

- (7) In the case of a company which has an accounting period beginning on 1st January 1990, subsection (6) above shall apply as if—
- (a) any reference therein to the 1989 component period were a reference to the accounting period ending on 31st December 1989; and
 - (b) any reference therein to the 1990 component period were a reference to the accounting period beginning on 1st January 1990.

88 Corporation tax: policy holders' fraction of profits

- (1) Subject to subsection (2) below, in the case of a company carrying on life assurance business, the rate of corporation tax chargeable for any financial year on the policy holders' fraction of its relevant profits for any accounting period shall be deemed to be the rate at which income tax at the basic rate is charged for the year of assessment which begins on 6th April in the financial year concerned.
- (2) Subsection (1) above does not apply in relation to profits charged under Case I of Schedule D.
- (3) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the total profits of its life assurance business, less any deduction due under section 76 of the Taxes Act 1988, but before allowing any relief under Chapter II or Chapter IV of Part X of that Act.
- (4) In determining for the purposes of section 13 of the Taxes Act 1988 (small companies' relief) the profits and basic profits (within the meaning of that section) of an accounting period of a company carrying on life assurance business, the policy holders' fraction of the company's relevant profits for that period shall be left out of account.
- (5) This section has effect with respect to the profits of a company for accounting periods beginning on or after 1st January 1990 (including the 1990 component period); and, for this purpose, the profits of the 1990 component period shall be taken to be that portion of the profits of the straddling period which the length of the 1990 component period bears to the length of the straddling period.

89 Shareholders' and policy holders' fractions

- (1) In relation to an accounting period of an insurance company carrying on life assurance business, any reference to the shareholders' fraction or the policy holders' fraction is a reference to the appropriate fraction determined, subject to subsections (7) and (8) below, by the formulae in subsection (2) below.

- (2) The formulae referred to in subsection (1) above are—
 - (a) for the shareholders' fraction,

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

and

- (b) for the policy holders' fraction,

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

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where “A” and “B” are determined in accordance with the following provisions of this section.

- (3) In the formulae in subsection (2) above “A” is the profits of the company for the accounting period in respect of its life assurance business, computed in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D, and, if there are no such profits (or there is a loss), “A” is zero.
- (4) Subject to subsection (6) below, in those formulae “B” is such a sum as, after deduction of corporation tax at the rate provided for by subsection (1) of section 88 above in relation to the policy holders' fraction of the company's relevant profits for the accounting period (within the meaning of that subsection), is equal to the excess (if any) for the corresponding period of account of—
- (a) the aggregate of—
 - (i) the closing liabilities to policy holders referable to the company's basic life assurance business,
 - (ii) the sums paid to policy holders in the period in respect of claims referable to that business, and
 - (iii) any amounts allocated to policy holders in respect of that period which do not fall within sub-paragraph (i) or sub-paragraph (ii) above and which are referable to that business,over
 - (b) the aggregate of the premiums receivable by the company for the period in respect of its basic life assurance business and the opening liabilities to policy holders referable to that business,
- and, if there is no such excess, “B” is zero.
- (5) The references in subsection (4) above to the opening and closing liabilities to policy holders are references to those liabilities including any such amount as is referred to in section 82(1)(b) above.
- (6) In relation to an accounting period, references in subsection (4) above to the corresponding period of account are references,—
- (a) if the accounting period coincides with a period of account, to that period; and
 - (b) in any other case, to the period of account in which the accounting period is comprised;
- and, for the purpose of determining “B” in a case where paragraph (b) above applies, the aggregates referred to in paragraphs (a) and (b) of subsection (4) above shall each be proportionately reduced to reflect the length of the accounting period as compared with the length of the corresponding period of account.
- (7) Subject to subsection (8) below, if in the case of any accounting period of a company both “A” and “B” in the formulae in subsection (2) above are zero,—
- (a) the shareholders' fraction shall be taken to be the whole; and
 - (b) the policy holders' fraction shall be taken to be nil.
- (8) In relation to an accounting period of an insurance company carrying on mutual life assurance business,—
- (a) any reference to the shareholders' fraction is a reference to nil; and
 - (b) any reference to the policy holders' fraction is a reference to the whole.

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90 Life policies etc. held by companies

Schedule 9 to this Act (which imposes tax on certain benefits relating to life policies, life annuities and capital redemption policies held by companies, and makes related provision) shall have effect.