

*Status: Point in time view as at 22/03/2001.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1990, SCHEDULE 7. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

Section 42.

#### OVERSEAS LIFE ASSURANCE BUSINESS

- 1 In section 76(1)(d) of the Taxes Act 1988, for the words “or pension business” there shall be substituted the words “, pension business or overseas life assurance business”.
- 2 In section 231(1) of that Act, for the words “and 247” there shall be substituted the words “, 247 and 441A”.
- 3 For section 441 of that Act there shall be substituted—

#### “441 Overseas life assurance business.

- (1) This section and section 441A shall apply for an accounting period of an insurance company resident in the United Kingdom if during the period the company carries on overseas life assurance business.
- (2) Subject to the provisions of this section and section 441A, profits arising to the company from the overseas life assurance business shall be treated as income within Schedule D, and be chargeable under Case VI of that Schedule, and for that purpose—
  - (a) that business shall be treated separately, and
  - (b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) Subsection (2) above shall not apply if the company is charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its life assurance business.
- (4) In making the computation referred to in subsection (2) above—
  - (a) sections 82(1), (2) and (4) and 83 of the Finance Act 1989 shall apply with the necessary modifications and in particular with the omission of the words “tax or” in section 82(1)(a), and
  - (b) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from overseas life assurance business in any previous accounting period beginning on or after 1st January 1990.
- (5) Section 396 shall not be taken to apply to a loss incurred by a company on overseas life assurance business.
- (6) Nothing in section 128 or 399(1) shall affect the operation of this section.
- (7) Notwithstanding section 337(2), there shall be deductible in computing the profits arising to a company from overseas life assurance business—

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- (a) interest payable by the company under a liability of the long term business, so far as referable to overseas life assurance business, and
  - (b) annuities payable by the company, so far as so referable.
- (8) Gains accruing on the disposal by a company of assets of its overseas life assurance fund shall not be chargeable gains.

**441A Section 441: distributions.**

- (1) Section 208 shall not apply to a distribution in respect of any asset of an insurance company's overseas life assurance fund.
- (2) Subject to subsection (3) below, an insurance company shall not be entitled under section 231 to a tax credit in respect of such a distribution.
- (3) A company shall be entitled to such a tax credit if and to the extent that, were the recipient an individual resident in the territory in which the relevant branch or agency is situated, he would be entitled to the credit under arrangements having effect by virtue of section 788.
- (4) For the purposes of subsection (3) above the relevant branch or agency, in the case of a tax credit in respect of a distribution, is—
  - (a) where the relevant asset is linked solely to overseas life assurance business—
    - (i) the branch or agency at or through which the company has effected policies or contracts the benefits under which are to be determined by reference to the value of the asset, or
    - (ii) in a case where there is more than one such branch or agency, the branches to which different parts of it are allocated by the company in accordance with subsection (5) below;
  - (b) subject to paragraph (a) above, where the management of the relevant asset is under the control of a person whose normal place of work is at a branch or agency, that branch or agency; and
  - (c) in any other case, the branch or agency to which it is allocated by the company.
- (5) Where policies or contracts the benefits under which are to be determined by reference to the value of an asset within subsection (4)(a) above have been effected at or through more than one branch or agency, different parts of the asset shall be allocated to them so as to secure as far as practicable that the part allocated to each is proportionate to the part of the liabilities in respect of those benefits represented by liabilities under policies or contracts effected at or through it.
- (6) Where the overseas life assurance business carried on at or through a branch or agency in a territory includes—
  - (a) reinsurance business which consists of the reinsurance of liabilities of a person resident in another territory, or
  - (b) retrocession business,
 the amount of any tax credit in relation to which the branch or agency is the relevant branch or agency shall be reduced by the proportion which the

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liabilities of that reinsurance business bear to all the liabilities of the overseas life assurance business carried on at or through the branch or agency.

- (7) Where a company is entitled to an amount of tax credit by virtue of this section the company may claim to have that amount paid to it.
- (8) No franked investment income shall be used under Chapter V of Part VI of this Act to frank a company's distributions if the tax credit (or any part of the tax credit) comprised in it is payable to the company under subsection (7) above."

4 In section 724 of that Act—

- (a) in subsection (3), for the words after "insurance company" there shall be substituted the words " to the extent that the securities transferred are immediately before the transfer referable to a business the profits of which are computed in accordance with section 436 or 441. ", and
- (b) in subsection (4), for the words after "apply", in the first place where it occurs, there shall be substituted the words " if the transferee is an insurance company to the extent that the securities transferred are immediately after the transfer referable to a business the profits of which are computed in accordance with section 436 or 441. "

F15 .....

**Textual Amendments**

**F1** Sch. 6 para. 5 repealed (31.7.1997 with effect in accordance with the provisions of Sch. 3 to the amending Act) by 1997 c. 58, s. 52, Sch. 8 Pt. II(6)(with s. 3(3))

6 After Schedule 19 to the Taxes Act 1988 there shall be inserted—

“SCHEDULE 19AA Section 431.

OVERSEAS LIFE ASSURANCE FUND

- 1 (1) This Schedule shall have effect for determining for the purposes of this Chapter the assets of a company which are the assets of its overseas life assurance fund.
- (2) The Treasury may by order amend any of the following provisions of this Schedule.
- 2 (1) Assets of a company at the end of a period of account which—
  - (a) were assets of the overseas life assurance fund at the end of the immediately preceding period of account, and
  - (b) are assets of the long term business fund of the company throughout the period,shall be assets of the overseas life assurance fund throughout the period.
- (2) Where in a period of account assets of a company which were assets of the overseas life assurance fund at the end of the immediately preceding period of account are disposed of by the company, or otherwise cease to be assets of the long term business fund of the company, they shall be assets of the overseas life assurance fund from the beginning of the period until they are

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disposed of or, as the case may be, they cease to be assets of the long term business fund.

(3) Where—

- (a) in any period of account assets are acquired by a company as assets of the long term business fund, or otherwise become assets of that fund,
- (b) the assets are disposed of by the company, or otherwise cease to be assets of that fund, later in the same period,
- (c) throughout the part of the period during which the assets are assets of the long term business fund they are either—
  - (i) linked solely to the overseas life assurance business of the company, or
  - (ii) assets within paragraph 5(5)(c) below, and
- (d) it is appropriate having regard to all the circumstances (including a comparison between the relationship of the value of the assets of the overseas life assurance fund and the liabilities of the overseas life assurance business and that of the value of the assets of the long term business fund and the liabilities of the company's long term business) that they be assets of the overseas life assurance fund,

they shall be assets of the overseas life assurance fund for the part of the period during which they are assets of the long term business fund.

- 3 (1) Where the value of the assets mentioned in paragraph 2(1) above at the end of the period is less than the amount mentioned in paragraph 4 below (or where there are no assets within paragraph 2(1)), assets which—
  - (a) are assets of the long term business fund of the company at the end of the period,
  - (b) have a value at that time equal to the difference (or to that amount), and
  - (c) are designated in accordance with paragraph 5 below,
 shall become assets of the overseas life assurance fund at the relevant time.
- (2) In sub-paragraph (1) above “the relevant time” means—
  - (a) where the asset is not an asset of the long term business fund of the company throughout the period, the time when it became such an asset, and
  - (b) in any other case, the end of the period.
- (3) Where the value of the assets mentioned in paragraph 2(1) above at the end of the period is greater than the amount mentioned in paragraph 4 below, assets which—
  - (a) are assets of the long term business fund of the company at the end of the period,
  - (b) have a value at that time equal to the difference, and
  - (c) are designated in accordance with paragraph 5 below,
 shall cease to be assets of the overseas life assurance fund at the end of the period.
- 4 (1) The amount referred to in paragraph 3 above is the aggregate of—
  - (a) the liabilities of the company's overseas life assurance business at the end of the period of account, and

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- (b) the appropriate part of the investment reserve at that time.
- (2) In sub-paragraph (1)(b) above the “appropriate part”, in relation to the investment reserve, means—
  - (a) where all of the liabilities of the long term business are linked liabilities, the part of that reserve which bears to the whole the same proportion as the amount of the liabilities of the overseas life assurance business bears to the whole amount of the liabilities of the long term business,
  - (b) where any of the liabilities of the long term business are not linked liabilities but none (or none but an insignificant proportion) are with-profits liabilities, the part of that reserve which bears to the whole the same proportion as the amount of the liabilities of the overseas life assurance business which are not linked liabilities bears to the whole amount of the liabilities of the long term business which are not linked liabilities, and
  - (c) in any other case, the part of that reserve which bears to the whole the same proportion as the amount of the with-profits liabilities of the overseas life assurance business bears to the whole amount of the with-profits liabilities of the long term business;and in this sub-paragraph “linked liabilities” means liabilities in respect of benefits to be determined by reference to the value of linked assets.
- 5 (1) Any designation of assets required for the purposes of paragraph 3 above shall be made by a company in accordance with the following provisions of this paragraph.
  - (2) When designating assets for the purposes of paragraph 3(1) above, a company shall not designate an asset falling within any paragraph of sub-paragraph (5) below unless it designates all assets falling within each of the preceding paragraphs of that sub-paragraph.
  - (3) When designating assets for the purposes of paragraph 3(3) above, a company shall not designate an asset falling within any paragraph of sub-paragraph (5) below unless it designates all assets falling within each of the succeeding paragraphs of that sub-paragraph.
  - (4) When an asset falls within more than one paragraph of sub-paragraph (5) below, it shall be taken for the purposes of this paragraph to fall only within the first of them.
  - (5) The categories of assets referred to in sub-paragraphs (2) and (3) above are—
    - (a) assets linked solely to overseas life assurance business;
    - (b) so many of any assets denominated in an overseas currency, other than any non-overseas linked assets, as have a value at the end of the period not exceeding the amount of the company’s liabilities in respect of benefits expressed in that currency so far as referable to overseas life assurance business;
    - (c) assets the management of which is under the control of a person whose normal place of work is at a branch or agency at or through which the company carries on overseas life assurance business;
    - (d) securities issued by the Treasury with a FOTRA condition and securities to which section 581 of this Act applies;

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- (e) assets not within paragraph (f) below;
  - (f) shares in companies resident in the United Kingdom;
- but assets linked solely to pension business or basic life assurance business are not within any paragraph of this sub-paragraph (and may not be designated for the purposes of paragraph 3 above).
- (6) For the purposes of sub-paragraph (5)(b) above assets are “non-overseas linked assets” if they are linked assets and none of the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of overseas life assurance business.
- (7) For the purposes of sub-paragraph (5)(d) above securities are issued with a FOTRA condition if—
- (a) they are issued with the condition that the interest on the securities shall not be liable to income tax so long as it is shown, in a manner directed by the Treasury, that the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom, or
  - (b) they are issued with the condition mentioned in section 22(1) of the Finance (No.2) Act 1931 whether or not modified by virtue of section 60(1) of the Finance Act 1940.”

F27

#### Textual Amendments

- F2** Sch. 7 para. 7 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the amending Act) by 1995 c. 4, s. 162 Sch. 29 Pt. VIII(5) Note

F38

#### Textual Amendments

- F3** Sch. 7 para. 8 repealed (for accounting periods beginning on or after 01.01.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 123, Sch. 19 Pt.V Note 3.

F49

#### Textual Amendments

- F4** Sch. 7 para. 9 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4

- 10 (1) This Schedule shall apply for accounting periods beginning on or after 1st January 1990; and paragraph 9 above shall apply for accounting periods beginning on or after that date and ending on or before 5th April 1990 as well as for later accounting periods.
- (2) In relation to the first period of account of an insurance company beginning on or after 1st January 1990, the assets of the company which—
- (a) are assets of the long term business fund of the company at the beginning of the period,

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- (b) have a value at that time equal to the amount mentioned in paragraph 4 of Schedule 19AA to the Taxes Act 1988, and
- (c) are designated in accordance with paragraph 5 of that Schedule (on the same basis as a designation required for the purposes of paragraph 3(1) of that Schedule),

shall be treated for the purposes of sub-paragraphs (1) and (2) of paragraph 2 of that Schedule as if they were the assets of the overseas life assurance fund at the end of the immediately preceding period of account.

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