



# Finance Act 1989

## 1989 CHAPTER 26

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### *Life assurance*

#### **[<sup>F1</sup> 83 Receipts to be [<sup>F2</sup> taken] into account.**

(1) The following provisions of this section have effect where the profits of an insurance company in respect of its life assurance business are [<sup>F3</sup> computed in accordance with the provisions applicable for the purposes of the taxation of such profits under section 35 of the Corporation Tax Act 2009 (charge on trade profits)].

[<sup>F4</sup>(2) There shall be taken into account as receipts of a period of account amounts (so far as referable to that business) brought into account for the period of account as—

- (a) investment income receivable before deduction of tax,
- (b) an increase in the value of non-linked assets,
- (c) an increase in the value of linked assets, <sup>F5</sup>...
- (d) other income; [<sup>F6</sup> or
- (e) business transfers-in.]

and if amounts (so far as so referable) are brought into account for a period of account as a decrease in the value of non-linked assets or a decrease in the value of linked assets they shall be taken into account as an expense of the period of account.

[<sup>F7</sup>(2ZA) Amounts brought into account as mentioned in subsection (2) above are not to be taken into account in any other way; and this subsection applies in spite of—

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- [<sup>F8</sup>(a) section 464 of the Corporation Tax Act 2009 (priority of Part 5 of that Act for corporation tax purposes),
- (b) section 699 of that Act (priority of Part 7 of that Act for corporation tax purposes), and
- (c) section 906 of that Act (priority of Part 8 of that Act for corporation tax purposes).]]

(2A) But subsection (2) above does not require to be taken into account as receipts of a period of account so much of the amounts brought into account as mentioned in [<sup>F9</sup>paragraphs (a) to (e)] of that subsection for the period of account as—

- [<sup>F10</sup>(a) comprises notional income for the period of account (see subsections (2AA) and (2AB)),
- (aa) represents an inter-fund transfer (see subsections (2AC) and (2AD)),]
- [<sup>F11</sup>(ab) comprises a business transfer-in that is not brought into account in a revenue account prepared for the purposes of Chapter 9 of the Prudential Sourcebook (Insurers) in respect of the whole of the company's long-term business,]
- [<sup>F12</sup>(ac) consists of amounts brought into account as mentioned in section 83YC(5) below;]
- <sup>F13</sup>(b) . . . . .
- (c) consists of interest paid under section 826 of the Taxes Act 1988 (interest on tax overpaid) in respect of a repayment or payment relating to an accounting period of the company ending before 1st July 1999;

but, subject to that, the whole of the amounts so brought into account for a period of account shall be taken into account as receipts of the period of account.

[<sup>F14</sup>(2AA) For the purposes of subsection (2A)(a) above, an amount brought into account as mentioned in paragraphs (a) to (d) of subsection (2) above for a period of account is to be regarded as notional income for the period of account if—

- (a) it represents income which has not been received, and is not receivable, from another person, and
- (b) a corresponding notional expense of the same amount is brought into account in the period of account;

and where particular income falls to be regarded as notional income under this subsection, the notional expense by virtue of which that income falls to be so regarded may not be taken into account for determining whether any other income is to be so regarded.

(2AB) In subsection (2AA) above “notional expense” means an expense which has not been paid, and is not payable, to another person and which—

- (a) is not deductible in computing the profits of the company in respect of its life assurance business in accordance with the provisions [<sup>F15</sup>applicable to the taxation of such profits under section 35 of the Corporation Tax Act 2009], but
- (b) had it represented an amount paid or payable to another person, would have been so deductible.

(2AC) For the purposes of subsection (2A)(aa) above, where—

- (a) one or more inter-fund transfers (“transfers-in”) are made into a fund and one or more inter-fund transfers (“transfers-out”) are made out of the fund, and
- (b) the amount brought into account for the period of account as other income in respect of the transfers-in represents the amount by which—
  - (i) the amount or aggregate amount of the transfers-in, exceeds

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(ii) the amount or aggregate amount of the transfers-out,  
only the amount of that excess shall be taken to represent the transfers-in.

(2AD) In this section “inter-fund transfer” means a transfer between two funds which in the company’s periodical return is shown in, or included in amounts shown in, line 14 or 33 of the Forms 58 for the funds.]

(2B) If any assets of the company’s long-term insurance fund are transferred by the company so that they cease to be assets of that fund, [<sup>F16</sup>the fair value of the assets at the time of the transfer, reduced by any amount brought into account in respect of them (for the period of account in which the transfer takes place or any earlier period of account) as part of total expenditure or [<sup>F17</sup>by being netted off against incomings in lines 11 to 15 of a revenue account] ,] shall be deemed to be brought into account for the period of account in which the transfer takes place as an increase in the the value of the assets of that fund [<sup>F18</sup>except to the extent that any of the exclusions in subsections (2C) to (2E) below apply.]

<sup>F19</sup> .....

(2C) Assets transferred to discharge liabilities in respect of deposits received from reinsurers or arising out of insurance operations, debenture loans or amounts borrowed from credit institutions are included in subsection (2B) above only if the deposits, loans or amounts borrowed—

- (a) were brought into account for any period of account, but
- (b) were not taken into account as receipts of the period of account under subsection (2) above.

(2D) Assets are excluded from subsection (2B) above if they are transferred for at least their fair value and the consideration for their transfer, when received, forms part of the company’s long-term insurance fund.

[<sup>F20</sup>(2DA) If—

- (a) assets of the company’s long-term insurance fund are transferred by the company to another person (“the transferee”),
- (b) the transferee assumes, as a result of the transfer, a liability representing a debenture loan which, immediately before the transfer, was a liability of that fund, and
- (c) the liability does not, as a result of the transfer, become a liability of any long-term insurance fund of the transferee,

so much of the fair value of the assets as does not exceed the fair value of the liability is excluded from subsection (2B) above.]

[<sup>F21</sup>(2E) Assets transferred by an insurance business transfer scheme are excluded from subsection (2B) above.]]

<sup>F22</sup>(3) .....

<sup>F22</sup>(4) .....

<sup>F22</sup>(5) .....

<sup>F22</sup>(6) .....

<sup>F23</sup><sup>F22</sup>(6A) .....

<sup>F22</sup>(6B) .....

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- <sup>F22</sup>(6C) .....
- <sup>F22</sup>(7) .....
- <sup>F24</sup>(8) In this section—
- <sup>F25</sup> .....
- <sup>F25</sup> .....
- [<sup>F26</sup>“fair value” <sup>F27</sup>—
- (a) <sup>F28</sup> .....
- (b) in relation to liabilities, means the amount which would be paid to an independent person assuming them;]]
- <sup>F25</sup> .....

This subsection does not apply where, or to the extent that, the amount concerned—

- (a) would fall to be taken into account as a receipt apart from this section,
- (b) is otherwise taken into account under subsection (2) above, or
- (c) is specifically exempted from tax.]

#### Textual Amendments

- F1** Ss. 83, 83A substituted for s. 83 (1.5.1995) by 1995 c. 4, s. 51, **Sch. 8 Pt. 1 para. 16(1)** (with **Sch. 8 paras. 55(2), 57(1)**)
- F2** Word in s. 83 heading substituted (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 2(10)**
- F3** Words in s. 83(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by **Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 344(2)** (with **Sch. 2 Pts. 1, 2**)
- F4** S. 83(2)-(2E) substituted for s. 83(2) (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 2(2)**
- F5** Word in s. 83(2)(c) omitted (with effect in accordance with art. 1 of the amending S.I.) by virtue of **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(2)(a)**
- F6** S. 83(2)(e) and preceding word added (with effect in accordance with art. 1 of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(2)(b)**
- F7** S. 83(2ZA) inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 4(2)**
- F8** S. 83(2ZA)(a)-(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by **Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 344(3)** (with **Sch. 2 Pts. 1, 2**)
- F9** Words in s. 83(2A) substituted (with effect in accordance with art. 1 of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(3)**
- F10** S. 83(2A)(a)(aa) substituted for s. 83(2A)(a) (with effect in accordance with Sch. 9 para. 12(5) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 12(2)**
- F11** S. 83(2A)(ab) inserted (with effect in accordance with Sch. 10 para. 17(5) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 4(3)**
- F12** S. 83(2A)(ac) inserted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by **Finance Act 2008 (c. 9), Sch. 17 para. 1(2)**
- F13** S. 83(2A)(b) repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 9 para. 6(2), Sch. 27 Pt. 2(9); S.I. 2008/379, art. 2**
- F14** S. 83(2AA)-(2AD) inserted (with effect in accordance with Sch. 9 para. 12(5) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 12(3)**
- F15** Words in s. 83(2AB)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by **Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 344(4)** (with **Sch. 2 Pts. 1, 2**)

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- F16** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(5) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 10\(2\)](#)
- F17** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 10\(3\)\(a\)](#); S.I. 2008/379, art. 2
- F18** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 10\(3\)\(b\)](#); S.I. 2008/379, art. 2
- F19** Words in s. 83(2B) repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 10\(4\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2
- F20** S. 83(2DA) inserted (with effect in accordance with Sch. 11 para. 6(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 6\(3\)](#)
- F21** S. 83(2E) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 10\(5\)](#); S.I. 2008/379, art. 2
- F22** S. 83(3)-(7) repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(a\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2
- F23** S. 83(6A) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F24** S. 83(3)-(8) substituted for s. 83(3) (29.4.1996 with effect as mentioned in [Sch. 31 para. 10\(2\)](#) of the amending Act) by [1996 c. 8](#), s. 163, [Sch. 31 para. 4](#)
- F25** Words in s. 83(8) repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(a\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2
- F26** Words in s. 83(8) inserted (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 2\(8\)](#)
- F27** Words in s. 83(8) substituted (with effect in accordance with Sch. 11 para. 6(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 6\(4\)](#)
- F28** Words in s. 83(8) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 10\(3\)\(d\)](#), [Sch. 27 Pt. 2\(10\)](#)

#### Modifications etc. (not altering text)

- C1** S. 83 applied (1.5.1995) by [1988 c. 1](#), s. 439B(3)(a) (as inserted (1.5.1995) by [1995 c. 4](#), s. 51, [Sch. 8 Pt. I para. 27\(1\)](#) (with [Sch. 8 paras. 55\(2\)](#), [57\(1\)](#)))  
S. 83 modified (*retrospective* to 1.1.1995) by S.I. 1997/473, [regs. 1\(2\)](#), 33, 34
- C2** S. 83 modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), [reg. 33](#) (as amended (8.4.2004) by S.I. 2004/822, [regs. 1](#), 29)
- C3** S. 83 amendment to earlier affecting provision SI 1997/473 (8.4.2004) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), [regs. 1](#), [30](#)
- C4** S. 83 modified (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [regs. 1\(1\)](#), [28](#)
- C5** S. 83(6) amendment to earlier affecting provision SI 1997/473 (8.4.2004) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), [regs. 1](#), [30](#)

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