

## SCHEDULES

### SCHEDULE 6

Section 41.

#### LIFE ASSURANCE: APPORTIONMENT OF INCOME ETC.

1 (1) Section 431 of the Taxes Act 1988 shall be amended as follows.

(2) In subsection (2)—

(a) in the definition of “general annuity business”, after the words “pension business” there shall be inserted the words “or overseas life assurance business”; and

(b) there shall be inserted in the appropriate places in alphabetical order—

““basic life assurance business” means life assurance business other than general annuity business, pension business and overseas life assurance business;”

““closing” and “opening”, in relation to a period of account, refer respectively to the position at the end and at the beginning of the period and, in relation to an accounting period, refer respectively to the position at the end and at the beginning of the period of account in which the accounting period falls;”

““closing liabilities” includes liabilities assumed at the end of the period of account concerned in consequence of the declaration of reversionary bonuses or a reduction in premiums;”

““industrial assurance business” has the same meaning as in the Insurance Companies Act 1982;”

““investment reserve”, in relation to an insurance company, means the excess of the value of the assets of the company’s long term business fund over the liabilities of the long term business;”

““liabilities”, in relation to an insurance company, means the liabilities of the company estimated as for the purposes of its periodical return (excluding any that have fallen due or been reinsured and any not arising under or in connection with policies or contracts effected as part of the company’s insurance business);”

““linked assets” means assets of an insurance company which are identified in its records as assets by reference to the value of which benefits provided for under a policy or contract are to be determined;”

““long term business” has the meaning given by section 1(1) of the Insurance Companies Act 1982;”

““long term business fund” means the fund maintained by an insurance company in respect of its long term business or, where the

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company carries on both ordinary long term business and industrial assurance business, either or both (as the context may require) of the two funds so maintained;”

““ordinary long term business” and “ordinary life assurance business” mean respectively long term business and life assurance business that is not industrial assurance business;”

““overseas life assurance business”—

(a) in the case of life assurance business other than reinsurance business, means business with a policy holder or annuitant not residing in the United Kingdom the policy or contract for which was effected at or through a branch or agency outside the United Kingdom where life assurance business is carried on; and

(b) in the case of reinsurance business, means business the contract for which was effected at or through a branch or agency outside the United Kingdom where none, or no significant part, of the reinsurance business carried on relates to life assurance business with policy holders or annuitants residing in the United Kingdom;”

““overseas life assurance fund” shall be construed in accordance with Schedule 19AA;”

““value”, in relation to assets of an insurance company, means the value of the assets as taken into account for the purposes of the company’s periodical return;”

““with-profits liabilities” means liabilities in respect of policies or contracts under which the policy holders or annuitants are eligible to participate in surplus;”.

(3) After subsection (2) there shall be inserted—

“(2A) Linked assets shall be taken to be linked solely to long term business of a particular category if, and only if, all (or all but an insignificant proportion) of the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category.”

(4) In subsection (3)(b), after the words “other annuity business” there shall be inserted the words “that is not overseas life assurance business”.

2 After section 431 of the Taxes Act 1988 there shall be inserted—

**“431A Amendment of Chapter etc**

Where it is expedient to do so in consequence of the exercise of any power under the Insurance Companies Act 1982, the Treasury may by order amend the provisions of this Chapter and any other provision of the Tax Acts so far as relating to insurance companies.”

3 In section 432(2) of the Taxes Act 1988—

(a) for the words “industrial life assurance” there shall be substituted the words “industrial assurance”; and

- (b) after the words “section 76” there shall be inserted the words “and where appropriate the provisions of this Chapter”.

4 After section 432 of that Act there shall be inserted—

**“432A Apportionment of income and gains**

- (1) This section has effect where—
- (a) an insurance company carries on in any period both ordinary long term business and industrial assurance business, or life assurance business and other long term business, or more than one class of life assurance business, and
  - (b) it is necessary for the purposes of the Corporation Tax Acts to determine in relation to the period what parts of—
    - (i) income arising from the assets of the company’s long term business fund, or
    - (ii) gains or losses accruing on the disposal of such assets, are referable to any of the categories of business in question.
- (2) The classes of life assurance business referred to in subsection (1) above are—
- (a) pension business;
  - (b) general annuity business;
  - (c) overseas life assurance business; and
  - (d) basic life assurance business.
- (3) Income arising from, and gains or losses accruing on the disposal of, assets linked solely to ordinary long term business, industrial assurance business, life assurance business, long term business other than life assurance business, pension business or basic life assurance business shall be referable to the category of business concerned.
- (4) Income arising from, and gains or losses accruing on the disposal of, assets of the overseas life assurance fund (and no other assets) shall be referable to overseas life assurance business.
- (5) There shall be referable to any category of business (apart from overseas life assurance business) the relevant fraction of any income, gains or losses not directly referable to any of the appropriate categories of business.
- (6) For the purposes of subsection (5) above “the relevant fraction”, in relation to a category of business, is the fraction of which—
- (a) the numerator is the aggregate of—
    - (i) the mean of the opening and closing liabilities of the category, reduced by the mean of the opening and closing values of any assets directly referable to the category, and
    - (ii) the mean of the appropriate parts of the opening and closing amounts of the investment reserve; and
  - (b) the denominator is the aggregate of—
    - (i) the mean of the opening and closing liabilities of the long term business, reduced by the mean of the opening and

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- closing values of any assets directly referable to any of the appropriate categories of business, and
- (ii) the mean of the opening and closing amounts of the investment reserve.
- (7) For the purposes of subsections (5) and (6) above—
- (a) references to appropriate categories of business—
- (i) where the category of business in question is ordinary long term business or industrial assurance business, are references to those categories of business;
- (ii) where the category of business in question is life assurance business or long term business other than life assurance business, are references to those categories of business; and
- (iii) where the category of business in question is pension business, general annuity business or basic life assurance business, are references to pension business and basic life assurance business; and
- (b) income, gains or losses are directly referable to a category of business if referable to the category by virtue of subsection (3) above and assets are directly referable to a category of business if income arising from the assets is, and gains or losses accruing on the disposal of the assets are, so referable.
- (8) In subsection (6) above “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 category of business in question 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 category of business in question 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 category of business in question bears to the whole amount of the with-profits liabilities of the long term business;
- and in this subsection “linked liabilities” means liabilities in respect of benefits to be determined by reference to the value of linked assets.
- (9) Where the category of business in question is a class of life assurance business, for the purposes of this section—
- (a) “liabilities” does not include liabilities of the overseas life assurance business; and
- (b) assets of the overseas life assurance fund and liabilities of the overseas life assurance business shall be left out of account in determining the investment reserve.

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- (10) Subsection (5) above shall not apply in relation to gains or losses accruing on disposals deemed to have been made by virtue of section 46 of the Finance Act 1990 except where it is necessary to determine what parts are referable to different categories of business within subsection (3)(b) of that section (and shall apply in that case subject to appropriate modifications).

#### **432B Apportionment of receipts brought into account**

- (1) This section and sections 432C to 432E have effect where it is necessary in accordance with section 83 of the Finance Act 1989 to determine what parts of any items brought into account in the revenue account prepared for the purposes of the Insurance Companies Act 1982 are referable to life assurance business or any class of life assurance business.
- (2) Where in addition to the revenue account prepared for the purposes of the Insurance Companies Act 1982 in respect of the whole of any business carried on by a company there are prepared for the purposes of that Act revenue accounts relating to parts of the business, amounts referred to in sections 432C to 432E shall, so far as they relate to those parts, be ascertained by reference to the latter accounts rather than by reference to the former.
- (3) Sections 432C and 432D apply where the business with which an account is concerned (“the relevant business”) relates exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus; and section 432E applies where the relevant business relates wholly or partly to other policies or contracts.

#### **432C Section 432B apportionment: income of non-participating funds**

- (1) To the extent that the amount brought into account as income is attributable to assets linked solely to life assurance business, pension business or basic life assurance business, it shall be referable to the category of business concerned.
- (2) To the extent that that amount is attributable to assets of the overseas life assurance fund, it shall be referable to overseas life assurance business.
- (3) There shall be referable to any category of business (apart from overseas life assurance business) the relevant fraction of so much of the amount brought into account as income as is not directly referable to any of the appropriate categories of business.
- (4) For the purposes of subsection (3) above “the relevant fraction”, in relation to a category of business, is the fraction of which—
- (a) the numerator is the mean of the opening and closing liabilities of the relevant business so far as referable to the category, reduced by the mean of the opening and closing values of any assets of the relevant business directly referable to the category; and
  - (b) the denominator is the mean of the opening and closing liabilities of the relevant business, reduced by the mean of the opening and closing values of any assets of the relevant business directly referable to any of the appropriate categories of business.
- (5) For the purposes of subsections (3) and (4) above—

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- (a) references to appropriate categories of business—
    - (i) where the category of business in question is life assurance business, are references to that category of business and long term business other than life assurance business; and
    - (ii) where the category of business in question is pension business, general annuity business or basic life assurance business, are references to pension business and basic life assurance business; and
  - (b) the part of the amount brought into account as income which is directly referable to a category of business is the part referable to the category by virtue of subsection (1) above and assets are directly referable to a category of business if such part of the amount brought into account as income as is attributable to them is so referable.
- (6) Where the category of business in question is a class of life assurance business, for the purposes of this section “liabilities” does not include liabilities of the overseas life assurance business.

**432D Section 432B apportionment: value of non-participating funds**

- (1) To the extent that the amount brought into account as the increase or decrease in the value of assets is attributable to assets linked solely to life assurance business, pension business or basic life assurance business, or to assets of the overseas life assurance fund which are linked solely to overseas life assurance business, it shall be referable to the category of business concerned.
- (2) There shall be referable to any category of business the relevant fraction of the amount brought into account as the increase or decrease in the value of assets except so far as the amount is attributable to assets which are directly referable to any of the appropriate categories of business.
- (3) Subsections (4) and (5) (but not (6)) of section 432C shall apply for the purposes of this section as if—
  - (a) each of the references to a subsection of that section were a reference to the corresponding subsection of this section, and
  - (b) in subsection (5)—
    - (i) a reference to overseas life assurance business were included after each of the references to pension business in paragraph (a)(ii), and
    - (ii) each of the references in paragraph (b) to income were a reference to the increase or decrease in the value of assets.

**432E Section 432B apportionment: participating funds**

- (1) The part of the net amount of the items referred to in subsection (1) of section 83 of the Finance Act 1989 (that is to say the income referred to in paragraph (a) of that subsection increased or reduced by the increase or reduction in the value referred to in paragraph (b)) which is referable to a particular category of business shall be—
  - (a) the amount determined in accordance with subsection (2) below, or
  - (b) the amount determined in accordance with subsection (3) below,

whichever is the greater.

(2) For the purposes of subsection (1) above there shall be determined the amount which is such as to secure—

(a) in a case where the relevant business is mutual business, that

$$CAS = CS$$

, and

(b) in any other case, that

$$CS - CAS = (S - AS) \times \frac{CAS}{AS}$$

where—

S is the surplus of the relevant business;

AS is so much of that surplus as is allocated to persons entitled to the benefits provided for by the policies or contracts to which the relevant business relates;

CAS is so much of the surplus so allocated as is attributable to policies or contracts of the category of business concerned; and

CS is so much of the surplus of the relevant business as would remain if the relevant business were confined to business of the category concerned.

(3) For the purposes of subsection (1) above there shall also be determined the aggregate of—

(a) the applicable percentage of what is left of the mean of the opening and closing liabilities of the relevant business so far as referable to the category of business concerned after deducting from it the mean of the opening and closing values of any assets of the relevant business linked solely to that category of business, and

(b) the part of the net amount mentioned in subsection (1) above that is attributable to assets linked solely to that category of business.

(4) For the purposes of subsection (3) above “the applicable percentage”, in any case, is such percentage as may be determined for that case by or in accordance with an order made by the Treasury.

(5) Where the part of the net amount referable to a particular category or categories of business (“the subsection (3) category or categories”) is the amount determined in accordance with subsection (3) above, the amount determined in accordance with subsection (2) above in relation to any other category (“the relevant category”) shall be reduced by—

$$\frac{XY}{Z}$$

where—

X is the excess of the amount determined in accordance with subsection (3) above in the case of the subsection (3) category (or each of them) over the amount determined in its case (or the case of each of them) in accordance with subsection (2) above;

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Y is so much of the surplus of the relevant business as is allocated to persons entitled to the benefits provided for by policies or contracts of the relevant category; and

Z is so much of the surplus of the relevant business as is allocated to persons entitled to the benefits provided for by policies or contracts of the category (or each of the categories) which is not a subsection (3) category.

(6) Where the category of business concerned is overseas life assurance business—

(a) if the part of the income brought into account that is attributable to assets of the overseas life assurance fund not linked solely to overseas life assurance business is greater than the amount arrived at under subsection (3)(a) above, this section shall have effect as if that part of that income were the amount so arrived at; and

(b) the amount which, apart from this paragraph, would be the part of the net amount referable to that category of business shall be—

(i) reduced by the part of the net amount attributable to distributions of companies resident in the United Kingdom relating to assets of the company's overseas life assurance fund, and

(ii) increased by the amount which is income of the relevant business by virtue of section 441A.”

5 In section 436 of the Taxes Act 1988, in subsection (3) for sub-paragraph (i) of paragraph (d) there shall be substituted—

“(i) group income so far as referable to pension business shall be deducted from the receipts to be taken into account.”.

6 In section 437 of that Act, in subsection (2) for paragraph (a) there shall be substituted—

“(a) taxed income, group income and income attributable to offshore income gains, so far as referable to general annuity business, shall be deducted from the receipts to be taken into account;”.

7 In section 439 of that Act, for the words from the beginning to “1982;” in subsection (5) there shall be substituted—

“(1) For the purposes of this Chapter restricted government securities shall be treated as linked solely to pension business.

(2) In this section”.

8 For section 440 of that Act there shall be substituted—

**“440 Transfers of assets etc**

(1) If at any time an asset (or a part of an asset) held by an insurance company ceases to be within one of the categories set out in subsection (4) below and comes within another of those categories, the company shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) for a consideration equal to its market value at that time.

(2) Where—



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- (a) an asset is acquired by a company as part of the transfer to it of the whole or part of the business of an insurance company (“the transferor”) in accordance with a scheme sanctioned by a court under section 49 of the Insurance Companies Act 1982, and
  - (b) the asset (or part of it) is within one of the categories set out in subsection (4) below immediately before the acquisition and is within another of those categories immediately afterwards,
- the transferor shall for the purposes of corporation tax be deemed to have disposed of and immediately re-acquired the asset (or part) immediately before the acquisition for a consideration equal to its market value at that time.
- (3) Where, apart from this subsection, section 273 or 274 of the 1970 Act (transfers within a group) would apply to a disposal or acquisition by an insurance company of an asset (or part of an asset) which, immediately before the disposal or (as the case may be) immediately after the acquisition, is within one of the categories set out in paragraphs (a) to (d) of subsection (4) below, that section shall not apply to the disposal or acquisition.
  - (4) The categories referred to in subsections (1) to (3) above are—
    - (a) assets linked solely to basic life assurance business;
    - (b) assets linked solely to pension business;
    - (c) assets of the overseas life assurance fund;
    - (d) assets of the long term business fund not within any of the preceding paragraphs;
    - (e) other assets.
  - (5) In this section “market value” has the same meaning as in the 1979 Act.

#### **440A Securities**

- (1) Subsection (2) below applies where the assets of an insurance company include securities of a class all of which would apart from this section be regarded for the purposes of corporation tax on chargeable gains as one holding.
- (2) Where this subsection applies—
  - (a) so many of the securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of basic life assurance business shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,
  - (b) so many of the securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of pension business shall be treated for those purposes as a separate holding linked solely to that business,

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- (c) so many of the securities as are included in the overseas life assurance fund shall be treated for those purposes as a separate holding which is an asset of that fund,
  - (d) so many of the securities as are included in the company's long term business fund but do not fall within any of the preceding paragraphs shall be treated for those purposes as a separate holding which is an asset of that fund (but not of any of the descriptions mentioned in those paragraphs), and
  - (e) any remaining securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.
- (3) Subsection (2) above also applies where the assets of an insurance company include securities of a class and apart from this section some of them would be regarded as a 1982 holding, and the rest as a new holding, for the purposes of corporation tax on chargeable gains.
- (4) In a case within subsection (3) above—
- (a) the reference in any paragraph of subsection (2) above to a separate holding shall be construed, where necessary, as a reference to a separate 1982 holding and a separate new holding, and
  - (b) the questions whether such a construction is necessary in the case of any paragraph and, if it is, how many securities falling within the paragraph constitute each of the two holdings shall be determined in accordance with paragraph 12 of Schedule 6 to the Finance Act 1990 and the identification rules applying on any subsequent acquisitions and disposals.
- (5) Section 66 of the 1979 Act shall have effect where subsection (2) above applies as if securities regarded as included in different holdings by virtue of that subsection were securities of different kinds.
- (6) In this section—
- “1982 holding” has the meaning given by Part II of Schedule 19 to the Finance Act 1985;
  - “new holding” has the meaning given by Part III of that Schedule;
  - and
  - “securities” has the same meaning as in section 65 of the 1979 Act.”
- 9 (1) In section 724 of the Taxes Act 1988, after subsection (1) there shall be inserted—
- “(1A) If at any time securities held by an insurance company cease to be within one of the categories set out in section 440(4) and come within another of those categories, the company shall be treated for the purposes of sections 710 to 728 as transferring the securities to itself at that time.”
- (2) In section 711(6) of that Act, for the words “or 722(1) or (2)” there shall be substituted the words “, 722(1) or (2) or 724(1A)”.
- (3) In section 712(4) of that Act, for the words “and 722” there shall be substituted the words “, 722 and 724(1A)”.
- 10 In section 58(10) of the Finance (No.2) Act 1975, the definition of “trading stock” shall cease to have effect.

- 11 (1) Paragraph 9 above shall be deemed to have come into force on 24th May 1990 but, subject to that,—
- (a) in so far as it relates to determinations of profits in accordance with section 83 of the Finance Act 1989, this Schedule shall apply in relation to any period for which such a determination falls to be made, other than a period for which it falls to be made only by virtue of an election under section 83(5) of the Finance Act 1989, and
  - (b) in so far as it relates to section 432A of the Taxes Act 1988, this Schedule shall apply to income arising, and disposals occurring, on or after 1st January 1990.
- (2) Subject to sub-paragraph (1) above, this Schedule shall be deemed to have come into force on 1st January 1990.
- (3) The preceding provisions of this paragraph shall have effect subject to paragraph 12 below.
- 12 (1) Where at the end of 1989 the assets of an insurance company include securities of a class some of which are regarded as a single 1982 holding, and the rest of which are regarded as a single new holding, for the purposes of corporation tax on chargeable gains—
- (a) at the beginning of 1990 there shall be both a 1982 holding and a new holding of the description mentioned in any paragraph of section 440A(2) of the Taxes Act 1988 within which any of the securities fall at that time (whether or not there would be apart from this sub-paragraph), and
  - (b) the 1982 holding and the new holding of the description mentioned in any such paragraph shall at that time bear to one another the same proportions as the single 1982 holding and the single new holding at the end of 1989.
- (2) For the period beginning with 1st January 1990 and ending with 19th March 1990, section 440(4) of the Taxes Act 1988 (as substituted by paragraph 8 of this Schedule) and section 440A(2) of that Act shall have effect with the omission of paragraph (d) (so that all assets not within paragraphs (a) to (c) fall within paragraph (e)).
- (3) Sub-paragraph (4) below applies where—
- (a) at the end of 19th March 1990 the assets of an insurance company include securities of a class some of which are regarded as a relevant 1982 holding, and others of which are regarded as a relevant new holding, for the purposes of corporation tax on chargeable gains, and
  - (b) some of the securities are included in the company's long term business fund but others are not;
- and for the purposes of this sub-paragraph a holding is a “relevant” holding if it is not linked to pension business or basic life assurance business and is not an asset of the overseas life assurance fund.
- (4) Where this sub-paragraph applies—
- (a) at the beginning of 20th March 1990 there shall be both a 1982 holding and a new holding of each of the descriptions mentioned in paragraphs (d) and (e) of section 440A(2) of the Taxes Act 1988 (whether or not there would be apart from this sub-paragraph), and
  - (b) the 1982 holding and the new holding of each of those descriptions shall at that time bear to one another the same proportions as the 1982 holding and

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the new holding mentioned in sub-paragraph (3)(a) above at the end of 19th March 1990.

- (5) Except for the purposes of determining the assets of a company which are linked solely to basic life assurance business, the amendments made by this Schedule shall have effect in relation to a company with the omission of references to overseas life assurance business as respects any time before the provisions of Schedule 7 to this Act have effect in relation to the company.
- (6) Sub-paragraph (7) below applies where—
- (a) the first accounting period of an insurance company beginning on or after 1st January 1990 begins after 20th March 1990,
  - (b) at some time during the accounting period the company carries on overseas life assurance business, and
  - (c) immediately before the beginning of the accounting period the assets of the long term business fund of the company include both a relevant 1982 holding and a relevant new holding of securities of the same class;
- and for the purposes of this sub-paragraph a holding is a “relevant” holding if it is not linked to pension business or basic life assurance business.
- (7) Where this sub-paragraph applies—
- (a) at the beginning of the accounting period there shall be both a 1982 holding and a new holding of each of the descriptions mentioned in paragraphs (c) and (d) of section 440A(2) of the Taxes Act 1988 (whether or not there would be apart from this sub-paragraph), and
  - (b) the 1982 holding and the new holding of each of those descriptions shall at that time bear to one another the same proportions as the 1982 holding and the new holding mentioned in sub-paragraph (6)(c) above immediately before the beginning of the period.
- (8) No disposal or re-acquisition shall be deemed to occur by virtue of section 440 of the Taxes Act 1988 (as substituted by paragraph 8 of this Schedule) by reason only of the coming into force (in accordance with the provisions of paragraph 11 of this Schedule and this paragraph) of any provision of section 440A of that Act.
- (9) The substitution made by paragraph 8 of this Schedule shall not affect—
- (a) the operation of section 440 of the Taxes Act 1988 (as it has effect before the substitution) before 20th March 1990, or
  - (b) the operation of subsections (6) and (7) of that section (as they have effect before the substitution) in relation to the disposal of an asset which has not been deemed to be disposed of by virtue of section 440 (as it has effect after the substitution) before the time of the disposal.
- (10) In this paragraph—
- “1982 holding” has the meaning given by Part II of Schedule 19 to the Finance Act 1985;
- “new holding” has the meaning given by Part III of that Schedule; and
- “securities” has the same meaning as in section 65 of the Capital Gains Tax Act 1979.