

*Status: Point in time view as at 06/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1991, SCHEDULE 7. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

Section 48.

#### BASIC LIFE ASSURANCE AND GENERAL ANNUITY BUSINESS

##### *Management expenses*

- 1 In section 76 of the Taxes Act 1988 (expenses of management of insurance companies) in subsection (1)—
- (a) in paragraphs (ca) <sup>F1</sup> ..., for the words “basic life assurance business” there shall be substituted in each place the words “basic life assurance and general annuity business”;
  - (b) in paragraph (d), the words “general annuity business” shall cease to have effect.

##### **Textual Amendments**

- F1** Words in [Sch. 7 para. 1\(a\)](#) repealed (with effect for accounting periods beginning on or after 1.1.2003 except those ending before 9.4.2003 in accordance with [Sch. 33 para. 8\(4\)](#), [Sch. 43 Pt. 3\(12\)](#) Note 6 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)

##### *Interpretation of Chapter I of Part XII*

<sup>F2</sup> .....

##### **Textual Amendments**

- F2** [Sch. 7 para. 2](#) repealed (1.5.1995 with effect in accordance with [Sch. 8 para. 57](#) of the amending Act) by [1995 c. 4, s. 162](#), [Sch. 8 para. 57](#), [Sch. 29 Pt. VIII\(5\)](#), Note 2 (with [Sch. 8 para. 55\(2\)](#), [57\(1\)](#))

##### *Apportionment of income and gains*

<sup>F3</sup> .....

##### **Textual Amendments**

- F3** [Sch. 7 para. 3](#) repealed (1.5.1995 with effect in accordance with [Sch. 8 para. 57](#) of the amending Act) by [1995 c. 4, s. 162](#), [Sch. 8 para. 57](#), [Sch. 29 Pt. VIII\(5\)](#) Note 2 (with [Sch. 8 para. 55\(2\)](#), [57\(1\)](#))

##### *Computation of trading profit*

- 4 (1) In section 436 of that Act (general annuity business and pension business: separate charge on profits) in subsection (1)—

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- (a) the words “general annuity business or” shall cease to have effect, and
  - (b) in paragraph (a), for the words “the business of each such class” there shall be substituted the words “that business ”.
- (2) In subsection (3) of that section—
- (a) in paragraph (c), the words “or general annuity business”, and
  - (b) in paragraph (e), the words “general annuity business or”,
- shall cease to have effect.
- (3) In subsection (4) of that section, the words “general annuity business or” shall cease to have effect.
- (4) In section 437 of that Act (general annuity business) subsections (2) to (5) shall cease to have effect.

*Deduction for annuities referable to basic life assurance and general annuity business*

- 5 In section 437 of that Act, for subsection (1) there shall be substituted—
- “(1A) In the case of a company carrying on basic life assurance and general annuity business, the new annuities paid in any accounting period by the company shall be regarded as charges on income only to the extent that they do not exceed the income limit for that accounting period.
- (1B) Subsection (1A) above shall not apply to an insurance company 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.
- (1C) For the purposes of this section—
- (a) “new annuity means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company’s basic life assurance and general annuity business;
  - (b) “the income limit for an accounting period of an insurance company is the difference between—
    - (i) the total amount of the new annuities paid by the company in that accounting period; and
    - (ii) the total of the capital elements contained in the new annuities so paid; and
  - (c) the capital element contained in an annuity shall be determined in accordance with Chapter V of Part XIV, but for this purpose—
    - (i) it is immaterial whether or not an annuitant claims any relief to which he is entitled under that Chapter; and
    - (ii) where, by virtue of subsection (2) of section 657, section 656 does not apply to an annuity, the annuity shall be treated as containing the capital element that it would have contained apart from that subsection.
- (1D) In any case where—
- (a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in an accounting period beginning before 1st January 1992,

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- (b) the company’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (c) the company’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall be treated for the purposes of this section, other than this subsection, as if the group annuity contract had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1E) In any case where—

- (a) a payment in respect of an annuity is made by a reinsurer under a reinsurance treaty made in an accounting period beginning before 1st January 1992,
- (b) the reinsurer’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (c) the reinsurer’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the payment shall, as respects the reinsurer, be treated for the purposes of this section, other than this subsection, as if the reinsurance treaty had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).

(1F) In this section—

“group annuity contract means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

“reinsurance treaty means a contract under which one insurance company is obliged to cede, and another (in this section referred to as a “reinsurer) to accept, the whole or part of a risk of a class or description to which the contract relates.”

*Transfer of assets between classes of business*

<sup>F4</sup>6 .....

**Textual Amendments**

**F4** Sch. 7 para. 6 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the amending Act) by 1995 c. 4, s. 162, Sch. 8 para. 57, Sch. 29 Pt. VIII(5) Note 2 (with Sch. 8 para. 55(2), 57(1))

*United Kingdom branches of overseas life assurance companies*

7 (1) In section 446 of that Act (computation under section 436 of profits arising to an overseas life assurance company)—

- <sup>F5</sup>(a) .....
- (b) subsections (2) and (3),

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shall cease to have effect.

<sup>F5</sup>(2) .....

(3) Subsection (3) of that section (proportion of profits arising from general annuity business for purposes of section 446) shall cease to have effect.

<sup>F5</sup>(4) .....

<sup>F5</sup>(5) .....

**Textual Amendments**

**F5** Sch. 7 para. 7(1)(a)(2)(4)(5) repealed (27.7.1993 with application as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, ss. 103(3)(4), 213, **Sch. 23 Pt.III.**

*Treatment of tax-free income*

8 In section 474 of that Act, in subsection (1)(b) (certain tax-free income to be included in computing profits or loss from pension business and general annuity business) the words “and general annuity business” shall cease to have effect.

*Life annuity contracts: taxation of gain on chargeable event*

<sup>F69</sup> .....

**Textual Amendments**

**F6** Sch. 7 para. 9 repealed (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005** (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

*Computation of offshore income gains*

<sup>F710</sup> .....

**Textual Amendments**

**F7** Sch. 7 para. 10 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the amending Act) by 1995 c. 4, s. 162, Sch. 8 para. 55, **Sch. 29 Pt. VIII(5)** Note 1 (with Sch. 8 para. 55(2), 57(1))

*Interpretation of sections 85 to 89 of Finance Act 1989*

<sup>F811</sup> .....

**Textual Amendments**

**F8** Sch. 7 para. 11 repealed (with effect for accounting periods beginning on or after 1.1.2003 except those ending before 9.4.2003 in accordance with Sch. 33 para. 8(4), Sch. 43 Pt. 3(12) Note 6 of the amending Act) by **Finance Act 2003** (c. 14), **Sch. 43 Pt. 3(12)**

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*Miscellaneous receipts*

- 12 In section 85 of the <sup>M1</sup>Finance Act 1989 (charge of certain receipts of basic life assurance business) in subsection (1), for the words “basic life assurance business” there shall be substituted the words “basic life assurance and general annuity business”.

**Marginal Citations**

**M1** 1989 c. 26.

*Spreading of relief for acquisition expenses*

- 13 <sup>F9</sup>(1) .....
- (2) After subsection (3) of that section there shall be inserted—
- “<sup>(3A)</sup> Nothing in subsection (1), (2) or (3) above applies to commissions (however described) in respect of annuity contracts made in accounting periods beginning before 1st January 1992, but without prejudice to the application of subsections (1) and (2) above to any commission attributable to a variation, in an accounting period beginning on or after that date, of an annuity contract so made; and for this purpose the exercise of any rights conferred by an annuity contract shall be regarded as a variation of it.”
- (3) In subsection (4) of that section (meaning of “the acquisition of business”) after the word “includes” there shall be inserted “(a)” and at the end there shall be added the words “and
- (b) the securing, in an accounting period beginning on or after 1st January 1992, of the payment of increased or additional consideration in respect of an annuity contract already made (whether in an accounting period beginning before, or on or after, that date).”

**Textual Amendments**

**F9** Sch. 7 para. 13(1) repealed (with effect for accounting periods beginning on or after 1.4.2004 in accordance with s. 42 of the amending Act) by Finance Act 2004 (c. 12), Sch. 42 Pt. 2(3)

*Deemed disposal of unit trusts etc*

- <sup>F10</sup>14 .....

**Textual Amendments**

**F10** Sch. 7 para. 14 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch.12 (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

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*Exemptions and exclusions from charges by virtue of section 46*

<sup>F11</sup>15 .....

**Textual Amendments**  
**F11** Sch. 7 para. 15 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

*Transitional relief for old general annuity contracts*

16 (1) [<sup>F12</sup>In the computation, otherwise than in accordance with the provisions applicable to Case I of Schedule D, of the [<sup>F13</sup>relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period], an amount equal to the lesser of the following amounts shall be treated (if it is not nil) as [<sup>F14</sup>expenses payable which fall to be brought into account for that period at Step 3 in section 76(7) of the Taxes Act 1988,] that is to say—]

- (a) A, and
- (b)  $A - (R1 - R2 + C - SV - DB)$ ,

and if the result of the formula in paragraph (b) above is a negative amount, it shall be taken to be nil.

(2) For the purposes of sub-paragraph (1) above—

- A is the gross amount of any annuities paid in the accounting period so far as referable to old annuity contracts;
- R1 is the amount of the company’s opening liabilities for the accounting period in respect of old annuity contracts;
- R2 is the amount of the company’s closing liabilities for the accounting period in respect of old annuity contracts;
- C is the amount of any consideration received in the accounting period in respect of old annuity contracts;
- SV is the amount of any sums paid in the accounting period by reason of the surrender of rights conferred by old annuity contracts;
- DB is the amount of any death benefits paid in the accounting period in respect of old annuity contracts.

<sup>F15</sup>(3) .....

<sup>F15</sup>(4) .....

(5) If, in the case of an annuity under a group annuity contract made by an insurance company in an accounting period beginning before 1st January 1992—

- (a) the company’s liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (b) the company’s liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the group annuity contract, so far as relating to that annuity, shall be treated for the purposes of this paragraph, other than this sub-paragraph, as if it had been made in an accounting period beginning on or after 1st January 1992 (and were, accordingly, not an old annuity contract).

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(6) If, in the case of an annuity which is subject to a reinsurance treaty made by the reinsurer in an accounting period beginning before 1st January 1992—

- (a) the reinsurer's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (b) the reinsurer's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the reinsurance treaty, as respects the reinsurer and so far as relating to that annuity, shall be treated for the purposes of this paragraph, other than this sub-paragraph, as if it had been made in an accounting period beginning on or after 1st January 1992 (and were, accordingly, not an old annuity contract).

(7) In this paragraph—

“general annuity contract means an annuity contract so far as referable to general annuity business;

“group annuity contract means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);

“old annuity contract means a general annuity contract made by an insurance company in an accounting period beginning before 1st January 1992;

“reinsurance treaty means a contract under which one insurance company is obliged to cede, and another (in this paragraph referred to as a “reinsurer) to accept, the whole or part of a risk of a class or description to which the contract relates;

and, subject to that, expressions used in this paragraph and in Chapter I of Part XII of the Taxes Act 1988 have the same meaning in this paragraph as they have in that Chapter.

#### Textual Amendments

- F12** Words in Sch. 7 para. 16(1) substituted (with effect in relation to accounting periods beginning after 5.3.1997 in accordance with s. 67(7) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 67\(6\)](#)
- F13** Words in Sch. 7 para. 16(1) substituted (with effect for accounting periods ending on or after 9.4.2003 in accordance with [Sch. 33 para. 6\(12\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 6\(10\)](#)
- F14** Words in [Sch. 7 para. 16\(1\)](#) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\), art. 1\(2\), Sch. para. 47\(2\)](#)
- F15** [Sch. 7 para. 16\(3\)\(4\)](#) repealed (with effect in relation to accounting periods beginning after 5.3.1997) by [1997 c. 16, s. 113, Sch. 18 Pt. VI\(6\) Note](#)

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

- C1** [Sch. 7 para. 16](#) modified (10.8.1995) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1992 \(S.I. 1992/1655\), reg. 20A](#) (as inserted by [S.I. 1995/1916, reg. 10](#))
- C2** [Sch. 7 para. 16\(7\)](#) modified (20.3.1997 but with retrospective effect to 1.1.1995) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\), regs. 1\(2\), 42](#)

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*Transitional provisions for chargeable gains and unrelieved general annuity losses*

- 17 (1) An insurance company's unrelieved general annuity losses shall be relieved under this paragraph by setting them against the relevant part of any chargeable gains arising to the company in accounting periods beginning on or after 1st January 1992.
- (2) Any relief under this paragraph shall be given as far as possible for the first accounting period of the company beginning on or after 1st January 1992 and, so far as it cannot be so given, for the next accounting period, and so on.
- (3) For the purposes of this paragraph an insurance company's "unrelieved general annuity losses are so much of any losses—
- (a) arising from the company's general annuity business in an accounting period or year of assessment beginning before 1st January 1992, and
  - (b) computed as mentioned in paragraph (c) of subsection (3) of section 436 of the Taxes Act 1988 as it applied in relation to such accounting periods,
- as, by virtue only of an insufficiency of profits, cannot be relieved under that subsection (or any previous enactment which it re-enacts) by setting them off against the profits of such an accounting period or year of assessment.
- (4) For the purposes of this paragraph the relevant part of the chargeable gains arising to a company in an accounting period shall be determined by the application of the following formula—

$$X \times \frac{Y}{Z}$$

where—

X is so much of the chargeable gains arising to the company in the accounting period as are referable to its basic life assurance and general annuity business;  
 Y is the mean of the company's opening and closing liabilities for the accounting period in respect of old annuity contracts; and  
 Z is the mean of the company's opening and closing liabilities for the accounting period in respect of its basic life assurance and general annuity business.

- (5) Sub-paragraphs (5) to (7) of paragraph 16 above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

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

- C3** Sch. 7 para. 17(4) modified (20.3.1997; but with retrospective effect to 1.1.1995) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), regs. 1(2), **43**

*Application of this Schedule*

- 18 Paragraphs 1, 3, 4, 5, 6(1) and (2), 7, 8, 10 to 14, 16 and 17 above have effect with respect only to accounting periods beginning on or after 1st January 1992.



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