

SCHEDULES

SCHEDULE 8

Section 49.

PENSION BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS AND DEDUCTED TAX

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

“SCHEDULE 19AB

Section 438A.

PENSION BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS AND DEDUCTED TAX

Entitlement to certain payments on account

- 1 (1) An insurance company carrying on pension business shall for each provisional repayment period in an accounting period be entitled on a claim made in that behalf to a payment (in this Schedule referred to as a “provisional repayment”) of an amount equal to the aggregate of—
 - (a) the appropriate portion of any income tax borne by deduction on any payment received by the company in that provisional repayment period and referable to its pension business, and
 - (b) the appropriate portion of any tax credit in respect of a distribution received by the company in that provisional repayment period and referable to its pension business,or of such lesser amount as may be specified in the claim.
- (2) For the purposes of this paragraph, a “provisional repayment period” of a company—
 - (a) shall begin whenever—
 - (i) the company begins to carry on pension business;
 - (ii) an accounting period of the company begins, at a time when the company is carrying on such business; or
 - (iii) a provisional repayment period of the company ends, at a time when the company is carrying on such business; and
 - (b) shall end on the first occurrence of either of the following—
 - (i) the expiration of three months from the beginning of the provisional repayment period; or
 - (ii) the end of an accounting period of the company.
- (3) In the application of subsections (5) to (9) of section 432A for the purpose of determining the amounts to which a company is entitled by way of provisional repayments in the case of any accounting period, the reference in subsection (5) to “the relevant fraction” shall be taken as a reference to a fraction determined in accordance with subsections (6) to (9)—
 - (a) for the latest preceding accounting period of the company for which an inspector is satisfied that the company has supplied him with such

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information as would enable the relevant fraction for that accounting period to be estimated with reasonable accuracy, and

(b) by reference to that information,

and, subject to sub-paragraph (4)(b) below, any reference in this paragraph to “the provisional fraction” is a reference to the fraction so determined.

(4) For the purposes of sub-paragraph (3) above—

(a) “information” means any information, accounts, statements or reports delivered under section 11 of the Management Act; and

(b) unless and until an inspector is satisfied as mentioned in paragraph (a) of that sub-paragraph, the provisional fraction shall be taken to be nil.

(5) In sub-paragraph (1) above “the appropriate portion” means—

(a) in the case of an insurance company carrying on pension business and no other category of long term business, the whole; and

(b) in the case of an insurance company carrying on more than one category of long term business—

(i) where the payment or distribution in question is income arising from an asset linked solely to pension business, the whole; and

(ii) in any other case, the provisional fraction.

(6) An inspector shall not give effect to any claim under this paragraph unless and until he is satisfied that the claimant has supplied to him in connection with the claim such information as will enable the inspector to determine that the amount claimed has been computed in accordance with the provisions of this paragraph.

(7) A provisional repayment for a provisional repayment period shall be regarded as a payment on account of the amount (if any) which, disregarding any pension business repayments, the company would be entitled to be paid or repaid in respect of its pension business by the Board for the accounting period in which that provisional repayment period falls, in respect of—

(a) income tax borne by deduction on payments received by the company in that accounting period and referable to its pension business, and

(b) tax credits in respect of distributions received by the company in that accounting period and referable to its pension business,

when the assessment to corporation tax for that accounting period is finally determined or when effect is given to a claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act made in respect of that accounting period.

(8) Where a company makes an election under section 438(6) as respects all or any part of its franked investment income arising in an accounting period, that franked investment income or, as the case may be, that part of it, and the tax credits in respect thereof, shall be left out of account in making with respect to that accounting period any determination for the purposes of this paragraph or of paragraph 2 or 3 below of the amount referred to in sub-paragraph (7) above.

(9) Where an overseas life insurance company makes a claim under subsection (2) of section 448 in respect of any income represented by a distribution, that income, and the tax credit to which the company is deemed to be entitled in respect thereof by subsection (1) of that section for the purposes there mentioned, shall be left out of account in making any determination for the purposes of this paragraph or of paragraph 2 or 3 below of the amount referred to in sub-paragraph (7) above.

- (10) In this paragraph “pension business repayments” means—
- (a) provisional repayments; and
 - (b) repayments of income tax, and payments of tax credits, on any claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act.

Changes in the provisional fraction

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- (1) This paragraph applies in any case where, after a claim has been made for a provisional repayment in respect of a provisional repayment period falling within an accounting period, the provisional fraction falling to be applied in the case of that accounting period is varied as a result of a determination such as is mentioned in paragraph 1(3) above being made in consequence of the delivery of a return under section 11 of the Management Act.
 - (2) Where this paragraph applies, the amount of any provisional repayment to which the company is entitled—
 - (a) for the first provisional repayment period falling within that accounting period for which a claim is made by reference to the later (or, if there has been more than one such determination, the latest) provisional fraction, or
 - (b) for any subsequent provisional repayment period in that accounting period for which a claim is made,
 shall be an amount determined in accordance with sub-paragraph (3) below or such lesser amount as may be specified in the claim.
 - (3) The amount referred to in sub-paragraph (2) above is the amount (if any) by which total entitlement exceeds total past payments, and for this purpose—

“total entitlement” means the aggregate of the provisional repayments to which the company would have been entitled (apart from this paragraph) for—

 - (a) the provisional repayment period to which the claim relates, and
 - (b) any earlier provisional repayment period in the same accounting period,

had the later or, as the case may be, latest provisional fraction applicable in relation to that accounting period been so applicable as from the beginning of that period; and

“total past payments” means the aggregate of any amounts already paid by way of provisional repayments for provisional repayment periods falling within that accounting period.
 - (4) Expressions used in this paragraph and in paragraph 1 above have the same meaning in this paragraph as they have in that paragraph.

Repayment, with interest, of excessive provisional repayments

- 3
- (1) In any case where—
 - (a) the assessment to corporation tax for an accounting period of an insurance company has been finally determined, and
 - (b) the aggregate amount of the provisional repayments made to the company for that accounting period exceeds the amount referred to in paragraph 1(7) above,

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the excess, together with the amount of any relevant interest, shall be treated for the purposes of section 30 of the Management Act as if it were an amount of corporation tax for that accounting period which had been repaid to the insurance company and which ought not to have been so repaid.

- (2) In this paragraph, “relevant interest” means interest—
- (a) on so much of the excess referred to in sub-paragraph (1) above as is or was from time to time outstanding,
 - (b) for any period for which it is or was so outstanding, and
 - (c) at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 87A of the Management Act (interest on overdue corporation tax).
- (3) In the application of section 87A of the Management Act in relation to an amount assessed to corporation tax under section 30 of that Act by virtue of this paragraph—
- (a) the amount so assessed shall be taken to have become due and payable on the date on which that assessment was made; and
 - (b) the words “(in accordance with section 10 of the principal Act)” in subsection (1) shall accordingly be disregarded.
- (4) In determining the amount of any relevant interest, any question whether the excess mentioned in sub-paragraph (1) above (in the following provisions of this paragraph referred to as “the principal”) or any part of it is or was “outstanding” at any time shall be determined in accordance with sub-paragraphs (5) to (7) below.
- (5) So much of the principal as does not exceed the amount of the last provisional repayment made to the company for the accounting period in question shall be taken to have become outstanding on the date on which that provisional repayment was made.
- (6) So much (if any) of the principal as—
- (a) exceeds the amount of the provisional repayment referred to in sub-paragraph (5) above, but
 - (b) does not exceed the amount of the preceding provisional repayment for that accounting period,
- shall be taken to have become outstanding on the date on which that preceding provisional repayment was made; and so on with any remaining portion of the principal and any preceding provisional repayments for that accounting period.
- (7) So much (if any) of the principal as has become outstanding as mentioned in sub-paragraph (5) or (6) above and has at any time neither been repaid to the Board nor been assessed to corporation tax under section 30 of the Management Act by virtue of this paragraph shall be taken to remain outstanding at that time (and an amount shall accordingly be taken to cease being outstanding only when it is repaid to the Board or when it is so assessed).

Reduced entitlement during transitional period

- 4 (1) The Board may by regulations make provision for the amount of any provisional repayment to which a company would otherwise be entitled for any accounting period ending after the opening transitional date and before the closing transitional date to be reduced by a prescribed percentage.

- (2) The regulations may require a company claiming a provisional repayment for a provisional repayment period falling within such an accounting period to specify in the claim—
- (a) the maximum amount to which it could have been entitled by way of provisional repayment for that provisional repayment period apart from the regulations;
 - (b) the maximum reduced entitlement for that provisional repayment period; and
 - (c) the amount of the provisional repayment claimed for that provisional repayment period.
- (3) The regulations may make provision—
- (a) for the charging of interest in any case where an insurance company claims, and is paid, by way of provisional repayment an amount in excess of the maximum reduced entitlement for the provisional repayment period to which the claim relates;
 - (b) for the period for which, and the rate at which, any such amount is to carry interest under the regulations;
 - (c) for any such interest to be treated for the purposes of section 30 of the Management Act as if it were an amount of corporation tax which had been repaid and which ought not to have been repaid; and
 - (d) for section 87A of that Act to apply in relation to an amount assessed to corporation tax under section 30 of that Act by virtue of the regulations with modifications corresponding to those specified in paragraph 3(3) above.
- (4) The regulations may prescribe for the purposes of sub-paragraph (1) above different percentages for accounting periods ending after different dates.
- (5) Sub-paragraphs (2) to (4) above are without prejudice to the generality of sub-paragraph (1) above.
- (6) In this paragraph—
- “the maximum reduced entitlement”, in relation to an insurance company and a provisional repayment period, means the maximum amount (as reduced in accordance with the regulations) to which the company could have been entitled by way of provisional repayment for that provisional repayment period;
- “the opening transitional date” and “the closing transitional date” mean respectively such date as the Board may specify for the purpose in the first regulations made under this paragraph;
- “prescribed” means specified in the regulations;
- “the regulations” means any regulations under this paragraph.

Transitional application of pay and file provisions

- 5 (1) This paragraph applies in relation to an accounting period of an insurance company if—
- (a) the accounting period—
 - (i) begins on or after the commencement day; and
 - (ii) ends on or before the day appointed for the purposes of section 10;

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- (b) the company carries on pension business for the whole or part of the accounting period; and
- (c) the company makes a claim for a provisional repayment for the accounting period;

and in this paragraph “transitional accounting period” means an accounting period in relation to which this paragraph applies.

- (2) An insurance company shall be entitled—
 - (a) to make a claim for payment of a tax credit in respect of any income of a transitional accounting period, and
 - (b) to make a claim for the purposes of section 7(5), so far as relating to section 7(2) or 11(3), in respect of any income tax falling to be set off against corporation tax for a transitional accounting period,
 (and may do so whether or not the income in question is referable to the company’s pension business).
- (3) For the purposes of sub-paragraph (2) above, sections 7(2) and 11(3) shall have effect in relation to a transitional accounting period as if the words from “and accordingly” to the end, in each provision, were omitted.
- (4) A claim under sub-paragraph (2) above may only be made at such time or within such period as the Board may by regulations provide.
- (5) In the application of this Schedule in relation to a transitional accounting period, paragraph 1 above shall have effect as if the reference in each of sub-paragraphs (7) and (10) to a claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act were a reference to a claim under paragraph (a) or (b) of sub-paragraph (2) above.
- (6) If and to the extent that the provisions of section 826, or of section 87A of the Management Act, would not, apart from this sub-paragraph, have effect in relation to a transitional accounting period, they shall be treated as having effect for all purposes in relation to that accounting period; and—
 - (a) in the application of section 826 by virtue of this sub-paragraph, the reference in subsection (1)(a) of that section to an accounting period which ends after the appointed day shall be treated as a reference to a transitional accounting period; and
 - (b) in the application of section 87A of the Management Act by virtue of this sub-paragraph, corporation tax shall be taken to become due and payable on the day following the expiration of the period within which it is required under section 10(1)(b) to be paid.
- (7) If and to the extent that the amendments of section 30 of the Management Act specified in subsections (1) to (4) of section 88 of the Finance (No.2) Act 1987 would not, apart from this sub-paragraph, have effect in relation to a transitional accounting period, they shall be treated as having effect for all purposes in relation to that transitional accounting period.
- (8) Subsection (7) of section 88 of the Finance (No.2) Act 1987 shall have effect for the purposes of sub-paragraph (7) above as if the reference in paragraph (a) of that subsection to accounting periods ending after the appointed day were a reference to transitional accounting periods.

- (9) In this paragraph “the commencement day” means the day appointed under section 49 of the Finance Act 1991.

Interpretation

- 6 (1) In this Schedule—
- “provisional fraction” shall be construed in accordance with paragraphs 1(3), (4)(b) and 2 above;
 - “provisional repayment” means a provisional repayment under paragraph 1 above;
 - “provisional repayment period” shall be construed in accordance with paragraph 1 above.
- (2) Any reference in this Schedule to a provisional repayment for an accounting period is a reference to a provisional repayment for a provisional repayment period falling within that accounting period.
- (3) Until an insurance company makes a return under section 11 of the Management Act as amended by section 82 of the Finance (No.2) Act 1987, paragraph 1(4) above shall have effect in relation to that company as if for paragraph (a) there were substituted—
- “(a) “information” means any information contained in a return under section 11 of the Management Act as that section has effect apart from section 82 of the Finance (No.2) Act 1987; and”.