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SCHEDULES

SCHEDULE 11

Section 99.

LOAN RELATIONSHIPS: SPECIAL PROVISIONS FOR INSURERS

Modifications etc. (not altering text)

- C1** Sch. 11 modified (*retrospective* to 1.1.1995) by S.I. 1997/473, **reg. 53**
Sch. 11 modified (13.10.1999) by S.I. 1997/473, **reg. 53ZA** (as inserted (13.10.1999) by S.I. 1999/2636, **reg. 6**)

PART I

INSURANCE COMPANIES

Modifications etc. (not altering text)

- C2** Sch. 11 Pt. I applied (with modifications) (29.4.1996) by 1994 c. 9, s.169, **Sch. 18 para. 1** (as substituted (29.4.1996) by 1996 c. 8, s.104, **Sch. 14 para. 79** (with saving in Pt. IV Ch. II))
Sch. 11 Pt. I applied (with modifications) (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), s. 83(1), **Sch. 26 Pt. 8 para. 42**

I minus E basis

- 1 (1) Nothing in this Chapter shall be construed as preventing profits and gains arising from loan relationships of an insurance company from being included, where—
- (a) the relationship is referable to any life assurance business or capital redemption business carried on by the company, and
 - (b) that business is business in respect of which the I minus E basis is applied, in profits and gains on which the company is chargeable to tax in accordance with that basis.
- (2) Where, for any accounting period, the I minus E basis is applied in respect of any life assurance business or capital redemption business carried on by an insurance company, the effect of applying that basis shall be—
- (a) that none of the credits or debits falling for the purposes of this Chapter to be brought into account in respect of loan relationships of the company that are referable to that business shall be brought into account as mentioned in section 82(2) of this Act; but
 - (b) that (subject to the following provisions of this Schedule) all those credits and debits shall, instead, be brought into account, in applying that basis

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to that business, as non-trading credits or, as the case may be, non-trading debits;
 and the reference in paragraph 2(1) below to non-trading credits and non-trading debits shall be construed accordingly.

Modifications etc. (not altering text)

C3 Sch. 11 para. 1(1)(a)(2) modified (23.3.1999) by S.I. 1999/498, reg. 15(2)

Rules for different categories of business

- 2 (1) Where an insurance company carries on basic life assurance and general annuity business or capital redemption business or both of them, a separate computation, using only the non-trading credits and non-trading debits referable to the business in question, shall be made for the purposes of this Chapter in relation to that business or, as the case may be, in relation to each of them.
- (2) References in any enactment to the computation of any profits of an insurance company in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D shall have effect as if those provisions included the provisions of this Chapter but, in accordance with sub-paragraph (3) below, only to the extent that they relate to the bringing into account in accordance with section 82(2) of this Act of credits and debits in respect of a company's debtor relationships.
- (3) Where an insurance company carries on—
- (a) life assurance business or any category of life assurance business, or
 - (b) capital redemption business,
- the credits and debits referable to that business, or category of business, that are given by this Chapter in respect of creditor relationships of the company shall be disregarded for the purposes of any computations falling to be made, in relation to that business or category of business, in accordance with provisions applicable to Case I of Schedule D.
- (4) Accordingly (and notwithstanding section 80(5) of this Act), the amounts which are to be brought into account in any computations such as are mentioned in sub-paragraph (3) above shall be determined under the provisions applicable apart from this Chapter.
- (5) To the extent that any profits of an insurance company in respect of any business or category of business fall to be computed in accordance with provisions applicable to Case I of Schedule D the credits and debits referable to that business or category of business that fall to be disregarded under sub-paragraph (3) above shall also be disregarded in any computations falling to be made for the purposes of this Chapter otherwise than in accordance with sub-paragraph (1) above.

Modifications etc. (not altering text)

C4 Sch. 11 para. 2(1)(3) modified (23.3.1999) by S.I. 1999/498, reg. 15(3)(a)(b)

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Apportionments

- 3 Where—
- (a) any creditor relationship of an insurance company is represented by an asset which is an asset of a fund of the company or is linked to any category of insurance business, and
 - (b) any question arises for the purposes of the Corporation Tax Acts as to the extent to which credits or debits given for the purposes of this Chapter in respect of that relationship are referable to any category of the company's long term business,
- section 432A of the Taxes Act 1988 (apportionment of insurance companies' income) shall have effect in relation to the credits and debits so given in respect of that relationship as it has effect in relation to the income arising from an asset.

VALID FROM 28/07/2000

- [^{F1}3A (1) This paragraph applies where—
- (a) any money debt of an insurance company is represented by a liability which is a liability of the long term business fund of the company; and
 - (b) any question arises for the purposes of the Corporation Tax Acts as to the extent to which any debits or credits given for the purposes of this Chapter in respect of that debt or liability are referable to any category of the company's long term business.
- (2) If any debits relate to interest payable in respect of the late payment of any benefits, they are referable to the category of long term business which comprises the effecting and carrying out of the policies or contracts under which the benefits are payable.
- (3) If the liability is a liability of an internal linked fund of the company, any debits or credits are referable—
- (a) to the category of long term business to which the fund relates; or
 - (b) where the fund relates to two or more categories of such business, to those categories in the same proportion as the linked assets in the fund are apportioned to them under section 432ZA(4) of the Taxes Act 1988 (linked assets).
- (4) In any case not falling within sub-paragraph (2) or (3) above, there shall be referable to any category of long term business the relevant fraction of any debits or credits.
- (5) For the purpose of determining that fraction, subsections (6) and (8) of section 432A of the Taxes Act 1988 (apportionment of income and gains) shall have effect as if—
- (a) the debits or credits were income not directly referable to any category of business;
 - (b) the reference in subsection (6)(a) to assets directly referable to a category of business were a reference to assets linked to that category of business; and
 - (c) subsection (9) of that section were omitted.

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(6) In this paragraph “internal linked fund” has the same meaning as in section 432ZA of the Taxes Act 1988 (linked assets).]

Textual Amendments

F1 Sch. 11 para. 3A inserted (28.7.2000 with effect in relation to accounting periods beginning on or after 1.1.2000 and ending on or after 21.3.2000) by 2000 c. 17, s. 109(8)(10)

Treatment of deficit

- 4 (1) Where, in the case of any insurance company, a non-trading deficit on its loan relationships is produced for any accounting period (“the deficit period”) by any separate computation made under paragraph 2 above for—
- (a) basic life assurance and general annuity business, or
 - (b) capital redemption business,
- the following provisions of this paragraph shall apply in relation to that deficit, instead of section 83 of, and Schedule 8 to, this Act.
- (2) On a claim made by the company in relation to the whole or any part of the deficit—
- (a) the amount to which the claim relates shall be set off against any net income and gains of the deficit period referable to the relevant category of business and arising or accruing otherwise than in respect of loan relationships; and
 - (b) the amount of the net income and gains against which it is set off shall be treated as reduced accordingly;
- and any such reductions shall be made before any deduction by virtue of section 76 of the Taxes Act 1988 of any expenses of management.
- (3) Subject to the following provisions of this paragraph, on a claim made by the company in relation to the whole or any part of so much (if any) of the deficit as exceeds the amount of the net income and gains for the deficit period that are referred to in sub-paragraph (2)(a) above, the amount to which the claim relates shall be—
- [^{F2}(a) carried back to accounting periods falling wholly or partly within the period of twelve months immediately preceding the deficit period; and]
 - (b) in accordance with sub-paragraph (5) below, set against the eligible profits of the company for [^{F3}up to three such periods].
- (4) If the whole or any amount of the deficit is not set off under sub-paragraph (2) or (3) above, so much of it as is not set off shall be—
- (a) carried forward to the accounting period immediately following the deficit period; and
 - (b) treated for the purposes of the Corporation Tax Acts (including the following provisions of this paragraph) as an amount to be included in the company’s expenses of management for the period following the deficit period.
- (5) Subject to sub-paragraph (6) below, where, in pursuance of a claim under sub-paragraph (3) above, any amount falls to be carried back to be set off against the eligible profits of the company for [^{F4}accounting periods falling wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above], that amount shall be set off against those profits as follows, that is to say—

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- (a) the amount shall be applied, up to the limit for the first set-off period, in reducing the company's eligible profit for that period;
 - (b) any remainder of that amount after the limit for the first set-off period is reached shall be applied, up to the limit for the second set-off period, in reducing the company's eligible profit for the second set-off period; and
 - (c) any remainder of that amount after the limit for the second set-off period has been reached shall be applied, up to the limit for the third set-off period, in reducing the company's eligible profit for the third set-off period.
- (6) No reduction shall be made in pursuance of any such claim in a company's eligible profit for any accounting period ending before 1st April 1996.
- (7) For the purposes of this paragraph the eligible profit of the company for an accounting period is the amount (if any) which, in pursuance of any separate computation made for that period for the relevant category of business, is chargeable to tax for that period under Case III of Schedule D as profits and gains arising from the company's loan relationships.
- (8) For the purposes of this paragraph—
- (a) the first set-off period is the accounting period immediately preceding the deficit period,
 - (b) the second set-off period is the accounting period [^{F5}(if any) which falls wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above and immediately precedes] the first set-off period,
 - (c) the third set-off period is the accounting period [^{F5}(if any) which falls wholly or partly within the period of twelve months mentioned in sub-paragraph (3) (a) above and immediately precedes] the second set-off period, and
 - (d) the limit for a set-off period is the amount equal to the adjusted amount of the company's eligible profit for that period.
- (9) In sub-paragraph (8) above, the reference to the adjusted amount of a company's eligible profit for a set-off period is [^{F6}(subject to sub-paragraph (9A) below)] a reference to so much (if any) of the company's eligible profit for that period as remains after reducing it by an amount equal to the unused part of the relevant deductions for that period.
- [^{F7}(9A) Where a set-off period falls only partly within the period of twelve months mentioned in sub-paragraph (3)(a) above, the adjusted amount of a company's eligible profit for that period shall be taken to be confined to the part of the amount computed under sub-paragraph (9) above which is proportionate to the part of the set-off period that falls within that period of twelve months.]
- (10) For the purposes of sub-paragraph (9) above the unused part of the relevant deductions for any set-off period is the amount (if any) by which the aggregate of—
- (a) so much of the amount of any deductions for the set-off period by virtue of section 76 of the Taxes Act 1988 as is referable to the relevant category of business, and
 - (b) so much of the aggregate of the deductions made in the case of the company in respect of charges on income for that period as is so referable,
- exceeds the aggregate of the amounts referable to the relevant category of business that could for that period be applied in making deductions by virtue of that section, or in respect of charges on income, if the eligible profit of the company for that period were disregarded.

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- (11) In sub-paragraph (10) above, the references, in relation to a claim under sub-paragraph (3) above (“the relevant claim”), to deductions by virtue of section 76 of the Taxes Act 1988 for a set-off period are references to the deductions by way of management expenses that would have fallen to be made by virtue of that section for that period if—
- (a) no account were taken of either—
 - (i) the relevant claim; or
 - (ii) any claim under sub-paragraph (3) above relating to a deficit for an accounting period after the deficit period;
 but
 - (b) there were made all such adjustments required by virtue of any sum having been carried back to that set-off period—
 - (i) under the Corporation Tax Acts, but
 - (ii) otherwise than in pursuance of the relevant claim or of any other such claim as is mentioned in paragraph (a) above.
- (12) Where—
- (a) in pursuance of a claim under sub-paragraph (3) above any amount is set-off against the eligible profit of a company for any set-off period, and
 - (b) there is a section 76(5) amount for that period which is attributable to that claim,
- that section 76(5) amount shall not be carried forward by virtue of section 75(3) of the Taxes Act 1988 but, if that set-off period is the first or second set-off period, sub-paragraph (13) below shall apply to that amount instead.
- (13) Where this sub-paragraph applies to a section 76(5) amount for any set-off period, the amount available in accordance with sub-paragraph (5) above to be carried back from that set-off period to be set off against eligible profits of previous set-off periods (or, as the case may be, against the eligible profit of the previous set-off period) shall be treated as increased by an amount equal to the amount to which this sub-paragraph applies.
- (14) In relation to any claim under sub-paragraph (3) above, the amount which for any set-off period is, for the purposes of this paragraph, to be taken to be the section 76(5) amount attributable to that claim is the amount (if any) by which the amount specified in paragraph (a) below is exceeded by the amount specified in paragraph (b) below, that is to say—
- (a) the amount that would have fallen to be carried forward by virtue of section 75(3) of the Taxes Act 1988 if the claim had not been made; and
 - (b) the amount which, after the making of the claim, would have fallen to be carried forward to a subsequent period by virtue of section 75(3) of that Act if sub-paragraphs (12) and (13) above, so far as they relate to that claim, were to be disregarded.
- (15) A claim for the purposes of sub-paragraph (2) or (3) above must be made within the period of two years immediately following the end of the deficit period or within such further period as the Board may allow.
- (16) In this paragraph—
- “net income and gains” has the meaning given by subsection (1) of section 76 of the Taxes Act 1988; and

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“the relevant category of business”, in relation to a deficit, means the category of business in relation to which the deficit was produced.

Textual Amendments

- F2** Sch. 11 para. 4(3)(a) substituted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(3)(a)
- F3** Words in Sch. 11 para. 4(3)(b) substituted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(3)(b)
- F4** Words in Sch. 11 para. 4(5) substituted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(4)
- F5** Words in Sch. 11 para. 4(8)(b)(c) substituted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(5)
- F6** Words in Sch. 11 para. 4(9) inserted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(6)
- F7** Sch. 11 para. 4(9A) inserted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(6)

Modifications etc. (not altering text)

- C5** Sch. 11 para. 4(1)(2)(a)(7)(10)(16) modified (23.3.1999) by S.I. 1999/498, reg. 15(4)(a)-(e)

Election for accruals basis for long term business assets

- 5 (1) Subject to sub-paragraphs (3) to (6) below, sub-paragraph (2) below applies for any accounting period to so much of any creditor relationship of an insurance company as—
- (a) for the whole or any part of that period is an asset within one of the categories set out in section 440(4)(d) and (e) of the Taxes Act 1988 (assets held for certain categories of long term business); and
 - (b) is an asset in relation to which an election under this paragraph is made by the company for that period.
- (2) Where—
- (a) this sub-paragraph applies for any accounting period to any asset, and
 - (b) apart from this paragraph, a mark to market basis of accounting would have had to be used for the purposes of this Chapter as respects that asset for the whole or any part of that period,
- this Chapter shall have effect as if an authorised accruals basis of accounting had to be used for the purposes of this Chapter as respects that asset for that period or part.
- (3) Sub-paragraph (2) above shall not apply to any holding to which paragraph 4(3) of Schedule 10 to this Act applies.
- (4) An election under this paragraph shall not be made except by notice in writing given to an officer of the Board not more than three months after the end of the accounting period to which the election relates.
- (5) An election under this paragraph shall be irrevocable, and shall not be varied, once it has been made.

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- (6) An election shall not be made under this paragraph for any accounting period ending after 31st March 1998.
- (7) The Treasury may, if they think fit, by order—
- (a) amend sub-paragraph (6) above to substitute a later date for the date for the time being specified in that sub-paragraph; or
 - (b) repeal that sub-paragraph.

Interpretation of Part I

- 6 In this Part of this Schedule—
- “basic life assurance and general annuity business” and “long term business” have the same meanings as in Chapter I of Part XII of the Taxes Act 1988;
- “capital redemption business” means any capital redemption business, within the meaning of section 458 of that Act, which is business to which that section applies;
- “the I minus E basis” means the basis commonly so called (under which a company carrying on life assurance business or capital redemption business is charged to tax on that business otherwise than under Case I of Schedule D);
- “life assurance business” includes any annuity business within the meaning of Chapter I of Part XII of that Act.

Modifications etc. (not altering text)

C6 Sch. 11 para. 6 modified (23.3.1999) by S.I. 1999/498, reg. 15(5)

PART II

CORPORATE MEMBERS OF LLOYD’S

- 7 (1) This Chapter does not apply as respects any loan relationship of a corporate member of Lloyd’s in so far as rights or liabilities making up that relationship, or any securities representing them, are—
- (a) assets forming part of that member’s premiums trust fund; or
 - (b) liabilities attached to that fund.
- (2) Section 230 of the ^{M1}Finance Act 1994 (interpretation of provisions applying to corporate members of Lloyd’s) shall apply for the purposes of this paragraph as it applies for the purposes of Chapter V of Part IV of that Act.

Marginal Citations

M1 1994 c. 9.

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