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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 22. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 22 **U.K.**

Section 64

#### COMPUTATION OF PROFITS: ADJUSTMENT ON CHANGE OF BASIS

##### **PART 1 U.K.**

###### INTRODUCTION

###### *General scheme*

- 1 (1) Where there is a change of basis within section 64, one or more adjustments shall be made in accordance with this Schedule.
- (2) Any such adjustment shall be calculated and given effect in accordance with the provisions of Part 2 of this Schedule (general rules), subject to the provisions of Part 3 of this Schedule (special rules for certain cases).
- (3) Part 4 of this Schedule contains supplementary provisions and Part 5 provides for commencement.

##### **PART 2 U.K.**

###### GENERAL RULES

###### *Calculation of adjustment*

- 2 The amount of the adjustment is calculated as follows:

###### *First step*

Add together any amounts representing the extent to which, comparing the two bases, profits were understated (or losses overstated) on the old basis:

1. Receipts which on the new basis would have been brought into account in computing the profits of a period of account before the change of basis, to the extent that they were not so brought into account.
2. Expenses which on the new basis fall to be brought into account in computing the profits of a period of account after the change, to the extent that they were brought into account in computing the profits of a period of account before the change of basis.
3. Deductions in respect of opening trading stock or opening work in progress in the first period of account on the new basis, to the extent that they—
  - (a) are not matched by credits in respect of closing trading stock or closing work in progress in the last period of account before the change, or

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- (b) are calculated on a different basis that if used to calculate those credits would have given a higher figure.
4. Amounts recognised for accounting purposes in respect of depreciation in the last period of account before the change, to the extent that they were not the subject of an adjustment for [<sup>F1</sup>corporation tax purposes], where such an adjustment would be required on the new basis.

*Second step*

Then deduct any amounts representing the extent to which, comparing the two bases, profits were overstated (or losses understated) on the old basis:

1. Receipts which were brought into account in a period of account before the change, to the extent that they would not have been so brought into account if the profits had been computed on the new basis.
2. Expenses which were not brought into account in computing the profits of a period of account before the change, to the extent that they—
  - (a) would have been brought into account for a period of account before the change if the profits had been computed on the new basis, and
  - (b) would have been brought into account for a period of account after the change if the profits had continued to be computed on the old basis.
3. Credits in respect of closing trading stock or closing work in progress in the last period of account before the change of basis, to the extent that they—
  - (a) are not matched by deductions in respect of opening trading stock or opening work in progress in the first period of account on the new basis, or
  - (b) are calculated on a different basis that if used to calculate those deductions would have given a lower figure.

An amount so deducted may not be deducted again in computing the profits of a period of account.

**Textual Amendments**

- F1** Words in Sch. 22 para. 2 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(2\)](#) (with Sch. 2)

*Meaning of items being brought into account*

- 3 (1) The references in paragraph 2 to items being brought into account in a period of account before the change of basis are to their being brought into account—
- (a) in computing the profits of the same trade, profession or vocation, and
  - (b) in accordance with the law or practice then applicable.
- (2) For the purposes of sub-paragraph (1)(a) a trade [<sup>F2</sup>is not regarded as the same if section 337(1) of the Taxes Act 1988 applies (companies beginning or ceasing to carry on trade).]

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- (3) For the purposes of sub-paragraph (1)(b) the practice applicable in any case means the accepted practice in cases of that description as to how profits should be computed for the purposes of Case I or II of Schedule D.

#### Textual Amendments

- F2** Words in Sch. 22 para. 3(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(3\)](#) (with Sch. 2)

#### *Giving effect to positive adjustment*

- [<sup>F3</sup> If the amount of the adjustment is positive, it is chargeable to corporation tax and is treated as receipt of the trade, profession or vocation arising on the last day of the first period of account for which the new basis is adopted.]

#### Textual Amendments

- F3** Sch. 22 para. 4 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(4\)](#) (with Sch. 2)

#### *Giving effect to negative adjustment*

- 5 (1) If the amount of the adjustment is negative, it is allowed as a deduction in computing profits.
- (2) An amount so allowed as a deduction in computing profits is treated as an expense of the trade, profession or vocation arising on the last day of the first period of account for which the new basis is adopted.

### **PART 3** **U.K.**

#### SPECIAL RULES FOR CERTAIN CASES

#### *No adjustment for certain expenses previously brought into account*

- 6 (1) This paragraph applies where as a result of a change of basis expenses brought into account before the change on the old basis would on the new basis be brought into account over more than one period of account after the change.
- (2) In such a case—
- no adjustment shall be made under this Schedule, and
  - the expenses may not be deducted in computing the profits of the trade, profession or vocation for any period of account after the change.

#### *Cases where adjustment not required until asset realised or written off*

- 7 (1) This paragraph applies where there is a change of basis resulting from a tax adjustment affecting the calculation of—
- any amount brought into account—

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- (i) in respect of closing trading stock or work in progress in the last period of account before the change of basis, or
  - (ii) in respect of opening trading stock or work in progress in the first period of account on the new basis, or
  - (b) any amount brought into account in respect of depreciation.
- (2) The adjustment required by paragraph 2 in such a case shall be brought into account only when the asset to which it relates is realised or written off.

*Change from realisation basis to mark to market*

- 8 (1) This paragraph applies where there is a change of basis from—
- (a) not recognising a profit or loss on an asset until the asset is realised, to
  - (b) bringing assets into account in each period of account at a fair value.
- (2) To the extent that in such a case—
- (a) a receipt within item 1 of the First step in paragraph 2 represents the fair value of an asset that is trading stock (within the meaning of section 100 of the Taxes Act 1988), or
  - (b) an expense within item 2 of that step relates to such an asset,
- any resulting adjustment shall not be given effect until the period of account in which the value of the asset in question is realised.

This is subject to any election under paragraph 9.

*Election for spreading where paragraph 8 applies*

- 9 (1) Where paragraph 8 applies the <sup>F4</sup>company which is chargeable to corporation tax] in respect of any adjustment charge may elect that the adjustment charge shall be spread over six periods of account in accordance with the following provisions.
- (2) The election must be made—
- (a) by notice in writing,
  - (b) to an officer of the Board,
  - (c) within <sup>F5</sup>twelve months of the end of the first accounting period to which the new basis applies].
- <sup>F6</sup>(3) . . . . .
- (4) If an election is made, then, in each of the six periods of account beginning with the first period to which the new basis applies an amount equal to one-sixth of the amount of the adjustment charge is treated as arising and chargeable to <sup>F7</sup>corporation tax].
- (5) If before the whole of the adjustment charge has been charged to <sup>F8</sup>corporation tax] the trade, profession or vocation is permanently discontinued, the whole of the amount so far as not previously brought into charge to <sup>F8</sup>corporation tax] is treated as arising and chargeable to <sup>F8</sup>corporation tax] immediately before the discontinuance.

**Textual Amendments**

**F4** Words in Sch. 22 para. 9(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(5\)\(a\)](#) (with Sch. 2)

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|-----------|---|
| <b>F5</b> | Words in Sch. 22 para. 9(2)(c) substituted (6.4.2005) by <a href="#">Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 578(5)(b)</a> (with Sch. 2) |
| <b>F6</b> | Sch. 22 para. 9(3) repealed (6.4.2005) by <a href="#">Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 578(5)(c), Sch. 3</a> (with Sch. 2)        |
| <b>F7</b> | Words in Sch. 22 para. 9(4) substituted (6.4.2005) by <a href="#">Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 578(5)(d)</a> (with Sch. 2)    |
| <b>F8</b> | Words in Sch. 22 para. 9(5) substituted (6.4.2005) by <a href="#">Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 578(5)(e)</a> (with Sch. 2)    |

*Application of paragraphs 8 and 9 in case of transfer of insurance business*

- 10 (1) This paragraph applies where—
- (a) an asset to which paragraph 8 or 9 applies is transferred from one insurance company to another in pursuance of a transfer scheme, and
  - (b) immediately after the transfer either—
    - (i) the transferee company is resident in the United Kingdom, or
    - (ii) the asset is held for the purposes of a business carried on by the transferee company in the United Kingdom through a [<sup>F9</sup>permanent establishment].
- (2) The asset shall not be regarded for the purposes of paragraph 8 as having been realised by the transferor by reason of its being transferred in pursuance of the transfer scheme.
- (3) If the transfer is of the entire business of the transferor, the transferee is responsible under paragraph 8 or 9 for bringing into account any amount required to be brought into account after the transfer.
- (4) In this paragraph—
- “insurance company” has the same meaning as in Chapter 2 of Part 12 of the Taxes Act 1988 (see section 431(2) of that Act); and
  - “transfer scheme” means—
    - (a) a scheme under section 105 of the Financial Services and Markets Act 2000 (c. 8), including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section, or
    - (b) a qualifying overseas transfer scheme.
- (5) A “qualifying overseas transfer scheme” means—
- (a) so much of a transfer of the whole or part of the business of an overseas life insurance company carried on through a [<sup>F10</sup>permanent establishment] in the United Kingdom as takes place in accordance with an authorisation granted outside the United Kingdom for the purposes of [<sup>F11</sup>Article 14 of the consolidated life assurance directive], or
  - (b) so much of a transfer of the whole or part of the business of an insurance company other than an overseas life insurance company as takes place in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 12 of the third non-life insurance directive.
- (6) In sub-paragraph (5)—
- “overseas life insurance company” has the same meaning as in Chapter 2 of Part 12 of the Taxes Act 1988 (see section 431(2) of that Act);

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[<sup>F12</sup>“the consolidated life assurance directive” means the Directive of the European Parliament and of the Council of 5th November 2002 concerning life assurance (No.2002/83/EC);]

“the third non-life insurance directive” means Council Directive 92/ 49/ EEC on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC.

#### Textual Amendments

- F9** Words in Sch. 22 para. 10(1)(b)(ii) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 153\(1\)\(e\)](#)
- F10** Words in Sch. 22 para. 10(5)(a) substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2004 \(S.I. 2004/2200\), regs. 1\(1\), 11\(3\)\(a\)\(i\)](#)
- F11** Words in Sch. 22 para. 10(5)(a) substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2004 \(S.I. 2004/2200\), regs. 1\(1\), 11\(3\)\(a\)\(ii\)](#)
- F12** Words in Sch. 22 para. 10(6) substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2004 \(S.I. 2004/2200\), regs. 1\(1\), 11\(3\)\(b\)](#)

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

- C1** Sch. 22 para. 10 modified by SI 1997/473 reg. 53F (as inserted (30.1.2003) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2003 \(S.I. 2003/23\), regs. 1\(1\), 10](#)

<sup>F13</sup>11 .....

#### Textual Amendments

- F13** Sch. 22 para. 11 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(6\), Sch. 3](#) (with Sch. 2)

<sup>F14</sup>12 .....

#### Textual Amendments

- F14** Sch. 22 para. 12 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(6\), Sch. 3](#) (with Sch. 2)

## PART 4 U.K.

### SUPPLEMENTARY PROVISIONS

#### *Application of provisions to partnerships*

- 13 (1) In the case of a trade, profession or vocation carried on in partnership, the amount of any adjustment under this Schedule shall be [<sup>F15</sup>computed as if the partnership were a company resident in the United Kingdom.]

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- (2) Subject to the following provisions of this paragraph—
- (a) each partner’s share of any amount chargeable to tax under this Schedule shall be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date on which the new basis was adopted; and
  - (b) any election under this Schedule must be made jointly by all the persons who have been members of the partnership in that twelve month period.

<sup>F16</sup>(3) .....

<sup>F16</sup>(4) .....

- (5) For the purposes of this paragraph—
- (a) “profit-sharing arrangements” means the rights of the partners to share in the profits of the trade, profession or vocation for the period in question; and
  - (b) references to the date on which a new basis was adopted are to the first day of the first period of account for which the new basis was adopted.

<sup>F17</sup>(6) .....

**Textual Amendments**

- F15** Words in Sch. 22 para. 13(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(7\)\(a\)](#) (with Sch. 2)
- F16** Sch. 22 para. 13(3)(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(7\)\(b\), Sch. 3](#) (with Sch. 2)
- F17** Sch. 22 para. 13(6) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(7\)\(b\), Sch. 3](#) (with Sch. 2)

<sup>F18</sup>14 .....

**Textual Amendments**

- F18** Sch. 22 para. 14 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(8\), Sch. 3](#) (with Sch. 2)

*Interpretation*

[<sup>F19</sup>15 In this Schedule “adjustment charge” means a charge under Part 2 of this Schedule.]

**Textual Amendments**

- F19** Sch. 22 para. 15 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 578\(9\)](#) (with Sch. 2)

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## PART 5 U.K.

### COMMENCEMENT

#### *General rule*

- 16 The provisions of this Schedule apply to a change of basis taking effect in a period of account ending on or after 1st August 2001.

#### *Application of provisions to certain earlier changes of basis*

- 17 (1) So far as they relate to a change of basis within—
- (a) paragraph 6 (no adjustment for certain expenses previously brought into account), or
  - (b) paragraph 8 (change from realisation basis to mark to market),
- the provisions of this Schedule apply to a change of basis taking effect in a period of account ending before 1st August 2001 if a relevant return is delivered or voluntarily amended by the taxpayer on or after that date.
- (2) For the purposes of sub-paragraph (1) a “relevant return” means—
- <sup>F20</sup>(a) .....
  - (b) a partnership return, or
  - (c) a company tax return,
- for the period in which the change of basis took effect or a subsequent period of account ending before 1st August 2001.
- (3) The reference in sub-paragraph (1) to the voluntary amendment of such a return is to—
- (a) an amendment under <sup>F21</sup>... 12ABA of the Taxes Management Act 1970 (amendment of <sup>F21</sup>... partnership return by taxpayer), or
  - (b) an amendment of a company tax return by the company otherwise than in response to a closure notice.
- (4) An adjustment that would be required by virtue of this paragraph to be given effect in a period of account ending before 1st August 2001 shall be given effect in the first period of account ending on or after that date.

#### **Textual Amendments**

**F20** Sch. 22 para. 17(2)(a) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 578(10)(a), [Sch. 3](#) (with Sch. 2)

**F21** Words in Sch. 22 para. 17(3) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), Sch. 1 para. 578(10)(b), [Sch. 3](#) (with Sch. 2)

#### *Period in which change of basis takes effect*

- 18 The references in paragraphs 16 and 17 to the period of account in which a change of basis takes effect are to the first period of account in which the new basis is adopted.



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