

Status: Point in time view as at 21/07/2008.

Changes to legislation: Finance Act 2003, Cross Heading: Case I profits is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 33

INSURANCE COMPANIES

Case I profits

- 1 (1) For section 82 of the Finance Act 1989 (c. 26) (calculation of profits of insurance company in respect of life assurance business when computed in accordance with provisions applicable to Case I of Schedule D) substitute—

“82 Calculation of profits: bonuses etc

- (1) This section and sections 82A and 82B below have effect where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D.
- (2) Any amounts which are allocated to policy holders or annuitants in respect of a period of account are allowed as a deduction in calculating the profits for the period of account.
- (3) For the purposes of subsection (2) above, an amount is allocated to policy holders or annuitants if (but only if)—
 - (a) bonus payments are made to them,
 - (b) reversionary bonuses are declared in their favour, or
 - (c) a reduction is made in the premiums payable by them.
- (4) Where an amount is allocated to policy holders or annuitants for the purposes of subsection (2) above, the amount of the allocation is—
 - (a) in the case of bonus payments, the amount of the payments,
 - (b) in the case of declared reversionary bonuses, the amount of the liabilities assumed by the company in consequence of the declaration, and
 - (c) in the case of a reduction in premiums, the amount of the liabilities assumed by the company in consequence of the reduction.

82A Calculation of profits: policy holders' tax

- (1) Tax expended on behalf of policy holders or annuitants is allowed as a deduction in calculating the profits to the extent (but only to the extent) that regulations made by the Treasury so provide.
- (2) The regulations may include provision for tax so expended to be so allowed even if it is not brought into account.
- (3) The regulations—

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- (a) may make different provision for different cases, and
- (b) may include provision having effect in relation to periods of account during which they are made.

82B Unappropriated surplus on valuation

- (1) This section applies in relation to a period of account of the insurance company (“the period of account in question”) where—
 - (a) at the end of the period of account in question the company has an unappropriated surplus on valuation as shown in the return deposited with the Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers) (an “unappropriated surplus”), and
 - (b) the company has not made an election in accordance with Rule 4.1(6) of the Prudential Sourcebook (Insurers) covering the period of account in question.
- (2) Where the company did not have an unappropriated surplus at the end of the period of account immediately preceding the period of account in question, so much of the unappropriated surplus at the end of the period of account in question as is required to meet the duty of fairness is allowed as a deduction in calculating the profits for the period of account in question.
- (3) Where the company did have an unappropriated surplus at the end of that immediately preceding period of account—
 - (a) if so much of the unappropriated surplus at the end of the period of account in question as is required to meet the duty of fairness exceeds so much of the unappropriated surplus at the end of that immediately preceding period of account as was required to meet that duty, the excess is allowed as a deduction in calculating the profits for the period of account in question, but
 - (b) if so much of the unappropriated surplus at the end of that immediately preceding period of account as was required to meet the duty of fairness exceeds so much of the unappropriated surplus at the end of the period of account in question as is required to meet that duty, the excess is to be taken into account as a receipt of the period of account in question.
- (4) In arriving for the purposes of this section at the amount of the unappropriated surplus which is or was required to meet the duty of fairness there is to be deducted the aggregate of amounts which—
 - (a) for periods of account ending before 14th March 1989 (and the first notional period of account, within the meaning of section 82 above as originally enacted) have been excluded, by virtue of section 433 of the Taxes Act 1988, as being reserved for policy holders or annuitants, and
 - (b) have not before that date either been allocated to or expended on behalf of policy holders or annuitants or been treated as profits of an accounting period on ceasing to be so reserved.
- (5) References in this section to the company’s duty of fairness are to the company’s duty to treat its policy holders and annuitants fairly with regard to terminal bonuses.”.

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- ^{F1}(2)
- (3) In section 436(3)(a) of the Taxes Act 1988 (pension business: separate charge on profits)—
- ^{F2}(a)
- (b) omit the words after “modifications”.
- (4) In sections 439B(3)(a) and 441(4)(a) of the Taxes Act 1988 (life reinsurance business and overseas life insurance business: separate charge on profits)—
- ^{F3}(a)
- (b) omit “and in particular with the omission of the words “and any amounts of tax which are expended on behalf of” in section 82(1)(a)”.
- (5) This paragraph has effect for periods of account beginning on or after 1st January 2003.
- (6) In relation to the first period of account of an insurance company beginning on or after that date, section 82B of the Finance Act 1989 (c. 26) (inserted by subparagraph (1)) applies as if the references in it to so much of the unappropriated surplus at the end of the immediately preceding period of account as was required to meet the company’s duty of fairness were to any amount included in the closing liabilities of the period of account by virtue of section 82(1)(b) of that Act as originally enacted.

Textual Amendments

- F1** Sch. 33 para. 1(2) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F2** Sch. 33 para. 1(3)(a) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)
- F3** Sch. 33 para. 1(4)(a) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

- 2 (1) Section 83 of the Finance Act 1989 (receipts etc to be taken into account in Case I computations) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) There shall be taken into account as receipts of a period of account amounts (so far as referable to that business) brought into account for the period of account as—
- (a) investment income receivable before deduction of tax,
- (b) an increase in the value of non-linked assets,
- (c) an increase in the value of linked assets, or
- (d) other income;
- and if amounts (so far as so referable) are brought into account for a period of account as a decrease in the value of non-linked assets or a decrease in the value of linked assets they shall be taken into account as an expense of the period of account.
- (2A) But subsection (2) above does not require to be taken into account as receipts of a period of account so much of the amounts brought into account as mentioned in paragraphs (a) to (d) of that subsection for the period of account as—

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- (a) is entirely notional because an amount corresponding to it would fall to be brought into account as an expense (for that or any other period of account),
- (b) is exempted by section 444AC(2) of the Taxes Act 1988 (transfers of business), or
- (c) consists of interest paid under section 826 of the Taxes Act 1988 (interest on tax overpaid) in respect of a repayment or payment relating to an accounting period of the company ending before 1st July 1999;

but, subject to that, the whole of the amounts so brought into account for a period of account shall be taken into account as receipts of the period of account.

(2B) If any assets of the company’s long-term insurance fund are transferred by the company so that they cease to be assets of that fund, but the transfer is not brought into account as part of total expenditure for the period of account in which the transfer takes place or any earlier period of account, the fair value of the assets at the time of the transfer shall be deemed to be brought into account for the period of account in which the transfer takes place as an increase in the value of the assets of that fund unless the assets are excluded from this subsection by—

- (a) subsection (2C) or (2D) below, or
- (b) section 444AD of the Taxes Act 1988 (transfers of business).

(2C) Assets transferred to discharge liabilities in respect of deposits received from reinsurers or arising out of insurance operations, debenture loans or amounts borrowed from credit institutions are included in subsection (2B) above only if the deposits, loans or amounts borrowed—

- (a) were brought into account for any period of account, but
- (b) were not taken into account as receipts of the period of account under subsection (2) above.

(2D) Assets are excluded from subsection (2B) above if they are transferred for at least their fair value and the consideration for their transfer, when received, forms part of the company’s long-term insurance fund.

(2E) If subsection (2B) above applies in relation to the transfer of all the assets of the company’s long term insurance fund in accordance with—

- (a) an insurance business transfer scheme, or
- (b) a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State),

the reference in that subsection to an amount being deemed to be brought into account for the period of account in which the transfer takes place is to its being so deemed for the period of account ending immediately before the transfer takes place.”

^{F4}(3)

^{F5}(4)

(5) In subsection (5), omit paragraph (b) and the word “but” before it.

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- ^{F6}(6)
- (7) Subsection (8) is amended as follows.
- (8) After the definition of “demutualisation” insert—
- ““fair value”, in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount;”.
- (9) In the definition of “total reinsurance”, omit “before the making of the contract of reinsurance (or, in a case where there are two or more contracts of reinsurance, the last of them)”.
- (10) In the sidenote, for “brought” substitute “ taken ”.
- (11) Sub-paragraph (6) has effect in relation to contracts of reinsurance made on or after 9th April 2003; and sub-paragraph (9) has effect in relation to reinsurance effected by a single contract made on or after that date or by two or more contracts each of which is made on or after that day.
- (12) But, subject to that, this paragraph has effect for periods of account beginning on or after 1st January 2003.

Textual Amendments

- F4** Sch. 33 para. 2(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)
- F5** Sch. 33 para. 2(4) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)
- F6** Sch. 33 para. 2(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

^{F73}

Textual Amendments

- F7** Sch. 33 para. 3 omitted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 3\(b\)](#)

- 4 (1) In section 83AA of the Finance Act 1989 (c. 26) (amounts added to long-term insurance fund of a company in excess of company’s loss), omit—
- (a) subsections (3) to (5),
- (b) subsection (6)(a),
- (c) subsection (7)(b) and the word “and” before it, and
- (d) in subsection (10), the definitions of “the relevant accounting period” and “the transferor company”.
- (2) Sub-paragraph (1) has effect for periods of account beginning on or after 1st January 2003.
- 5 (1) In section 83AB(1)(c) of the Finance Act 1989 (treatment of surplus where there is a subsequent transfer of business from company etc)—
- (a) omit sub-paragraph (i), and
- ^{F8}(b)

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(2) Sub-paragraph (1) has effect for periods of account beginning on or after 1st January 2003.

Textual Amendments
F8 Sch. 33 para. 5(1)(b) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(9\)](#)

6 ^{F9}(1)

(2) Section 89 of that Act (meaning of policy holders' share of profits) is amended as follows.

(3) In subsection (1), for the words after “references to” substitute—

- “(a) in a case where there are no Case I profits of the company for the period in respect of its life assurance business, the amount of the relevant profits, and
- (b) in any other case, the amount arrived at in accordance with subsection (1A) below.”.

(4) After that subsection insert—

“(1A) An amount is arrived at in accordance with this subsection by—

- (a) deducting from any profits of the company for the period chargeable under Case VI of Schedule D under sections 436, 439B and 441 of the Taxes Act 1988 (as reduced by any losses under those sections and any charges on income referable to any category of business other than basic life assurance and general annuity business) so much of the Case I profits of the company for the period in respect of its life assurance business as does not exceed the amount of any profits of the company for the period so chargeable, and
- (b) deducting any remaining Case I profits of the company for the period in respect of its life assurance business from any BLAGAB profits of the company for the period.

(1B) For the purposes of this section, the BLAGAB profits of a company for an accounting period are the income and chargeable gains referable to the company’s basic life assurance and general annuity business reduced by the aggregate amount of—

- (a) any non-trading deficit on the company’s loan relationships,
- (b) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and
- (c) charges on income,

so far as referable to the company’s basic life assurance and general annuity business.”.

(5) In subsection (2), for “subsection (1)” substitute “ subsections (1) and (1A) ”.

^{F10}(6)

(7) In—

^{F11}(a)

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- (b) the second sentence of section 434A(3) of that Act (computation of losses and limitation on relief),
for “88” substitute “ 89 ”.
- (8) In section 434A(2)(a)(i) of the Taxes Act 1988 (computation of losses and limitation on relief), for “for the period, otherwise than in accordance with those provisions, the profits or losses of the company’s life assurance business” substitute “ , otherwise than in accordance with those provisions, the relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of the company for the period ”.
- (9) In section 437(1A) of the Taxes Act 1988 (general annuity business), for “profits for any accounting period of a company’s life assurance business” substitute “ relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period ”.
- (10) In paragraph 16(1) of Schedule 7 to the Finance Act 1991 (c. 31) (transitional relief for old general annuity contracts), for “profits for any accounting period of an insurance company’s life assurance business” substitute “ relevant profits (within the meaning of section 88(1) of the Finance Act 1989) of an insurance company for any accounting period ”.
- (11) Section 89(1B) of the Finance Act 1989 (c. 26) (inserted by sub-paragraph (4)) has effect for the purposes of section 210A of the Taxation of Chargeable Gains Act 1992 (c. 12) (inserted by paragraph 14(1)) in relation to any accounting period of a company if it is necessary under that section to determine the company’s BLAGAB profits for the period.
- (12) But, subject to that, this paragraph has effect for accounting periods ending on or after 9th April 2003.

Textual Amendments

- F9** Sch. 33 para. 6(1) omitted (with effect in accordance with Sch. 17 para. 18(6) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 18\(5\)\(e\)](#)
- F10** Sch. 33 para. 6(6) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F11** Sch. 33 para. 6(7)(a) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

F127

Textual Amendments

- F12** Sch. 33 para. 7 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(8\)](#)

8 ^{F13}(1)

- (2) In section 87(6)(b) of the Finance Act 1989 (c. 26) (management expenses), omit “, disregarding section 76(1)(e) of that Act (as set out in subsection (2) above),”.
- (3) In paragraph 4 of Schedule 11 to the Finance Act 1996 (c. 8) (non-trading deficits on loan relationships)—
- (a) in sub-paragraph (2), omit “net” (in both places), and
- (b) in sub-paragraph (16), omit the definition of “net income and gains”.

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- (4) This paragraph has effect for accounting periods beginning on or after 1st January 2003 except those ending before 9th April 2003.

Textual Amendments
F13 Sch. 33 para. 8(1) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)

F14g

Textual Amendments
F14 Sch. 33 para. 9 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

- 10 (1) Section 432E of the Taxes Act 1988 (apportionment of receipts brought into account: participating funds) is amended as follows.

F15(2)

- (3) In subsection (2), omit—
 - (a) paragraph (a), and
 - (b) in paragraph (b), the words “in any other case,”.

- (4) After subsection (2) insert—
 - “(2A) In a case where an amount is taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of subsection (2B) of that section, the amount determined under subsection (2) above is increased by—

$$\frac{CAS}{AS} \times RP$$

where—
 CAS and AS have the same meanings as in subsection (2) above; and
 RP is the amount taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of subsection (2B) of that section.”.

- (5) This paragraph has effect for periods of account beginning on or after 1st January 2003; but sub-paragraph (3) does not have effect in relation to any periods of account ending before 9th April 2003.

Textual Amendments
F15 Sch. 33 para. 10(2) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

- 11 (1) In section 804B(7) of the Taxes Act 1988 (double taxation relief: insurance companies carrying on more than one category of business)—
 - (a) in paragraph (a), for “that net amount which is referable by virtue of section 432E to that category” substitute “ the investment income taken into account in that determination which would be referable to that category

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by virtue of section 432E if the investment income were the only amount included in the net amount”, and

(b) in paragraph (b), for “net amount” substitute “ investment income ”.

(2) Section 804C of the Taxes Act 1988 (insurance companies: allocation of expenses etc in computations under Case I of Schedule D) is amended as follows.

(3) In subsections (4) and (5), for “relevant amount” substitute “ relevant income ”.

(4) For subsection (13) substitute—

“(13) For the purposes of the operation of this section in relation to any income or gain in respect of which credit falls to be allowed under any arrangements, the amount of the income or gain that is referable to a category of insurance business is the same fraction of the income and gain as the fraction of the foreign tax that is attributable to that category of business in accordance with section 804B.”.

(5) This paragraph has effect for accounting periods beginning on or after 1st January 2003 except those ending before 9th April 2003.

12 ^{F16}(1)

(2) In section 434(3A) of the Taxes Act 1988 (franked investment income etc), for “The policy holders' share of the franked investment income from investments held in connection with a company's” substitute “ So much of the policy holders' share of the franked investment income from investments of a company's long-term insurance fund as is referable to its ”.

(3) In section 441(1) and (2) of the Taxes Act 1988 (overseas life assurance business), omit “and section 441A”.

(4) In section 89(2)(b) of the Finance Act 1989 (c. 26) (policy holders' share of profits), for “franked investment income arising in the period which is” substitute “ distributions received from companies resident in the United Kingdom in the period which are ”.

(5) Apart from sub-paragraph (3), this paragraph has effect in relation to distributions on or after 9th April 2003.

Textual Amendments

F16 Sch. 33 para. 12(1) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)

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