

SCHEDULES

SCHEDULE 11

Section 42

TECHNICAL PROVISIONS MADE BY GENERAL INSURERS

Restriction on amount of technical provisions made by general insurers

- 1 (1) This paragraph applies if a general insurer makes any technical provisions for a period of account.
- (2) The amount of the technical provisions stated in the accounts for that period is to be taken into account in the calculation for tax purposes of the profits of the general insurer's trade for that period unless an officer of Revenue and Customs considers that that amount exceeds the appropriate amount.
- (3) In that case—
 - (a) the excess is not to be taken into account in that calculation, and
 - (b) the profits of the general insurer's trade for the next period of account are to be adjusted accordingly for tax purposes.
- (4) "The appropriate amount" means such amount as is determined in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs to be the appropriate amount to be taken into account in that calculation.
- (5) Any such determination must be made by reference to the time at which the technical provisions are made.

Enforcement

- 2 (1) This paragraph applies if an officer of Revenue and Customs gives a notice of enquiry under paragraph 24(1) of Schedule 18 to FA 1998 to a general insurer.
- (2) The officer may by notice require the general insurer (at the general insurer's own expense) to provide the officer with a report as to whether (and, if so, the extent to which) the amount of any technical provisions stated in the accounts for any period covered by the company tax return into which the enquiry is made exceeds the appropriate amount.
- (3) The report must cover such matters, and be in such form, as the officer may reasonably require for the purposes of the enquiry.
- (4) The report must be made by a person who is appointed by the general insurer unless the officer requires the report to be made instead by another person.
- (5) As soon as the general insurer appoints a person to make the report, the general insurer must give a notice to the officer specifying that person.
- (6) A notice under sub-paragraph (2) must specify the time (which must not be less than 30 days) within which the general insurer is to comply with it.

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- (7) The following provisions of Schedule 18 to FA 1998—
- (a) paragraph 28 (appeal against requirements imposed by notice under paragraph 27), and
 - (b) paragraph 29 (penalty for failure to comply with such a notice),
- apply in relation to any notice under sub-paragraph (2) as they apply in relation to a notice under paragraph 27 of that Schedule.
- (8) But the references in paragraph 28 of that Schedule to the provision of information are to be construed as references to the provision of a report under this paragraph.

Supplementary

- 3 (1) In paragraph 1 “general insurer” means—
- (a) a company within the charge to corporation tax which carries on general business,
 - (b) a controlled foreign company (within the meaning of Chapter 4 of Part 17 of ICTA) which carries on general business, or
 - (c) members of a Lloyd’s syndicate who carry on general business.
- (2) In paragraph 2 “general insurer” means—
- (a) a company within the charge to corporation tax which carries on general business, or
 - (b) a company which for the purposes of Chapter 4 of Part 17 of ICTA has an interest in a controlled foreign company (within the meaning of that Chapter) which carries on general business.
- (3) For the purposes of sub-paragraphs (1) and (2) “general business” means business which consists of the effecting or carrying out of contracts that fall within Part 1 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#)).
- (4) In the case of members of a Lloyd’s syndicate, references in paragraph 1 to any accounts for a period are to the return of the syndicate’s profits or loss for that period under regulation 4 of the Lloyd’s Underwriters (Tax) Regulations 2005 ([S.I. 2005/3338](#)).
- (5) In paragraph 1 “period of account”—
- (a) except in the case of members of a Lloyd’s syndicate, means a period of account for which an account is made up, and
 - (b) in the case of members of a Lloyd’s syndicate, means an underwriting year in which profits or losses are declared for an earlier underwriting year.
- (6) In paragraphs 1 and 2 “technical provisions”, except in the case of members of a Lloyd’s syndicate, means any of the following—
- (a) provisions for claims outstanding,
 - (b) provisions for unearned premiums, and
 - (c) provisions for unexpired risks.
- (7) In paragraphs 1 and 2 “technical provisions”, in the case of members of a Lloyd’s syndicate (“the syndicate”), means—
- (a) so much of the reinsurance to close amounts of the members, and

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- (b) so much of the provisions made by an open Lloyd's syndicate of which any member of the syndicate is a member for claims outstanding, unearned premiums and unexpired risks,
as may be determined by or under regulations made by the Commissioners for Her Majesty's Revenue and Customs.
- (8) For this purpose—
- (a) the reference to reinsurance to close amounts of any member of a Lloyd's syndicate is to any consideration which, in accordance with the rules or practice of Lloyd's, is given (or any amount which, in accordance with those rules or practice, is treated as consideration given) by the member in respect of the liabilities arising from the member's underwriting business in an underwriting year for the purpose of closing the accounts of the business for that year, and
- (b) a Lloyd's syndicate is an "open" Lloyd's syndicate at any time after the end of its closing year if, at that time, the accounts of its business for the underwriting year for which it was formed have not been closed,
and in paragraph (b) "closing year" has the same meaning as in Chapter 3 of Part 2 of FA 1993 or Chapter 5 of Part 4 of FA 1994.
- (9) In this paragraph—
- "Lloyd's syndicate" means a syndicate of underwriting members of Lloyd's formed for an underwriting year, and
"underwriting year" means the calendar year.
- (10) In this paragraph references to provisions for claims outstanding, unearned premiums and unexpired risks have the same meaning as in Schedule 9A to the Companies Act 1985 (c. 6).
- (11) The Commissioners for Her Majesty's Revenue and Customs may by regulations—
- (a) provide in prescribed circumstances for paragraph 1 not to apply in relation to any member of a Lloyd's syndicate, or
- (b) provide in prescribed circumstances for a reduction in relation to any member of a Lloyd's syndicate of the amount which (as a result of that paragraph) is not to be taken into account in the calculation mentioned in sub-paragraph (2) of that paragraph.
- (12) The Treasury may by regulations amend sub-paragraphs (1) to (3) (definition of "general insurer").
- (13) In the event of any changes in the rules or practice of Lloyd's, the Commissioners for Her Majesty's Revenue and Customs may by regulations make such amendments of paragraph 1 and this paragraph as appear to the Commissioners to be expedient having regard to those changes.
- (14) Regulations under section 182(1)(a) of FA 1993 or section 229(1)(a) of FA 1994 (assessment and collection of tax charged in case of Lloyd's underwriters) may, in particular, include provision applying paragraph 2 with modifications in the case of members of a Lloyd's syndicate.
- (15) Regulations under paragraph 1 or this paragraph may—
- (a) make different provision for different purposes, and
- (b) make supplementary, incidental, consequential and transitional provision.

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Repeal of section 107 of FA 2000

- 4 In FA 2000, omit section 107 (general insurance reserves).

Commencement

- 5 (1) Paragraphs 1 to 3 have effect in relation to periods of account ending on or after the day on which this Act is passed.
- (2) The repeal of section 107 of FA 2000 made by paragraph 4 has effect as follows.
- (3) The repeal of—
- (a) subsections (1) to (3) of that section (technical provisions made by a general insurer proving to be excessive or insufficient),
 - (b) subsections (5) to (8) and (10) of that section so far as relating to those subsections, and
 - (c) subsections (9) and (12)(a) of that section (which relate to those subsections),
- has effect in relation to any amount that would otherwise have been treated as a receipt or an expense of a trade in computing for tax purposes the profits of the trade for any period of account ending on or after the day on which this Act is passed.
- (4) The repeal of—
- (a) subsection (4) of that section (election for any part of technical provisions not to be taken into account in a period of account),
 - (b) subsections (5) to (8) and (10) of that section so far as relating to that subsection, and
 - (c) subsection (12)(b) of that section (which relates to that subsection),
- has effect so that no election may be made under that subsection in respect of technical provisions made by a general insurer for any period of account which begins on or after that day.
- (5) There is a restriction in relation to any election made by a general insurer under that subsection in respect of technical provisions made by the general insurer for the final election period.
- (6) The restriction is that the amount of the part of those provisions which the general insurer elects not to be taken into account in computing for tax purposes the profits of the general insurer's trade for that period must not exceed 10% of the total amount of those provisions.
- (7) In sub-paragraph (5) "the final election period", in relation to any general insurer, means the general insurer's first period of account ending on or after the day on which this Act is passed.