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SCHEDULES

SCHEDULE 8

INSURANCE COMPANIES: BASIS OF TAXATION ETC

PART 1

AMENDMENTS

Income and Corporation Taxes Act 1988 (c. 1)

- 1 ICTA is amended as follows.
- 2 (1) Section 76 (expenses of insurance companies) is amended as follows.
 - (2) In subsection (1)(b), for “not charged to tax in respect of that business under Case I of Schedule D” substitute “charged to tax in respect of that business under the I minus E basis”.
 - (3) In subsection (7)—
 - (a) in Step 8, for “basic” substitute “expenses”, and
 - (b) omit Steps 9 and 10.
 - (4) Omit subsections (10) and (11).
 - (5) In subsection (12)—
 - (a) for “Step 10” substitute “Step 8”, and
 - (b) after “next accounting period” insert “for which the company is charged to tax in respect of its life assurance business under the I minus E basis”.
 - (6) For subsection (13) substitute—

“(13) Where for any accounting period excess adjusted Case I profits are charged to tax under section 85A of the Finance Act 1989, an amount equal to the profits is to be carried forward to the next accounting period for which the company is charged to tax in respect of its life assurance business under the I minus E basis and brought into account for that period in accordance with Step 7.”
- 3 In section 431(2) (interpretative provisions relating to insurance companies), insert at the appropriate place—

““the I minus E basis” means the basis under which a company carrying on life assurance business is charged to tax on the relevant profits (within the meaning of section 88(3) of the Finance Act 1989) of that business otherwise than under Case I of Schedule D;”.
- 4 For section 432 (and the italic cross-heading before it) substitute—

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“Basis of taxation etc

431G Company carrying on life assurance business

- (1) This section applies in relation to an insurance company which carries on life assurance business (whether or not it also carries on insurance business of any other kind).
- (2) Subject as follows, the profits of the life assurance business for any accounting period shall be charged to tax under the I minus E basis.
- (3) Where in the case of an insurance company for an accounting period either—
 - (a) all of its life assurance business is reinsurance business and none of that business is of a type excluded from this subsection by regulations made by the Board, or
 - (b) all, or substantially all, of its life assurance business is gross roll-up business,
 the profits of that business for the accounting period shall be charged to tax in accordance with Case I of Schedule D and not otherwise.
- (4) Where—
 - (a) the profits of the life assurance business of an insurance company for any accounting period are charged to tax under the I minus E basis, and
 - (b) had those profits been charged to tax in accordance with Case I of Schedule D, a loss would have arisen to the company from that business for the period,
 the loss (after being reduced in accordance with section 434A(2)(a)) may be set-off under section 393A or section 403(1).
- (5) The application, in relation to the life assurance business of an insurance company, of any provision of Case I of Schedule D is not to be taken—
 - (a) to prevent the application of the I minus E basis in relation to that business of the company for any accounting period, or
 - (b) to affect the operation of the I minus E basis in relation to the that business of the company for any accounting period except as specifically provided by the Corporation Tax Acts.

431H Company carrying on life assurance business and other insurance business

- (1) This section applies in relation to an insurance company which carries on life assurance business and insurance business of any other kind.
- (2) For the purposes of the Corporation Tax Acts—
 - (a) the life assurance business, and
 - (b) the other insurance business,
 are to be treated as separate businesses.
- (3) The profits of the other insurance business shall be charged to tax under Case I of Schedule D as the profits of a separate trade.

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- (4) But subsection (3) above does not apply where that business is mutual business.
- (5) As to the profits of the life assurance business, see section 431G.”
- 5 In section 432A(7)(c)(ii) (apportionment of income and gains), for “85(2C)(c)” substitute “ 85(2C) or 85A ”.
- 6 In section 437(1A) (annuities), for “, otherwise than in accordance with the provisions applicable to Case I of Schedule D,” substitute “ under the I minus E basis ”.
- 7 Omit section 439A (taxation of pure reinsurance business).
- 8 (1) Section 440B (modifications where tax charged under Case I of Schedule D) is amended as follows.
- (2) In subsection (1), insert at the end “ in accordance with section 431G(3) ”.
- (3) In subsection (3), for “Section 440(1) and (2) apply” substitute “ Subsection (1) of section 440 applies ”.
- (4) After subsection (4) insert—
- “(4A) Section 440(2) does not apply if either the transferor or the company by which the asset is acquired is a company whose profits are charged to tax in accordance with Case I of Schedule D (or if they both are).
- (4B) Section 211 of the 1992 Act does not apply if the transferor is a company whose profits are charged to tax in accordance with Case I of Schedule D.”
- (5) Omit subsection (5).
- 9 After that section insert—

“440C Modifications for change of tax basis

- (1) Subsection (2) makes provision for a case where—
- (a) subsection (4) of section 431G applies in relation to the profits of the life assurance business of an insurance company for any accounting period, but
- (b) the profits of that business for a succeeding accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of subsection (3) of that section.
- (2) The loss referred to in section 431G(4)(b) (less any loss for the same accounting period set off under section 436A for any intervening accounting period and any amount deducted for any such period in respect of the loss by virtue of section 85A(3)(b) of the Finance Act 1989) may be set off under section 393 against profits of that succeeding accounting period (without being reduced in accordance with section 434A(2)(a)).
- (3) In determining whether any loss has been set off under section 436A for any intervening accounting period, or whether any amount has been deducted for any such period in respect of the loss by virtue of section 85A(3)(b) of the Finance Act 1989, losses of earlier accounting periods are to be assumed to be set off before those of later accounting periods.

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- (4) Subsection (5) makes provision for a case where—
- (a) a loss arises to an insurance company for an accounting period for which the profits of its life assurance business fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3)(b),
 - (b) the profits of that business for a subsequent accounting period are charged to tax under the I minus E basis, and
 - (c) had those profits (instead) been charged to tax in accordance with Case I of Schedule D, any of that loss would have been available to be set off against them under section 393.
- (5) The loss is to be treated for the purposes of the operation of section 436A in relation to the subsequent accounting period as if it were a loss arising from its gross roll-up business in the accounting period in which it arose.
- (6) Subsections (7) and (8) make provision for a case where—
- (a) the profits of the life assurance business of an insurance company for an accounting period are charged to tax under the I minus E basis,
 - (b) the profits of that business for its next accounting period fall to be charged to tax in accordance with Case I of Schedule D by virtue of section 431G(3), and
 - (c) that prevents the giving of relief in accordance with section 86(8) of the Finance Act 1989 (acquisition expenses relieved in fractions under section 76).
- (7) Any relief which would have been so given in—
- (a) the next accounting period, or
 - (b) any subsequent accounting period for which the profits of the company's life assurance business continue to be charged to tax in accordance with Case I of Schedule D,
- may be given by set-off against any gains treated as accruing under section 213(1) of the 1992 Act at the end of the accounting period.
- (8) But if the profits of the company's life assurance business for a subsequent accounting period are charged to tax under the I minus E basis, any relief not previously given under subsection (7) is to be treated for the purposes of the operation of section 76 in relation to the first subsequent accounting period for which profits are so charged as if it were an amount which is to be relieved under that section by virtue of section 86(8) and (9) of the Finance Act 1989.”

- 10 In section 755A(2) and (6)(a) (controlled foreign companies: apportionments to companies carrying on life assurance business), for “not charged to tax under Case I of Schedule D in respect of its profits from” substitute “charged to tax under the I minus E basis in respect of”.

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