



Finance Act 2012

2012 CHAPTER 14

PART 2

INSURANCE COMPANIES CARRYING ON LONG-TERM BUSINESS

CHAPTER 3

THE I - E BASIS

Introduction

73 The I - E basis

This section sets out rules, in relation to the basic life assurance and general annuity business carried on by an insurance company, for determining whether the company has an I - E profit or excess BLAGAB expenses for an accounting period (and, if so, the amount of the profit or expenses).

Step 1 Calculate the income chargeable for the accounting period that is referable, in accordance with Chapter 4, to the company's basic life assurance and general annuity business. The meaning here of "income" is given by section 74.

Step 2 Calculate the BLAGAB chargeable gains of the company for the accounting period as adjusted for allowable losses (see section 75).

Step 3 Calculate so much of the amount (or the total amount) of any I - E receipt under section 92 or 93(5)(a) as is not taken into account in the calculation required by step 1 or 2.

Step 4 Add together the amounts given by the calculations required by steps 1 to 3. Reduce the total of those amounts (but not below nil) by the amount of any non-trading deficit which the company has for the accounting period under section 388 of CTA 2009 (loan relationships and derivative contracts). The result is "I".

Step 5 Calculate the adjusted BLAGAB management expenses of the company for the accounting period (see section 76). The result is "E".

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Step 6 Subtract E from I (which, if E is a negative figure, would have the effect of increasing the result of the calculation).

If the result is a positive amount, that is (subject to section 95) the amount for the accounting period chargeable to corporation tax under section 68. That amount is referred to in this Part as an “I - E profit”.

If the result is a negative amount, that amount is to be carried forward by the company as an expense to its next accounting period to be used in accordance with step 5 of section 76. That amount is referred to in this Part as “excess BLAGAB expenses”

Definitions of expressions comprising “I”

74 Meaning of “income”

- (1) In section 73 “income”, in relation to an insurance company, means the following income or credits so far as arising from the company's long-term business—
- (a) income of the company chargeable under Chapter 3 of Part 4 of CTA 2009 in respect of any separate UK property business or overseas property business within section 86(4),
 - (b) credits in respect of any loan relationships of the company,
 - (c) credits in respect of any derivative contracts of the company,
 - (d) credits brought into account by the company under Part 8 of CTA 2009 (intangible fixed assets),
 - (e) income of the company chargeable under Part 9A of CTA 2009 (company distributions),
 - ^{F1}(f)
 - (g) income of the company chargeable under Chapter 6 of Part 10 of CTA 2009 (sale of foreign dividend coupons),
 - (h) income of the company chargeable under Chapter 7 of Part 10 of CTA 2009 (annual payments not otherwise charged),
 - (i) income of the company arising from a source outside the United Kingdom which is chargeable under Chapter 8 of Part 10 of CTA 2009 (income not otherwise charged), ^{F2}...
 - (j) income of the company chargeable under any provision to which section 1173 of CTA 2010 (miscellaneous charges) applies other than section 752 of CTA 2009 (non-trading gains on intangible fixed assets)^{F3}, and
 - (k) income of the company chargeable under regulation 15 of the Unauthorised Unit Trusts (Tax) Regulations 2013.]
- (2) The reference in subsection (1)(a) to income chargeable under Chapter 3 of Part 4 of CTA 2009 includes income chargeable under that Chapter in respect of distributions treated by section 548(5) of CTA 2010 as profits of a UK property business carried on by the company.
- (3) References in subsection (1)(b) to (d) to credits need to be read with section 88(3) and (4).
- (4) The reference in subsection (1)(j) to income chargeable as mentioned there needs to be read with section 89(1).

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- (5) For the purposes of this section references to income or credits that are chargeable or brought into account under any provision are to income or credits that, but for sections 68 and 69, would be chargeable or brought into account under that provision.
- (6) For the purposes of this section no account is to be taken of income which arises from an asset forming part of the long-term business fixed capital of the company (see section 137).

Textual Amendments

- F1** S. 74(1)(f) omitted (6.4.2014) by virtue of [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **40(a)** (with reg. 32)
- F2** Word in s. 74(1) omitted (6.4.2014) by virtue of [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **40(b)** (with reg. 32)
- F3** S. 74(1)(k) and word inserted (6.4.2014) by [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **40(c)** (with reg. 32)

75 Meaning of “BLAGAB chargeable gains” etc

- (1) This section explains for the purposes of section 73 how to calculate the BLAGAB chargeable gains of the company for the accounting period as adjusted for allowable losses.

Step 1 First, calculate the chargeable gains—

- (a) that accrue to the company in the accounting period from the disposal of assets held for the purposes of the company's long-term business, and
- (b) that are referable, in accordance with Chapter 4, to its basic life assurance and general annuity business.

Step 2 Then, deduct from the amount of those gains—

- (a) any allowable losses that accrue to the company in the accounting period from the disposal of assets held for the purposes of the company's long-term business and that are so referable, and
- (b) so far as not previously deducted from any chargeable gains, any allowable losses that accrued to the company in a previous accounting period from the disposal of assets held for the purposes of the company's long-term business and that were so referable.

The resulting amount is the amount of the BLAGAB chargeable gains of the company for the accounting period as adjusted for allowable losses.

- (2) The deduction at step 2 may reduce an amount to nil but no further.
- (3) For the purposes of this section no account is to be taken of a chargeable gain or allowable loss accruing to the company on a disposal for the purposes of TCGA 1992 of an asset that forms part of the long-term business fixed capital of the company.
- (4) References in this section to chargeable gains or allowable losses are references to those gains or losses as calculated in accordance with the rules contained in TCGA 1992.

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Definitions of expressions comprising “E”

76 Meaning of “adjusted BLAGAB management expenses”

This section explains for the purposes of section 73 how to calculate the adjusted BLAGAB management expenses of the company for the accounting period.

Step 1 Calculate the ordinary BLAGAB management expenses of the company referable to the accounting period (see sections 77, 81 and 82). In making the calculation ignore so much of those expenses as is deductible under other relevant rules (see section 78(2)). If the company is an overseas life insurance company, see also section 96.

Step 2 If the expenses calculated in accordance with step 1 include acquisition expenses for the purposes of section 79, reduce the amount given by step 1 in accordance with the rules in that section (which, in the typical case, provide for six-sevenths of the adjusted amount of those expenses to be disallowed for the accounting period and relieved instead as deemed BLAGAB management expenses for the next six accounting periods).

Step 3 Calculate the total amount of any deemed BLAGAB management expenses for the accounting period (see section 78(3)). For this purpose ignore any amounts that have already been included in step 1.

Step 4 Find the basic amount by adding together the amount given by the calculation required by step 1 (adjusted, where relevant, in accordance with step 2) and the amount given by the calculation required by step 3. Adjust the basic amount by deducting from it any expenses reversed in the accounting period (see section 78(4)) and any BLAGAB trade loss relieved for the accounting period (see section 78(5)).

Step 5 Add together any amounts carried forward as expenses from the previous accounting period to the accounting period as a result of section 73 or 93 to give the carried-forward amount. Add the carried-forward amount to the basic amount or, as the case may be, the basic amount adjusted in accordance with step 4. The resulting amount is the amount of adjusted BLAGAB management expenses of the company for the accounting period.

77 Section 76: meaning of “ordinary BLAGAB management expenses” etc

- (1) This section explains for the purposes of section 76 what is meant by the “ordinary BLAGAB management expenses of the company referable to the accounting period”.
- (2) Amounts are “ordinary BLAGAB management expenses” of the company if—
 - (a) they are, in accordance with generally accepted accounting practice, debited in accounts drawn up by the company for a period of account (but see subsection (3)),
 - (b) they are expenses of management of the company's long-term business that are referable, in accordance with Chapter 4, to its basic life assurance and general annuity business, and
 - (c) they are not excluded amounts (see subsections (4) to (7)).
- (3) In a case where acquisition expenses (within the meaning of section 80) incurred in the accounting period fall to be debited in successive accounts drawn up for successive periods of account, those expenses are treated instead as if they were all debited in the accounts drawn up for the first of those periods of account.

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- (4) The following are “excluded amounts”—
- (a) amounts of a capital nature,
 - (b) re-insurance premiums,
 - (c) refunds of premiums,
 - (d) profit commissions and profit participations (however described),
 - (e) a liability of the company to pay an amount of commission or other expenses so far as exceeding the amount which it could reasonably be expected to pay if sections 68 and 69 were not applicable,
 - (f) non-commercial amounts payable by the company,
 - (g) amounts payable in connection with a policy or contract to a policyholder or annuitant under the policy or contract or to any other person entitled to receive benefits under the policy or contract.
- (5) For the purposes of subsection (4)(f) expenses or other amounts are “non-commercial amounts” payable by the company so far as the company's purpose in incurring the liability to make the payment is not a business or other commercial purpose of the company.
- (6) Amounts payable as mentioned in paragraph (g) of subsection (4) include—
- (a) amounts payable to any person acting on behalf of a person within that paragraph, and
 - (b) amounts payable to the personal representatives of a deceased person who was (or acted on behalf of a person who was) within that paragraph.
- (7) Amounts payable as mentioned in subsection (4)(g) do not include amounts payable to an insurance company which is a policyholder under the policy.
- (8) In the case of ordinary BLAGAB management expenses in respect of a period of account which coincides with or falls wholly in an accounting period of the company, all of those expenses are “referable to” the accounting period.
- (9) In the case of ordinary BLAGAB management expenses in respect of any other period of account—
- (a) those expenses are to be apportioned to the accounting period of the company in accordance with section 1172 of CTA 2010, and
 - (b) the apportioned amount of those expenses is “referable to” the accounting period.

78 Section 76: meaning of other expressions

- (1) This section explains for the purposes of section 76 what is meant by—
- “other relevant rules”,
 - “deemed BLAGAB management expenses for the accounting period”,
 - “expenses reversed in the accounting period”, and
 - “BLAGAB trade loss relieved for the accounting period”.
- (2) An expense is deductible under another “relevant rule” if—
- (a) it is deductible as a result of section 92(3),
 - (b) it is deductible in calculating, for corporation tax purposes, the profits of a property business, or

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- (c) it is deductible as a result of section 272 of CTA 2009 in calculating income from the letting of rights to work minerals in the United Kingdom.
- (3) An amount is a “deemed BLAGAB management expense for the accounting period” if it is treated as such for the purposes of section 76 as a result of—
- section 79 or paragraph 33(2) of Schedule 17 (spreading of acquisition expenses),
 - section 83 (general annuity business),
 - section 87(3) (losses from property businesses where land held for purposes of long-term business),
 - section 88(6) (excess of debits in respect of intangible fixed assets),
 - section 89(2) (excess of miscellaneous losses),
 - paragraph 16(1) of Schedule 7 to FA 1991 (transitional relief for old general annuity contracts),
 - section 256(2)(a) of CAA 2001 (allowances in respect of plant or machinery consisting of management asset),
 - section 391(3) of CTA 2009 (loan relationships: carry forward of surplus to next accounting period),
 - ^{F4} ...
 - section 1162 of CTA 2009 (additional relief for remediation of contaminated or derelict land), or
 - section [^{F5}814C(7)] of CTA 2010 (manufactured dividends).
- (4) “Expenses reversed in the accounting period” means the total amount of the expenses—
- (a) which were relieved in any previous accounting period in accordance with step 1 (as read with step 2) or step 3 of section 76, but
 - (b) which are subsequently reversed in the accounting period.
- (5) A “BLAGAB trade loss relieved for the accounting period” means so much of a BLAGAB trade loss of the company for the accounting period for which relief is given under—
- (a) section 37 of CTA 2010 (relief for trade losses against total income), as applied by section 123, or
 - (b) Chapter 4 of Part 5 of that Act (group relief), as applied by section 125.

Textual Amendments

- F4** Words in s. 78(3) omitted (with effect in accordance with Sch. 15 paras. 28, 29 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 15 para. 26\(2\)](#)
- F5** Word in s. 78(3) substituted (1.1.2014) by [Finance Act 2013 \(c. 29\)](#), [Sch. 1 para. 52](#), [Sch. 29 para. 50\(3\)](#)

79 Spreading of acquisition expenses

- (1) This section applies if the ordinary BLAGAB management expenses of an insurance company referable to an accounting period for the purposes of section 76 include acquisition expenses (as defined by section 80) incurred in the accounting period.
- (2) In the case of the acquisition expenses—

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- (a) a reduction is to be made at step 2 in section 76 so as to secure that only one-seventh of the adjusted amount of those expenses counts as ordinary BLAGAB management expenses of the company referable to the accounting period, and
 - (b) the remainder of that adjusted amount is to be relieved as deemed BLAGAB management expenses for succeeding accounting periods in accordance with the following provisions.
- (3) References in this section to the adjusted amount of the acquisition expenses are to—
- (a) the amount of those expenses calculated as mentioned in step 1 of section 76 (and see, in particular, section 77(3)), less
 - (b) any amount of re-insurance commission or any repayment or refund (in whole or in part) that forms part of an I - E receipt of the company for the accounting period as a result of section 92.
- (4) The remainder of the adjusted amount of the acquisition expenses is relieved as follows.
- (5) One-seventh of the adjusted amount of the acquisition expenses is treated for the purposes of section 76 as a deemed BLAGAB management expense for each succeeding accounting period.
- (6) But, if a succeeding accounting period is less than a year, the fraction of that amount to be relieved for that period is proportionately reduced.
- (7) The reliefs operate until the whole of the adjusted amount of the acquisition expenses has been used up (and, accordingly, the rules in subsections (5) and (6) have effect subject to this subsection).
- (8) The treatment of any part of the adjusted amount of the acquisition expenses as a deemed BLAGAB management expense for an accounting period (“the period concerned”) as set out in subsections (5) to (7) is subject to the following restriction.
- (9) If expenses are reversed in the period concerned or any preceding accounting period, any acquisition expenses included in those expenses are not to count as deemed BLAGAB management expenses for the period concerned.

80 Section 79: meaning of “acquisition expenses”

- (1) This section explains for the purposes of section 79 what is meant by “acquisition expenses”.
- (2) The following are “acquisition expenses”—
- (a) commissions (however described) other than commissions for persons who collect premiums from house to house,
 - (b) any other expenses payable solely for the purpose of the acquisition of business, and
 - (c) so much of any other expenses payable partly for that purpose, and partly for other purposes, as are properly attributable to the acquisition of business.
- (3) The exclusion from paragraph (a) of subsection (2) of commissions for persons who collect premiums from house to house does not prevent their counting as expenses under another paragraph of that subsection.
- (4) For the purposes of that subsection “the acquisition of business” includes—

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- (a) the securing of the payment of increased or additional premiums in respect of a policy of insurance issued in respect of an insurance already made, and
- (b) the securing of the payment of increased or additional consideration in respect of an annuity contract already made.

81 Amounts treated as ordinary BLAGAB management expenses

- (1) This section applies in relation to amounts which meet the conditions in section 77(2) (a) and (b).
- (2) The relevant permissive rules apply for the purpose of treating the amounts as ordinary BLAGAB management expenses for the purposes of section 76 as they apply for the purpose of treating amounts as expenses of management for the purposes of Chapter 2 of Part 16 of CTA 2009 (companies with investment business).
- (3) The following provisions of CTA 2009 are “relevant permissive rules”—
 - (a) section 1000 (costs of setting up employee share ownership trust),
 - (b) section 1234 (payments for restrictive undertakings),
 - (c) section 1235 (employees seconded to charities and educational establishments),
 - (d) section 1237 (counselling and other outplacement expenses),
 - (e) section 1238(1) to (3) (retraining courses),
 - (f) sections 1239 to 1242 (redundancy payments and approved contractual payments),
 - (g) section 1243 (payments made by the Government), and
 - (h) section 1244 (contributions to local enterprise organisations or urban regeneration companies).
- (4) If—
 - (a) an employer's liability to corporation tax for an accounting period is determined on the assumption that a deduction for expenditure is allowed as a result of the application by this section of section 1238(1) to (3) of CTA 2009, and
 - (b) the deduction would not otherwise have been allowed,
 section 75(2) to (4) of CTA 2009 (retraining courses: recovery of tax) apply.
- (5) If—
 - (a) an amount is treated as an ordinary BLAGAB management expense as a result of the application by this section of section 1242 of CTA 2009, and
 - (b) the amount would otherwise be regarded as an acquisition expense for the purposes of section 79,
 the expense is not to be so regarded.
- (6) Section 1253 of CTA 2009 (contributions to local enterprise organisations or urban regeneration companies: disqualifying benefits) applies in the case of amounts treated, as a result of the application by this section of section 1244 of that Act, as ordinary BLAGAB management expenses as it applies in the case of amounts for which a deduction has been made under section 1219 of that Act as a result of section 1244 of that Act.
- (7) For the purposes of this section—

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- (a) references in any relevant permissive rule to a company carrying on business that consists wholly or partly of making investments or to a company with investment business are to be read as references to a company carrying on basic life assurance and general annuity business,
 - (b) references in any relevant permissive rule to an amount being deductible under section 1219 of CTA 2009 are to be read as references to an amount being deductible as an ordinary BLAGAB management expense,
 - (c) section 1239 of CTA 2009 is to be treated as having effect with the omission of subsection (1)(c),
 - (d) the reference in section 1240(4) of CTA 2009 to sections 1224 to 1227 of that Act is to be read as a reference to section 77(8) and (9) of this Act, and
 - (e) section 1243 of CTA 2009 is to be treated as having effect with the omission of subsection (1)(c).
- (8) An amount is treated as an ordinary BLAGAB management expense as a result of this section only so far as it would not otherwise be regarded as an ordinary BLAGAB management expense.

82 Restrictions in relation to ordinary BLAGAB management expenses

- (1) This section applies in relation to an amount which is (or, but for this section, would be) regarded for the purposes of section 76 as an ordinary BLAGAB management expense of an insurance company.
- (2) Section 1249(1) and (2) of CTA 2009 (unpaid remuneration) apply for the purpose of determining the period of account for which the amount is debited in the accounts of the company for the purposes of section 77; but this subsection is subject to the operation of section 79.
- (3) Section 1249(1) and (3) of CTA 2009 apply for the purpose of determining whether the amount is to be regarded as an ordinary BLAGAB management expense of the company.
- (4) Section 1251(1) and (2) of CTA 2009 (car hire) apply for the purpose of determining the amount of the ordinary BLAGAB management expense of the company.
- (5) For the purposes of subsections (2) to (4)—
 - (a) references in section 1249 or 1251 of CTA 2009 to a company with investment business are to be read as references to a company carrying on basic life assurance and general annuity business (and, accordingly, the reference in section 1251(1) to total profits is to be read as a reference to profits of basic life assurance and general annuity business), and
 - (b) references in section 1249 or 1251 of CTA 2009 to an amount being deductible under section 1219 of CTA 2009 are to be read as references to an amount being deductible as an ordinary BLAGAB management expense.
- (6) If—
 - (a) an amount is reduced as a result of subsection (4) or a corresponding rule,
 - (b) subsequently there is a rebate (however described) of the hire charges, and
 - (c) an amount representing the rebate is deductible as a reversed expense or taken into account in calculating the amount of an I - E receipt under section 92,the amount that would otherwise be so deductible or taken into account is reduced by 15%.

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- (7) If—
- (a) an amount is reduced as a result of subsection (4) or a corresponding rule,
 - (b) subsequently a debt in respect of any of the hire charges is released otherwise than as part of a statutory insolvency arrangement, and
 - (c) an amount representing the release is deductible as a reversed expense,
- the amount that would otherwise be so deductible is reduced by 15%.
- (8) For the purposes of subsections (6) and (7)—
- “corresponding rule” means section 56(2) or 1251(2) of CTA 2009 or section 48(2) of ITTOIA 2005,
 - “deductible as a reversed expense” means deductible at step 4 in section 76 as an expense reversed in an accounting period, and
 - “statutory insolvency arrangement” has the meaning given by section 1319(1) of CTA 2009.

83 General annuity business

- (1) This section applies if an insurance company pays qualifying BLAGAB annuities in an accounting period.
- (2) An amount equal to the difference between—
- (a) the total amount of those annuities paid by the company in the accounting period, and
 - (b) the total of the amounts exempt under section 717 of ITTOIA 2005 (exemption for part of purchased life annuity payments) contained in those annuities so paid,
- is treated for the purposes of section 76 as a deemed BLAGAB management expense for the accounting period.
- (3) An annuity is a “qualifying BLAGAB annuity” if—
- (a) it is referable to the company's basic life assurance and general annuity business, and
 - (b) it is paid under a contract made by the company in an accounting period beginning on or after 1 January 1992 (but see section 85).
- (4) For the purposes of this section the amounts exempt under section 717 of ITTOIA 2005 are so much of the payments under the qualifying BLAGAB annuities as would be within the exemption under that section if—
- (a) section 718 of ITTOIA 2005 were omitted, and
 - (b) the exemption under section 717 of ITTOIA 2005 applied in relation to companies as well as individuals.
- (5) If a qualifying BLAGAB annuity (“the actual annuity”) is a steep-reduction annuity, the calculations required by subsection (2)(a) and (b) are to be made as if—
- (a) the contract for the actual annuity provided instead for the annuities identified below (“the deemed annuities”), and
 - (b) the consideration for each of the deemed annuities were equal to an apportionment of the consideration for the actual annuity on a just and reasonable basis.
- (6) The deemed annuities are—

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- (a) an annuity the payments in respect of which are confined to payments in respect of the actual annuity that fall to be made at the earliest time for the making in respect of that annuity of a reduced payment within section 84(1)(c), and
 - (b) an annuity the payments in respect of which are all the payments in respect of the actual annuity other than those mentioned in paragraph (a).
- (7) If a deemed annuity within subsection (6)(b) (“the later annuity”) would itself be a steep-reduction annuity, the deemed annuities—
- (a) do not include the later annuity, but
 - (b) include instead the annuities which would be identified by subsection (6) (with as many further applications of this subsection as may be necessary for securing that none of the deemed annuities is a steep-reduction annuity) if references in that subsection to the actual annuity were to the later annuity.
- (8) This section needs to be read with section 84 (meaning of “steep-reduction annuity” etc).

84 General annuity business: meaning of “steep-reduction annuity” etc

- (1) For the purposes of section 83 an annuity is a “steep-reduction annuity” if—
- (a) the amount of any payment in respect of it (but not its term) depends on a contingency other than the duration of a human life or lives,
 - (b) the annuitant is entitled to payments of different amounts at different times, and
 - (c) the payments include a payment (“a reduced payment”) of an amount which is substantially smaller than the amount of at least one of the earlier payments.
- (2) If there are different intervals between the payments, it is to be assumed for the purposes of subsection (1)(b) and (c)—
- (a) that the annuitant's entitlement, after the first payment, to payments is an entitlement to payments at yearly intervals on the anniversary of the first payment, and
 - (b) that the amount to which the annuitant is assumed to be entitled is equal to the annuitant's assumed entitlement for the year ending with the anniversary in question.
- (3) For this purpose the annuitant's assumed entitlement for a year is determined as follows—
- (a) the annuitant's entitlement to each payment is taken to accrue at a constant rate during the interval between the previous payment and that payment, and
 - (b) the annuitant's assumed entitlement for a year is taken to be equal to the total amount which, in accordance with paragraph (a), is treated as accruing in the year.
- (4) In the case of an annuity to which subsection (2) applies, the reference in section 83(6) (a) to the making of a reduced payment is to be read as a reference to the making of a payment which (applying subsection (3)(a)) is taken to accrue at a rate that is substantially less than the rate at which at least one of the earlier payments is taken to accrue.
- (5) If—

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- (a) a question arises whether a payment is substantially smaller than, or accrues at a rate substantially less than, an earlier payment, and
- (b) the annuitant or (as the case may be) every annuitant is an individual who is beneficially entitled to all the rights conferred on him or her as such an annuitant,

the question is determined without regard to so much of the difference between the amounts or rates as is referable to a reduction falling to be made as a result of a death.

- (6) If the amount of any one or more of the payments depends on a contingency, the annuitant's entitlement to the payments is determined for the purposes of section 83 and this section according to whatever is the most likely outcome in relation to the contingency (applying any relevant actuarial principles).
- (7) If an agreement or other arrangement has effect for varying the rights of the annuitant in relation to a payment, the payment is taken for the purposes of section 83 and this section to be a payment of the amount to which the annuitant is entitled in accordance with the agreement or other arrangement.
- (8) For the purposes of this section references to a contingency include a contingency consisting wholly or partly in the exercise of an option.

85 General annuity business: payments made in pre-1992 accounting periods

(1) If—

- (a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in a pre-1992 accounting period, and
- (b) the company's liabilities first include an amount in respect of that annuity in a post-1992 accounting period,

the payment is treated for the purposes of section 83(3)(b) as if the contract had been made in a post-1992 accounting period.

(2) If—

- (a) a payment in respect of an annuity is made by a re-insurer under a re-insurance treaty made in a pre-1992 accounting period, and
- (b) the re-insurer's liabilities first include an amount in respect of that annuity in a post-1992 accounting period,

the payment is, as respects the re-insurer, treated for the purposes of section 83(3)(b) as if the treaty had been made in a post-1992 accounting period.

(3) In this section—

“a pre-1992 accounting period” means an accounting period beginning before 1 January 1992,

“a post-1992 accounting period” means an accounting period beginning on or after 1 January 1992,

“group annuity contract” means a contract under which the insurance company undertakes to become liable to pay annuities to or in respect of persons who may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made), and

“re-insurance treaty” means a contract under which one insurance company is obliged to cede, and another (referred to in this section as a “re-insurer”)

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to accept, the whole or part of a risk of a class or description to which the contract relates.

Special rules applying to I - E basis

86 Separate property businesses for BLAGAB etc

- (1) This section modifies the rules in sections 208 and 209 of CTA 2009 (basic meaning of UK and overseas property business) for the purpose of applying the I - E rules in relation to an insurance company.
- (2) The company is treated as carrying on separate UK property businesses or overseas property businesses in accordance with the following provisions.
- (3) The exploitation of land held otherwise than for the purposes of the company's long-term business is treated as a separate business from the exploitation of land held for those purposes.
- (4) In the case of the exploitation of land held for the purposes of the company's long-term business, each of the following is treated as a separate business—
 - (a) the exploitation of land which is matched to BLAGAB liabilities of the company,
 - (b) the exploitation of land which is matched to other long-term business liabilities of the company, and
 - (c) the exploitation of land so far as it is not matched to long-term business liabilities of the company.
- (5) In the case of land part of which is matched to a BLAGAB liability or other long-term business liability, only the part of the land in question is to count for the purposes of this section as matched to the liability in question.
- (6) In this section “land” means any estate, interest or right in or over land.

87 Losses from property businesses where land held for long-term business

- (1) This section applies for the purpose of applying the I - E rules in relation to an insurance company if, in an accounting period, the company makes a loss in any of its separate UK property businesses or overseas property businesses within section 86(4).
- (2) The provisions of Chapter 4 of Part 4 of CTA 2010 (loss relief: property businesses) do not apply to the loss.
- (3) So far as the loss is referable, in accordance with Chapter 4, to the company's basic life assurance and general annuity business, it is treated for the purposes of section 76 as a deemed BLAGAB management expense for the accounting period.
- (4) If the company has two or more separate property businesses within section 86(4), then for the purposes of subsection (3) the loss in question is taken to be the total net loss after—
 - (a) setting the losses from the businesses which are referable, in accordance with Chapter 4, to the company's basic life assurance and general annuity business, against
 - (b) the profits from the businesses which are so referable.

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88 Loan relationships, derivative contracts and intangible fixed assets

- (1) This section applies if an insurance company has—
- (a) credits or debits in respect of any loan relationships,
 - (b) credits or debits in respect of any derivative contracts, or
 - (c) credits or debits brought into account by the company under Part 8 of CTA 2009 (intangible fixed assets),
- that are referable, in accordance with Chapter 4, to its basic life assurance and general annuity business.
- (2) In the application of the I - E rules in relation to the company's basic life assurance and general annuity business—
- (a) the loan relationship rules,
 - (b) the derivative contract rules, and
 - (c) the intangible fixed asset rules,
- have effect as if the activities carried on by the company in the course of its basic life assurance and general annuity business did not constitute the whole or any part of a trade or of a property business.
- (3) In the application of the I - E rules for an accounting period in relation to the company's basic life assurance and general annuity business—
- (a) BLAGAB credits in respect of its loan relationships for the period are to count as income for the purposes of those rules only in so far as they exceed BLAGAB debits in respect of its loan relationships for the period, and
 - (b) BLAGAB credits brought into account by the company under Part 8 of CTA 2009 for the period are to count as income for the purposes of those rules only in so far as they exceed BLAGAB debits brought into account by the company under that Part for the period.
- (4) References in subsection (3)(a) to BLAGAB credits or BLAGAB debits in respect of a company's loan relationships include, as a result of subsection (2) and section 574 of CTA 2009, BLAGAB credits or BLAGAB debits in respect of the company's derivative contracts.
- (5) If for an accounting period the BLAGAB debits mentioned in subsection (3)(a) exceed the BLAGAB credits mentioned there, the excess is dealt with in accordance with sections 388 to 391 of CTA 2009.
- (6) If for an accounting period the BLAGAB debits mentioned in subsection (3)(b) exceed the BLAGAB credits mentioned there, the excess—
- (a) is carried forward to the next accounting period, and
 - (b) is treated for the purposes of section 76 as a deemed BLAGAB management expense for that period.
- (7) In this section—
- “BLAGAB credits”, in relation to a company, means credits arising from the company's long-term business that are referable, in accordance with Chapter 4, to its basic life assurance and general annuity business,
- “BLAGAB debits”, in relation to a company, means debits arising from the company's long-term business that are referable, in accordance with Chapter 4, to its basic life assurance and general annuity business,

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“the loan relationship rules” means the rules set out in Part 5 of CTA 2009 (including provisions of other enactments by reference to which amounts are to be brought into account for the purposes of that Part),

“the derivative contract rules” means the rules set out in Part 7 of CTA 2009, and

“the intangible fixed asset rules” means the rules set out in Part 8 of CTA 2009.

89 Miscellaneous income and losses

- (1) In the application of the I - E rules for an accounting period in relation to an insurance company's basic life assurance and general annuity business, BLAGAB miscellaneous income of the company for the period is to count as income for the purposes of those rules only in so far as it exceeds BLAGAB miscellaneous losses of the company for the period.
- (2) If for an accounting period the BLAGAB miscellaneous losses exceed the BLAGAB miscellaneous income, the excess—
 - (a) is carried forward to the next accounting period, and
 - (b) is treated for the purposes of section 76 as a deemed BLAGAB management expense for that period.
- (3) In this section—

“BLAGAB miscellaneous income”, in relation to a company, means income of the company arising from its long-term business which—

 - (a) is chargeable under any provision to which section 1173 of CTA 2010 (miscellaneous charges) applies other than section 752 of CTA 2009 (non-trading gains on intangible fixed assets), and
 - (b) is referable, in accordance with Chapter 4, to the company's basic life assurance and general annuity business, and

“BLAGAB miscellaneous losses”, in relation to a company, means losses of the company arising from its long-term business which—

 - (a) arise from miscellaneous transactions, and
 - (b) are referable, in accordance with Chapter 4, to the company's basic life assurance and general annuity business.
- (4) For the purposes of subsection (3) a transaction is a “miscellaneous transaction” if income arising from it would be chargeable under any provision to which section 1173 of CTA 2010 applies other than—
 - (a) section 752 of CTA 2009, or
 - (b) regulation 18(4) of the Offshore Funds (Tax) Regulations 2009 (offshore income gains).
- (5) For the purposes of this section references to income that is chargeable under any provision to which section 1173 of CTA 2010 applies are to income that, but for sections 68 and 69, would be chargeable under that provision.

90 Investment return where risk in respect of policy or contract re-insured

- (1) This section applies if an insurance company re-insures any risk in respect of a policy or contract attributable to its basic life assurance and general annuity business.

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- (2) For the purposes of the I - E rules the investment return on the policy or contract is treated as accruing to the company while the risk remains re-insured by the company under the re-insurance arrangement.
- (3) The investment return that is treated as accruing to the company—
 - (a) is treated for the purposes of those rules as income that is referable, in accordance with Chapter 4, to the company's basic life assurance and general annuity business, and
 - (b) is, accordingly, brought into account for the purposes of those rules at step 1 in section 73.
- (4) HMRC Commissioners may make provision by regulations as to the amount of investment return that is treated as accruing in each accounting period during which the re-insurance arrangement is in force.
- (5) HMRC Commissioners may by regulations exclude from the operation of this section—
 - (a) such descriptions of insurance company,
 - (b) such descriptions of policies or contracts, and
 - (c) such descriptions of re-insurance arrangement,
 as may be prescribed by the regulations.
- (6) Nothing in this section applies in relation to the re-insurance of a policy or contract where the policy or contract was made, and the re-insurance arrangement effected, before 29 November 1994.

91 Regulations under section 90(4): supplementary provision

- (1) This section applies to regulations under section 90(4).
- (2) The regulations may provide for the calculation of the investment return treated as accruing to a company in respect of a policy or contract in an accounting period to be made by reference to—
 - (a) the total amount of sums paid (by way of premium or otherwise) by the company to the re-insurer during the accounting period and any earlier accounting periods,
 - (b) the total amount of sums paid (by way of commission or otherwise) by the re-insurer to the company during the accounting period and any earlier accounting periods,
 - (c) the total amount of the net investment return treated as accruing to the company in any earlier accounting periods, that is to say, net of tax at such rate as may be prescribed by the regulations, and
 - (d) such percentage rate of return as may be prescribed by the regulations.
- (3) The regulations may make provision dealing with the transfer of the re-insurance arrangement from one insurance company to another.
- (4) The regulations must provide that the amount of investment return treated as accruing in respect of a policy or contract in the final accounting period during which the policy or contract is in force is the amount, ascertained in accordance with the regulations, by which the overall profit exceeds the total amount treated as accruing in earlier accounting periods.

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- (5) “The overall profit” means the profit over the whole period during which the policy or contract, and the re-insurance arrangement, were in force.
- (6) If the overall profit is less than the total amount treated as accruing in earlier accounting periods, the difference—
 - (a) must be set off against amounts treated as a result of section 90 as accruing in the final accounting period from other policies or contracts, and
 - (b) if not fully set off as mentioned in paragraph (a), may be carried forward for set-off against amounts treated as a result of that section as accruing in subsequent accounting periods.
- (7) The regulations may—
 - (a) make different provision for different cases or circumstances, and
 - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.
- (8) An example of the kind of supplementary provision within subsection (7)(b) is provision requiring payments made during an accounting period to be treated as made on such date or dates as may be prescribed by the regulations.

Deemed I - E receipts

92 Certain BLAGAB trading receipts to count as deemed I - E receipts

- (1) This section applies if—
 - (a) an insurance company has receipts that are taken into account in calculating its BLAGAB trade profit or loss (see section 136) for an accounting period,
 - (b) the receipts would not fall within the charge to corporation tax apart from this section, and
 - (c) the receipts are not excluded receipts.
- (2) The appropriate amount of the receipts is an I - E receipt of the company for the accounting period.
- (3) The “appropriate amount” of the receipts is found by deducting expenses from the receipts so far as is necessary for calculating the full amount of the profits.
- (4) Chapter 1 of Part 20 of CTA 2009 (general rules for restricting deductions) is to apply to that calculation.
- (5) The following receipts are “excluded” receipts—
 - (a) premiums,
 - (b) sums received under re-insurance contracts (but see subsection (6) for exceptions),
 - (c) sums which do not fall within the charge to corporation tax because of an exemption,
 - (d) payments received under the Financial Services Compensation Scheme, and
 - (e) payments received from other insurance companies to enable the company to meet its obligations to policyholders.
- (6) A sum received under a re-insurance contract is not an excluded receipt if—
 - (a) it is a re-insurance commission (however described), or

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- (b) it is a sum calculated to any extent by reference to the ordinary BLAGAB management expenses of the company referable to the accounting period (within the meaning of section 77).

Minimum profits charge

93 Minimum profits test

- (1) This section applies if an insurance company has a BLAGAB trade profit for an accounting period.
- (2) A comparison must be made between—
 - (a) the I - E profit or excess BLAGAB expenses for the accounting period, and
 - (b) the BLAGAB trade profit for the accounting period, adjusted as need be in accordance with sections 94 and 124.
- (3) In making the calculation required by subsection (2)(a), it is to be assumed that this Chapter has effect with the omission of subsection (5)(a) (but, apart from that, all the other rules in this Chapter have effect for the purposes of that calculation).
- (4) If there are excess BLAGAB expenses for the accounting period, the amount of the excess is treated for the purposes of this section as a negative figure equal to that amount.
- (5) If, for the accounting period, the adjusted BLAGAB trade profit exceeds the adjusted I - E profit or excess BLAGAB expenses—
 - (a) an amount equal to the difference is an I - E receipt of the company for the accounting period (see section 73), and
 - (b) the same amount is carried forward to the company's next accounting period as an expense (see section 76).

94 Adjustment of I - E profit or excess BLAGAB expenses

- (1) This section applies if the BLAGAB trade profit for the accounting period includes non-taxable distributions receivable by the company in that period that are referable, in accordance with Chapter 7, to the company's basic life assurance and general annuity business.
- (2) For the purposes of section 93(5) (the comparison of the BLAGAB trade profit with the I - E profit or excess BLAGAB expenses), the calculation required by section 73 is performed again but adding to the amount of "I" found by step 4 the total amount of the non-taxable distributions receivable by the company in the accounting period that are so referable.
- (3) Accordingly, once an adjustment is made in accordance with subsection (2), an amount of excess BLAGAB expenses for the accounting period might become an adjusted I - E profit for that period.
- (4) For the purposes of this Part "non-taxable distributions" means distributions that are exempt for the purposes of Part 9A of CTA 2009 (company distributions).
- (5) For the purposes of this Part the amount of a non-taxable distribution does not include any amount withheld from it on account of tax payable under the laws of a territory outside the United Kingdom.

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Non-BLAGAB allowable losses

95 Use of non-BLAGAB allowable losses to reduce I - E profit

- (1) This section applies if—
 - (a) an insurance company has an I - E profit for an accounting period, and
 - (b) non-BLAGAB allowable losses have accrued to the company that are available for deduction in accordance with section 210A(2) of TCGA 1992 from the shareholders' share of BLAGAB chargeable gains that have accrued to the company.
- (2) Those losses may be deducted from those gains in accordance with that provision so as to reduce the amount of the I - E profit for the accounting period to nil but no further.
- (3) For the purposes of subsection (1)(a), assume that non-BLAGAB allowable losses cannot be deducted from any BLAGAB chargeable gains (and, accordingly, ignore the effect of this section).

Overseas life insurance companies

96 Expenses referable to exempt FOTRA profits

- (1) This section applies if the profits for an accounting period of the basic life assurance and general annuity business carried on by an overseas life insurance company in the United Kingdom consist of or include exempt FOTRA profits.
- (2) In making the calculation required by step 1 of section 76 for the accounting period, ignore so much of the ordinary BLAGAB management expenses of the company as are referable to exempt FOTRA profits.
- (3) The relevant proportion of those expenses is to be regarded for the purposes of this section as referable to exempt FOTRA profits.
- (4) The relevant proportion is—

$$\frac{\text{FOTRA}}{\text{FOTRA} + I}$$

where—

FOTRA is the amount of the exempt FOTRA profits arising in the accounting period, and

I is the amount of I found by the calculations required by step 4 in section 73 in relation to the company's basic life assurance and general annuity business for the accounting period.

- (5) In this section “exempt FOTRA profits” means profits in respect of which no liability to corporation tax arises as a result of section 1279 of CTA 2009.

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