

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, SCHEDULE 17. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 17

Section 147

#### PART 2: TRANSITIONAL PROVISION

##### PART 1

##### DEEMED RECEIPTS OR EXPENSES

###### *General outline of the provision of this Part of this Schedule*

- 1 (1) This Part of this Schedule makes provision, by reference to the 2012 balance sheet and the 2012 periodical return of an insurance company (see paragraphs 2 to 4), for deeming amounts to be receipts or expenses of basic life assurance and general annuity business, or non-BLAGAB long-term business, carried on by the company (see paragraphs 9(1) and (2) and 10(1) and (2)).
- (2) Those amounts are determined in accordance with provision made by or under paragraphs 5 to 8.
- (3) The deeming is to have effect for the purpose of calculating the BLAGAB trade profit or loss or (as the case may be) for the purpose of calculating for corporation tax purposes the profits of the non-BLAGAB long-term business (see paragraphs 9(3) and 10(3)).
- (4) The general rule is that, subject to exceptions, the receipts or expenses are treated as arising over a 10-year period (see paragraphs 11 to 15).
- (5) Special provision is made in relation to the operation of sections 83YC to 83YF of FA 1989 (see paragraph 16).
- (6) Anti-avoidance provision is made by paragraphs 17 to 19.
- (7) Provision in relation to overseas life insurance companies is made by paragraph 20.

###### *Basic concepts*

- 2 In this Part of this Schedule—
  - “the 2012 balance sheet”, in relation to an insurance company, means—
    - (a) an actual balance sheet of the company drawn up as at the end of 31 December 2012 in accordance with generally accepted accounting practice, or
    - (b) a deemed balance sheet of the company under paragraph 3, and
  - “the 2012 periodical return”, in relation to an insurance company, means—
    - (a) an actual periodical return of the company covering a period ending immediately before 1 January 2013, or

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- (b) a deemed periodical return of the company under paragraph 4.
- 3 (1) This paragraph applies if an insurance company does not have a balance sheet drawn up as at the end of 31 December 2012 in accordance with generally accepted accounting practice.
- (2) For the purposes of this Part of this Schedule the company is deemed to have drawn up a balance sheet as at the end of 31 December 2012 in accordance with generally accepted accounting practice.
- (3) For the purposes of this Part of this Schedule the entries shown in this deemed balance sheet are deemed to be those entries which would have been shown in an actual balance sheet of the company drawn up as mentioned in sub-paragraph (1).
- (4) The generally accepted accounting practice that is to be applicable for the purposes of sub-paragraphs (2) and (3) is the practice that is actually adopted for the accounts of the company drawn up for the period in which 31 December 2012 falls.
- 4 (1) This paragraph applies if an insurance company does not have a periodical return covering a period ending immediately before 1 January 2013.
- (2) For corporation tax purposes the company is deemed to have a periodical return covering the period—
- (a) beginning immediately after the last period ending before 1 January 2013 that is covered by a periodical return of the company, and
- (b) ending immediately before 1 January 2013.
- (3) This deemed periodical return is deemed to contain such entries as would be included in an actual periodical return of the company covering the period beginning and ending as mentioned in sub-paragraph (2)(a) and (b).
- (4) For corporation tax purposes the period beginning and ending as mentioned in sub-paragraph (2)(a) and (b) is deemed to be a period of account of the company.

*The comparison etc*

- 5 (1) In the case of an insurance company, a comparison must be made between—
- (a) the amount attributed to shareholders as at 31 December 2012 (see sub-paragraphs (2) to (4)), and
- (b) the cumulative taxed surplus as at 31 December 2012 (see sub-paragraph (5) and (6)).
- (2) The amount attributed to shareholders as at 31 December 2012 is—
- (a) the amount shown in line 75 of Form 14 of the 2012 periodical return in respect of the whole of the company's long-term business, less
- (b) the amount (if any) shown in the 2012 balance sheet of the company in respect of the fund for future appropriations or unallocated divisible surplus.
- (3) In prescribed cases the amount attributed to shareholders as at 31 December 2012 is to be found by making prescribed adjustments to the amount found by sub-paragraph (2)(a) and (b).
- (4) In sub-paragraph (3) “prescribed” means prescribed, or of a description prescribed, by regulations made by the Treasury.

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The regulations may be made so as to have effect in relation to any period beginning before but ending on or after the day on which the regulations are made (as well as in relation to periods no part of which falls before that day).

- (5) The cumulative taxed surplus as at 31 December 2012 is found by adding together the amounts (if any) found by the following paragraphs—
- (a) the amount shown in line 13 of Form 14 of the 2012 periodical return in respect of the whole of the company's long-term business but excluding the amount representing any undistributed demutualisation surplus of the company for the period of account ending immediately before 1 January 2013, and
  - (b) the total amount brought into account for any period of account of the company as a result of section 83YA(3) of FA 1989 less the total amount brought into account for any period of account as a result of section 83YA(4) of FA 1989 (changes in value of assets brought into account: non-profit companies).
- (6) In sub-paragraph (5)(a) “undistributed demutualisation surplus” means the undistributed demutualisation surplus of the company for the period of account in question for the purposes of section 444AF of ICTA.
- (7) The difference between the amount attributed to shareholders as at 31 December 2012 and the cumulative taxed surplus as at 31 December 2012 is referred to in this Part of this Schedule as “the total transitional difference”.
- (8) If the amount attributed to shareholders as at 31 December 2012 exceeds the cumulative taxed surplus as at 31 December 2012, the total transitional difference is a positive figure.
- (9) If the cumulative taxed surplus as at 31 December 2012 exceeds the amount attributed to shareholders as at 31 December 2012, the total transitional difference is a negative figure.
- 6 (1) The insurance company—
- (a) must, by comparing amounts shown in the 2012 periodical return with amounts shown in the 2012 balance sheet, determine the particular items that, when taken together, result in the total transitional difference, and
  - (b) must allocate a positive or negative amount to each of those items.
- (2) The positive or negative amounts allocated to those items in accordance with this paragraph must, when added together, equal the total transitional difference.
- (3) The Treasury may make regulations prescribing—
- (a) the way in which the comparison or determination under sub-paragraph (1) (a) must be done, and
  - (b) the method for making the allocation under sub-paragraph (1)(b).
- (4) The provision that may be made by regulations under sub-paragraph (3)(a) includes provision prescribing descriptions of amounts which are, or are not, to be compared with each other.
- 7 (1) Each of the items determined in accordance with paragraph 6(1)(a) is a “relevant computational item” for the purposes of this Part of this Schedule except in so far as it consists of an excluded item.

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- (2) An item is “an excluded item” in so far as it—
- (a) represents an amount forming part of the company's deferred acquisition costs which is included in its 2012 balance sheet and which has been taken into account in calculating its life assurance trade profits,
  - (b) represents an amount which is included in the company's 2012 balance sheet as an asset in respect of the value of future profits arising from a business (or part of a business) transferred to the company (but excluding an asset so far as it is regarded for accounting purposes as internally-generated),
  - (c) represents an outstanding contingent loan or an outstanding re-insurance amount,
  - (d) represents an asset to which Part 8 of CTA 2009 (intangible fixed assets) applies for an accounting period of the company beginning on or after 1 January 2013, or
  - (e) falls within a description of item excluded for the purposes of this paragraph by regulations made by the Treasury.
- (3) In sub-paragraph (2)(c) “outstanding contingent loan” means the total amount of the credits brought into account by the company as part of total income—
- (a) for the period of account ending immediately before 1 January 2013, or
  - (b) for any earlier period of account,
- in respect of money debts so far as those debts have not been repaid before that date.
- (4) In sub-paragraph (2)(c) “outstanding re-insurance amount” means the total of the amounts which would (but for section 83YF(2) of FA 1989) have been taken into account in calculating the company's life assurance trade profits—
- (a) for the period of account ending immediately before 1 January 2013, or
  - (b) for any earlier period of account,
- in respect of the re-insurance of relevant liabilities (within the meaning of section 83YC of FA 1989) to the extent that they have not ceased to be re-insured before that date.
- (5) In this paragraph “life assurance trade profits” means profits arising from life assurance business calculated in accordance with the provisions applicable for the purposes of the taxation of such profits under section 35 of CTA 2009 (charge on trade profits).
- (6) For any accounting period beginning on or after 1 January 2013, an amount is not to be taken into account—
- (a) in calculating the BLAGAB trade profit or loss of any basic life assurance and general annuity business, or
  - (b) in calculating for corporation tax purposes the profits of non-BLAGAB long-term business,
- in so far as the amount consists of an excluded item as a result of falling within sub-paragraph (2)(a) to (d) or, in a case where the regulations provide for the application of this sub-paragraph, within sub-paragraph (2)(e).
- 8 (1) Each relevant computational item must be apportioned between—
- (a) any basic life assurance and general annuity business carried on by the company as at 31 December 2012,
  - (b) any gross roll-up business carried on by the company as at that date, and

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(c) any PHI business carried on by the company as at that date.

- (2) The Treasury may make regulations for apportioning for the purposes of this Part of this Schedule relevant computational items between those businesses (including provision for the whole amount of a relevant computational item to be apportioned to one of those businesses).
- (3) A relevant computational item (or a part of a relevant computational item) allocated in accordance with this paragraph to the company's basic life assurance and general annuity business or gross roll-up business is dealt with in accordance with paragraph 9 or 10.
- (4) But a relevant computational item (or a part of a relevant computational item) allocated in accordance with this paragraph to the company's PHI business is ignored in the application of the remaining provisions of this Part of this Schedule.

*Deemed receipts or expenses of BLAGAB or non-BLAGAB long-term business*

- 9 (1) If a relevant computational item (or a part of a relevant computational item) allocated in accordance with paragraph 8 to the company's basic life assurance and general annuity business is a positive amount, the item (or part of the item) is to be treated as a receipt of that business.
- (2) If a relevant computational item (or a part of a relevant computational item) allocated in accordance with paragraph 8 to the company's basic life assurance and general annuity business is a negative amount, the item (or part of the item) is to be treated as an expense of that business.
- (3) Receipts and expenses within this paragraph are to be taken into account, in accordance with the provisions of this Part of this Schedule, in calculating the BLAGAB trade profit or loss of that business for accounting periods beginning on or after 1 January 2013.
- (4) Receipts within this paragraph are to count as excluded receipts for the purposes of section 92.
- 10 (1) If a relevant computational item (or a part of a relevant computational item) allocated in accordance with paragraph 8 to the company's gross roll-up business is a positive amount, the item (or part of the item) is to be treated as a receipt of the company's non-BLAGAB long-term business.
- (2) If a relevant computational item (or a part of a relevant computational item) allocated in accordance with paragraph 8 to the company's gross roll-up business is a negative amount, the item (or part of the item) is to be treated as an expense of the company's non-BLAGAB long-term business.
- (3) Receipts and expenses within this paragraph are to be taken into account, in accordance with the provisions of this Part of this Schedule, in calculating for corporation tax purposes the profits of the company's non-BLAGAB long-term business for accounting periods beginning on or after 1 January 2013.

*Period over which deemed receipts or expenses arise*

- 11 (1) A receipt or expense within paragraph 9 or 10 is to be treated as arising over the period of 10 years beginning with 1 January 2013.

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- (2) The amount of the receipt or expense apportioned to (and treated as arising in) any accounting period falling wholly or partly in that 10-year period is to be determined in proportion to the number of days of the accounting period falling within that 10-year period.
- (3) This paragraph does not apply to a receipt which consists of a relevant court-protected item within the meaning of paragraph 12.
- (4) This paragraph is subject to paragraphs 13 to 15 (transfers and cessation of business etc).
- 12 (1) For the purposes of this paragraph a “relevant court-protected item” means a relevant computational item that relates to an excess of assets over liabilities held in a non-profit fund in respect of which an order made by a court is in force preventing the distribution of the excess (in any circumstances whatever) before the end of a period specified in the order.
- (2) A receipt within paragraph 9 or 10 consisting of a relevant court-protected item is to be treated as arising over the period of 10 years beginning with the relevant day.
- (3) The relevant day is whichever of the following days occurs first—
- (a) the day on which the court order ceases to be in force, or
  - (b) 1 January 2015.
- (4) The amount of the receipt apportioned to (and treated as arising in) any accounting period falling wholly or partly in that 10-year period is to be determined in proportion to the number of days of the accounting period falling within that 10-year period.
- (5) This paragraph is subject to paragraphs 13 to 15 (transfers and cessation of business etc).
- 13 (1) This paragraph applies if—
- (a) under an insurance business transfer scheme, there is a transfer from one insurance company to another of basic life assurance and general annuity business (or any part of that business) or non-BLAGAB long-term business (or any part of that business),
  - (b) the transfer is a relevant intra-group transfer, and
  - (c) the transfer occurs at a time when the full amount of the receipts or expenses within paragraph 9 or 10 of the business the whole or part of which is transferred has not been treated as arising.
- (2) A transfer is a “relevant intra-group transfer” for the purposes of this paragraph if—
- (a) the transferor and the transferee are members of the same group of companies when the transfer occurs (as determined in accordance with section 170(2) to (11) of TCGA 1992), and
  - (b) the transferee is within the charge to corporation tax in relation to the transfer.
- (3) The receipts or expenses are to continue to be dealt with in accordance with the provisions of this Schedule, but are treated as arising to the transferee over so much of the 10-year period in question as falls on or after the date on which the transfer takes place.
- (4) If only part of a business is transferred—

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- (a) the appropriate [<sup>F1</sup>amount] of the receipts or expenses is treated as arising to the transferee over so much of the 10-year period in question as falls on or after the date on which the transfer takes place, and
  - (b) the remainder of the receipts or expenses is treated as arising to the transferor over so much of that period.
- [<sup>F2</sup>(5) In sub-paragraph (4)(a), “the appropriate amount” means the amount which fairly represents the value of the receipts or expenses attributable to the part of the business transferred immediately before the transfer.]
- (6) For the purposes of this paragraph and paragraphs 11 and 12 the accounting periods of the transferor and the transferee in which the transfer takes place are deemed to end immediately before the transfer takes place.

#### Textual Amendments

- F1** Word in Sch. 17 para. 13(4)(a) substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Insurance Companies \(Amendment to Section 129 of, and Schedule 17 to, the Finance Act 2012\) Regulations 2015 \(S.I. 2015/1959\)](#), regs. 1, **3(2)**
- F2** Sch. 17 para. 13(5) substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Insurance Companies \(Amendment to Section 129 of, and Schedule 17 to, the Finance Act 2012\) Regulations 2015 \(S.I. 2015/1959\)](#), regs. 1, **3(3)**

- 14 (1) This paragraph applies if—
- (a) under an insurance business transfer scheme, there is a transfer from one insurance company to another of basic life assurance and general annuity business (or any part of that business) or non-BLAGAB long-term business (or any part of that business),
  - (b) the transfer is not a relevant intra-group transfer for the purposes of paragraph 13, and
  - (c) the transfer occurs at a time when the full amount of the deemed receipts or expenses of the relevant business has not been treated as arising to the transferor.
- (2) The remaining amount of the deemed receipts or expenses of the relevant business is to be treated as arising to the transferor in the accounting period in which the transfer takes place.
- (3) In this paragraph references to the deemed receipts or expenses of the relevant business—
- (a) are references to the receipts or expenses within paragraph 9 or 10 of the business the whole or part of which is transferred, but
  - (b) do not include references to so much of those receipts or expenses as fall (or have fallen) to be treated as arising to a company other than the company which is the transferor for the purposes of this paragraph.
- 15 (1) This paragraph applies if—
- (a) an insurance company ceases at any time to carry on basic life assurance and general annuity business or non-BLAGAB long-term business otherwise than as a result of a transfer under an insurance business transfer scheme, and
  - (b) at that time the full amount of the deemed receipts or expenses of the business concerned has not been treated as arising to the company.

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- (2) The remaining amount of the deemed receipts or expenses of the business concerned is to be treated as arising to the company in the accounting period in which it ceases to carry on the business concerned.
- (3) For the purposes of this paragraph an insurance company is to be regarded as ceasing to carry on a business at any time if, at that time, it ceases to be within the charge to corporation tax in relation to the business.
- (4) In this paragraph references to the deemed receipts of the business concerned—
  - (a) are references to the receipts or expenses within paragraph 9 or 10 of the business concerned, but
  - (b) do not include references to so much of those receipts or expenses as fall (or have fallen) to be treated as arising to a company other than the company concerned.

*Financing-arrangement-funded transfers to shareholders in relation to non-profit funds*

- 16
- (1) This paragraph applies if, as at 1 January 2013, an insurance company has an unrelieved charge under subsection (3) of section 83YC of FA 1989 (FAFTS: charge in relevant period of account).
  - (2) An insurance company has, as at that date, an unrelieved charge under that subsection if either—
    - (a) that subsection has operated in the case of the company for the period of account ending immediately before that date (“the 2012 period of account”), or
    - (b) that subsection has operated in the case of the company for one or more earlier periods of account, and the total of the amounts which are the relevant amount for the 2012 period of account or those earlier periods under section 83YD of FA 1989 does not exceed the amount which is the taxed amount under that section.
  - (3) The appropriate amount of the unrelieved charge is to be treated for the purposes of this Part of this Schedule as if it were a relevant computational item of a negative amount.
  - (4) The appropriate amount of the unrelieved charge is whichever is the smaller of—
    - (a) in a case within sub-paragraph (2)(a), the amount brought into account under section 83YC(3) of FA 1989, or, in a case within sub-paragraph (2)(b), the amount by which the taxed amount mentioned there exceeds the relevant amount mentioned there, and
    - (b) the sum of the outstanding debt amount and the outstanding re-insurance amount.
  - (5) “The outstanding debt amount” means the total amount of the credits brought into account by the company in relation to a non-profit fund for the purposes of section 83YC of FA 1989 as part of total income—
    - (a) for the 2012 period of account, or
    - (b) for any earlier period of account,
 in respect of relevant money debts to the extent that they have not been repaid before that date.



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- (6) “The outstanding re-insurance amount” means the total of the amounts which would (but for section 83YF(2) of FA 1989) have been taken into account in calculating the profits of the company's life assurance business in accordance with the life assurance trade profits provisions—
- (a) for the 2012 period of account, or
  - (b) for any earlier period of account,
- in respect of the re-insurance of relevant liabilities to the extent that they have not ceased to be re-insured before that date.
- (7) Any expression which is used in this paragraph and in section 83YC of FA 1989 has the same meaning in this paragraph as in that section.
- (8) In this paragraph references to sections 83YC and 83YD of FA 1989 include references to those sections as they have effect in accordance with paragraph 4(2) to (6) of Schedule 17 to FA 2008.

*Anti-avoidance*

- 17 (1) This paragraph applies if—
- (a) on or after 21 March 2012 an insurance company (“C”) enters into any arrangements or does any other thing directly or indirectly for the purposes of, or in connection with, the operation of the transitional rules, and
  - (b) the main purpose, or one of the main purposes, of C in entering into the arrangements or doing the other thing is an unallowable purpose.
- (2) A purpose is an “unallowable purpose” if—
- (a) it consists of securing a tax advantage for C or any other company which is connected to the operation of the transitional rules, or
  - (b) it is not amongst C's business or other commercial purposes.
- (3) If a tax advantage connected to the operation of the transitional rules arises to C, an officer of Revenue and Customs may make such adjustments as are required to negate the tax advantage so far as referable to the unallowable purpose on a just and reasonable apportionment.
- (4) If a tax advantage connected to the operation of the transitional rules arises to a company other than C, an officer of Revenue and Customs may make such adjustments as are required to negate the tax advantage.
- (5) The power to make adjustments under this paragraph includes power to make adjustments by any of the following means—
- (a) an amendment of the company's tax return under paragraph 34(2) or (2A) of Schedule 18 to FA 1998 (amendment after enquiry),
  - (b) an assessment,
  - (c) the nullifying of a right to repayment,
  - (d) the requiring of the return of a repayment already made, and
  - (e) the calculation or recalculation of profits or gains or liability to corporation tax.
- (6) Nothing in this paragraph authorises the making of an assessment later than 6 years after the accounting period to which the tax advantage relates.
- (7) For the purposes of this paragraph—

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- (a) “arrangement” includes any agreement, scheme, transaction or understanding (whether or not legally enforceable),
  - (b) the reference to the operation of the transitional rules is a reference to the operation of any provision made by or under this Part of this Schedule,
  - (c) one example (among others) of entering into arrangements or otherwise doing something for the purposes of, or in connection with, the operation of those rules is entering into the arrangements or otherwise doing the thing to secure that an item is, or is not, taken into account in calculating the total transitional difference, and
  - (d) section 1139 of CTA 2010 (meaning of “tax advantage”) applies, but reading references to tax as references to corporation tax.
- (8) If C is not within the charge to corporation tax in respect of a part of its activities, C's business or other commercial purposes for the purposes of this paragraph do not include the purposes of that part of its activities.
- (9) This paragraph does not apply in any case if section 132 applies in that case.
- 18 (1) Paragraph 17 does not apply if, on an application by C, HMRC Commissioners give a notice under this paragraph stating that they are satisfied that the doing of the relevant things is or will be such that no action ought to be taken by an officer of Revenue and Customs under that paragraph.
- (2) The reference here to the doing of the relevant things is a reference to the entering into of any arrangements, or the doing of any other thing, directly or indirectly for the purposes of, or in connection with, the operation of the transitional rules (within the meaning of paragraph 17).
- 19 (1) An application under paragraph 18 must—
- (a) be in writing, and
  - (b) contain particulars of the arrangements or the thing done or proposed to be done.
- (2) HMRC Commissioners may by notice require C to provide further particulars in order to enable them to determine the application.
- (3) A requirement may be imposed under sub-paragraph (2) within 30 days of the receipt of the application or of any further particulars required under that sub-paragraph.
- (4) If a notice under that sub-paragraph is not complied with within 30 days or such longer period as HMRC Commissioners may allow, they need not proceed further on the application.
- (5) HMRC Commissioners must give notice to C of their decision on an application under paragraph 18—
- (a) within 30 days of receiving the application, or
  - (b) if they give a notice under sub-paragraph (2), within 30 days of that notice being complied with or within such longer period as may be agreed with C.
- (6) If any particulars provided under this paragraph do not fully and accurately disclose all facts and considerations material for the decision of HMRC Commissioners, any resulting notice under paragraph 18 is void.

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### *Overseas life insurance companies*

- 20 Receipts or expenses are not to be treated as arising under this Part of this Schedule in a case where—
- (a) an overseas life insurance company has, in accordance with international accounting standards [<sup>F3</sup>or the Council Directive of 19<sup>th</sup> December 1991 on the annual accounts and consolidated accounts of insurance undertakings (No 91/674/EEC)], prepared accounts for a period which includes 31 December 2012, and
  - (b) parts of the income statements [<sup>F4</sup>or the technical accounts (or part of the technical accounts)] included in those accounts are recognised for the purposes of sections 82A to 83ZA of FA 1989 as a result of provision made by regulation 24 of the Overseas Life Insurance Companies Regulations 2006.

#### **Textual Amendments**

- F3** Words in Sch. 17 para. 20(a) inserted (31.12.2012) by [The Insurance Companies \(Transitional Provisions\) Regulations 2012 \(S.I. 2012/3009\)](#), regs. 1(1), **16(a)**
- F4** Words in Sch. 17 para. 20(b) inserted (31.12.2012) by [The Insurance Companies \(Transitional Provisions\) Regulations 2012 \(S.I. 2012/3009\)](#), regs. 1(1), **16(b)**

## **PART 2**

### SPECIFIC TRANSITIONAL PROVISIONS

#### *Insurance company with BLAGAB consisting wholly of protection business*

- 21 (1) This paragraph applies if—
- (a) in its first accounting period to which this Part applies an insurance company carries on business which, under the old law, would have been basic life assurance and general annuity business,
  - (b) the business in question consists wholly of the effecting or carrying out of contracts of long-term insurance in relation to which the condition in section 62(2)(a) is met, and
  - (c) some or all of the contracts are made before 1 January 2013.
- (2) On or before the filing date for that accounting period, the company may make an election for the contracts made before that date to be treated for the purposes of section 62 as if they were made on or after that date.
- (3) Accordingly, no relief is available for any amount that, but for the election, would have constituted excess BLAGAB expenses for that accounting period.
- (4) The election has effect for the first accounting period of the company to which this Part applies and all subsequent accounting periods.
- (5) The election is irrevocable.
- (6) In this paragraph—  
“the filing date”, in relation to an accounting period of an insurance company, means the date which, for the purposes of paragraph 14 of

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Schedule 18 to FA 1998, is the filing date for the company's tax return for that period, and

“the old law” means the law as it had effect immediately before the day on which this Act is passed.

*Disregard of amounts previously taken into account for tax purposes*

- 22 (1) This paragraph applies if, for an accounting period ending before 1 January 2013, an amount is taken into account in calculating the profits of an insurance company arising from life assurance business in accordance with the provisions applicable for the purposes of the taxation of such profits under section 35 of CTA 2009 (charge on trade profits).
- (2) For any accounting period beginning on or after 1 January 2013—
- (a) the amount is not to be taken into account in calculating the BLAGAB trade profit or loss of any basic life assurance and general annuity business carried on by the company, and
  - (b) the amount is not to be taken into account in calculating for corporation tax purposes the profits of any non-BLAGAB long-term business carried on by the company.
- [<sup>F5</sup>(3) If the business mentioned in sub-paragraph (1) (or any part of that business) is transferred under an insurance business transfer scheme to another insurance company—
- (a) references in sub-paragraph (2) to the company include the transferee, and
  - (b) references in sub-paragraph (2) to the amount include an amount that derives from the amount mentioned in sub-paragraph (1) and include so much of an amount as is taken into account in any calculation required under section 129(6)(a) or (b) and as is referable to the amount mentioned in sub-paragraph (1) (and, accordingly, section 129(7) is subject to the operation of this paragraph.)]

**Textual Amendments**

- F5** Sch. 17 para. 22(3) inserted (30.9.2013) by [The Insurance Companies \(Amendment to Schedule 17 to the Finance Act 2012 \(Transitional Provision\)\) Regulations 2013 \(S.I. 2013/2244\)](#), regs. 1(1), **2(2)** (with reg. 1(2))

- 23 For the purposes of section 76 an expense is to be treated as deductible under another relevant rule so far as it was brought into account at Step 1 in section 76(7) of ICTA as an expense referable to an accounting period ending before 1 January 2013.

*Intangible fixed assets*

- 24 (1) This paragraph applies to assets—
- (a) which, under the old law, were assets excluded from Part 8 of CTA 2009 (intangible fixed assets), and
  - (b) which, as a result of provision made by this Part of this Act, become assets which are not excluded from Part 8 of that Act.

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- (2) Any expenditure incurred before 1 January 2013 on an asset to which this paragraph applies is to be left out of account in determining any amount to be brought into account under Part 8 of CTA 2009.
- (3) Section 780 of CTA 2009 (company ceasing to be member of group: deemed realisation and re-acquisition at market value) is not to apply in relation to any asset to which this paragraph applies.
- (4) For the purposes of this paragraph references to an asset's exclusion from Part 8 of CTA 2009 includes its exclusion from that Part except as respects royalties.
- (5) In this paragraph “the old law” means the law as it had effect immediately before the day on which this Act is passed.

*Assets held for purposes of long-term business*

- 25 (1) The rules in sections 116 to 118 apply in relation to anything occurring on or after 1 January 2013 (and the rules in section 440 of ICTA, including as modified, apply in relation to anything occurring before that date).
- (2) Accordingly, the replacement of the rules in section 440 of ICTA with the different rules in sections 116 to 118 is not by itself sufficient to give rise to a deemed disposal and re-acquisition for the purposes of corporation tax on chargeable gains.
- 26 (1) The rules in sections 119 to 121 apply in relation to securities held on or after 1 January 2013 (and the rules in section 440A of ICTA, including as modified, apply in relation to securities held before that date).
- (2) The replacement of the separate holdings given by section 440A of ICTA (including as modified) with the separate holdings given by sections 119 to 121 is, for the purposes of corporation tax on chargeable gains, not to be treated as involving a disposal or acquisition that gives rise to a chargeable gain or allowable loss.
- (3) But see paragraph 27 for provision for carrying forward the base cost of the old holdings into the base cost of the new holdings.
- 27 (1) This paragraph applies if—
  - (a) immediately before 1 January 2013 securities are treated, as a result of section 440A of ICTA (including as modified), as separate holdings of a company for the purposes of corporation tax, and
  - (b) the securities that are comprised in those separate holdings (the “old holdings”) are, as at 1 January 2013, comprised in separate holdings of the company as determined by the rules in sections 119 to 121 (the “new holdings”).
- (2) Each new holding is treated for the purposes of corporation tax on chargeable gains as if it were a holding of the company with a base cost and an indexation allowance as at 1 January 2013 equal to the total of the base costs and indexation allowances of the old holdings that are carried into the new holding.
- (3) In the case of securities (“new securities”) comprised in a new holding, the amount of the base cost or indexation allowance of an old holding that is carried into the new holding is equal to the proportion which the new securities derived from the old holding bear to all of the securities comprised in the old holding.

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- (4) For the purpose of calculating the indexation allowance of a new holding in respect of any period falling on or after 1 January 2013, it is to be assumed that, on that date, there had been a disposal of the holding for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the company.
- (5) For the purposes of this paragraph—
- (a) references to a base cost are—
    - (i) in the case of a section 104 holding, references to the amount of qualifying expenditure within the meaning of section 110 of TCGA 1992, and
    - (ii) in the case of a 1982 holding, references to the amount of expenditure that would fall to be deducted if the holding were disposed of,
  - (b) references to an indexation allowance are—
    - (i) in the case of a section 104 holding, references to the indexation allowance as found in accordance with section 110 of TCGA 1992, and
    - (ii) in the case of a 1982 holding, references to the indexation allowance within the meaning of Chapter 4 of Part 2 of that Act,
  - (c) the base cost and the indexation allowance of an old holding are calculated on the assumption that the holding is disposed of immediately before 1 January 2013,
  - (d) “section 104 holding” has the same meaning as in section 104(3) of TCGA 1992, and
  - (e) “1982 holding” has the same meaning as in section 109 of that Act.
- 28 (1) This paragraph applies in a case where—
- (a) section 210B(2) to (4) of TCGA 1992 would, but for this Part of this Act, have applied in relation to a disposal and acquisition of section 440A securities, and
  - (b) the identification in accordance with those subsections of the section 440A securities disposed of with the section 440A securities acquired would have involved—
    - (i) identifying securities disposed of before 1 January 2013 with securities acquired on or after that date, or
    - (ii) identifying securities acquired before 1 January 2013 with securities disposed of on or after that date.
- (2) The securities disposed of are to be identified with the securities acquired (if necessary applying the rules in section 210B(3) and (4) of TCGA 1992 and subject to section 105(1) of that Act), and—
- (a) in a case within sub-paragraph (1)(b)(i), the securities acquired are not therefore to be comprised in a separate holding of securities within any of sections 119 to 121 of this Act, and
  - (b) in a case within sub-paragraph (1)(b)(ii), the securities acquired are not therefore to be regarded as comprised in a separate holding of securities within section 440A of ICTA (including as applied).
- (3) In this paragraph “section 440A securities” has the same meaning as in section 210B of TCGA 1992.

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*Carry-forward of trading losses and excess management expenses*

- 29 (1) Any unused losses arising to an insurance company in an accounting period ending before 1 January 2013 from gross roll-up business may be relieved in subsequent accounting periods in accordance with section 45 of CTA 2010 (carry forward of trade loss against subsequent trade profits) as if they were losses that had arisen from non-BLAGAB long-term business.
- (2) For this purpose a loss is “unused” so far as no relief has been given for it under—
- (a) section 436A of ICTA (including as applied by any provision of Part 2 of Schedule 7 to FA 2007), or
  - (b) any other provision of the Corporation Tax Acts.
- 30 (1) Any unused losses arising to an insurance company in an accounting period ending before 1 January 2013 from PHI business may be relieved in subsequent accounting periods in accordance with section 45 of CTA 2010 as if they were losses that had arisen from non-BLAGAB long-term business.
- (2) For this purpose a loss is “unused” so far as, but for this Part of this Act, it would have been available for carry forward under section 45 of CTA 2010 for use in relation to profits of the PHI business for subsequent accounting periods.
- 31 (1) The appropriate part of any unused life assurance trade losses arising to an insurance company in an accounting period ending before 1 January 2013 is to be treated for the purposes of section 124 as if it were the unrelieved loss available for relief in subsequent accounting periods in accordance with that section.
- (2) A “life assurance trade loss” means a loss arising to an insurance company from life assurance business which is calculated in accordance with the life assurance trade profits provisions.
- (3) A life assurance trade loss is “unused” so far as no relief is given for it under—
- (a) section 85A or 89 of FA 1989, or
  - (b) any other provision of the Corporation Tax Acts.
- (4) The “appropriate” part of any unused life assurance trade losses is the amount (if any) by which—
- (a) the amount of the unused life assurance trade losses, exceeds
  - (b) the amount of unused losses arising to an insurance company in an accounting period ending before 1 January 2013 from gross roll-up business (with the definition of “unused” in paragraph 29(2) applying here).
- 32 (1) This paragraph applies if, but for this Part of this Act, an amount would have been carried forward to an accounting period of an insurance company under section 76(12) or (13) of ICTA (expenses of insurance companies).
- (2) The amount is to be treated for the purposes of step 5 of section 76 as an expense from a previous accounting period carried forward as a result of section 73 to the accounting period of the company beginning on 1 January 2013.
- 33 (1) This paragraph applies if, but for this Part of this Act, any amount of expenses would, as a result of section 86(8) and (9) of FA 1989 (relief for fraction of acquisition expenses for earlier accounting periods), have been relieved in an accounting period of an insurance company beginning on or after 1 January 2013.
- (2) Relief is to continue to be given for the expenses in question as follows—

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- (a) the amount of the relief for each accounting period is to be determined in accordance with section 86(8) and (9) of FA 1989 (despite their repeal by this Part of this Act), and
  - (b) the relief is to be given by treating the amount of the expenses as deemed BLAGAB management expenses for the accounting periods in question for the purposes of section 76.
- (3) But relief is not to be given as a result of sub-paragraph (2) for any expenses for any accounting period (“the period concerned”) if the expenses are reversed in the period concerned or any preceding accounting period.

*Relief for BLAGAB trade losses for accounting period beginning on or after 1 January 2013*

- 34 (1) This paragraph applies if—
- (a) an insurance company carries on basic life assurance and general annuity business in an accounting period beginning on or after 1 January 2013, and
  - (b) the company has a BLAGAB trade loss for the accounting period.
- (2) For the purposes of section 37(6) of CTA 2010 (as applied by section 123) the company is to be treated as carrying on that business in a previous accounting period if the company carried on life assurance business in that period.

*Assets of the shareholder fund*

- 35 (1) This paragraph applies in relation to assets of an insurance company carrying on life assurance business which were assets of the shareholder fund of the company for the period of account ending immediately before 1 January 2013.
- (2) Those assets are, in relation to times on or after that date, to be regarded for the purposes of this Part as assets forming part of the long-term business fixed capital of the company (whether or not they would otherwise be so regarded).
- (3) An asset is an “asset of the shareholder fund of an insurance company for the period of account ending immediately before 1 January 2013” if it is shown in any of lines 11 to 102 of Form 13 in the company's periodical return ending immediately before that date in respect of assets other than those of its long-term business.
- (4) But an asset is not to be regarded as an asset of the shareholder fund for that period of account if for any accounting period ending before 1 January 2013—
- (a) income arising from the asset was, or chargeable gains or allowable losses accruing on any part disposal of the asset for the purposes of TCGA 1992 were, taken into account for the purposes of the charge to corporation tax on the I minus E basis, or
  - (b) income arising from the asset was taken into account in calculating the profits of the company in respect of its life assurance business in accordance with the provisions applicable for the purposes of the taxation of such profits under section 35 of CTA 2009 (charge on trade profits).

[<sup>F6</sup>35A(1) Sub-paragraph (2) applies to assets which by reason of paragraph 35 (or the previous application of this paragraph) are regarded for the purposes of this Part as assets forming part of the long-term business fixed capital of a company (“company A”).

- (2) Where—



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- (a) company A transfers all of its basic life assurance and general annuity business and non-BLAGAB business to another company (“company B”), and
  - (b) the transfer is a relevant intra-group transfer,
- for the purposes of this Part the assets form part of the long-term business fixed capital of company B instead of company A.
- (3) “Relevant intra-group transfer” has the same meaning for the purposes of this paragraph as it has for the purposes of paragraph 13.]

#### Textual Amendments

- F6** Sch. 17 para. 35A inserted (with effect in accordance with reg. 1 of the amending S.I.) by *The Insurance Companies (Amendment to Section 129 of, and Schedule 17 to, the Finance Act 2012) Regulations 2015* (S.I. 2015/1959), regs. 1, 4

### PART 3

#### SUPPLEMENTARY

##### *General transitional provision in relation to provisions re-enacted in Part 2 of this Act*

- 36 (1) This paragraph applies where any provision of this Part of this Act re-enacts (with or without modification) an enactment repealed by this Part of this Act.
- (2) The repeal and re-enactment does not affect the continuity of the law.
- (3) Any subordinate legislation or other thing which—
- (a) has been made or done, or has effect as if made or done, under or for the purposes of the repealed provision, and
  - (b) is in force or effective in relation to accounting periods of insurance companies ending on 31 December 2012,
- has effect in relation to subsequent accounting periods of insurance companies as if made or done under or for the purposes of the corresponding provision of this Part of this Act.
- (4) Any reference (express or implied) in any enactment, instrument or document to a provision of this Part of this Act is to be read as including, in relation to times, circumstances or purposes in relation to which the corresponding repealed provision had effect, a reference to that corresponding provision.
- This sub-paragraph applies only so far as the context permits.
- (5) Any reference (express or implied) in any enactment, instrument or document to a repealed provision is to be read, in relation to times, circumstances or purposes in relation to which the corresponding provision of this Part of this Act has effect, as a reference or (as the context may require) as including a reference to that corresponding provision.

This sub-paragraph applies only so far as the context permits.

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- (6) This paragraph is subject to any specific transitional, transitory or saving provision made by or under this Schedule.
- (7) The generality of this paragraph is not to be affected by specific transitional, transitory or saving provision made by or under this Schedule.
- (8) This paragraph has effect instead of section 17(2) of the Interpretation Act 1978.

*Power to make supplementary transitional provision etc*

- 37 (1) The Treasury may by regulations make further transitional, transitory or saving provision in connection with the coming into force of any of the provisions of this Part of this Act.
- (2) The provision that may be made by the regulations includes provision (whether by way of textual amendment or otherwise) altering or supplementing the effect of any provision made by or under this Schedule.
- (3) The regulations may be made so as to have effect in relation to any period beginning before but ending on or after the day on which the regulations are made (as well as in relation to periods no part of which falls before that day).
- 38 Any regulations made by the Treasury under any provision of this Schedule may—
  - (a) make different provision for different cases or circumstances, and
  - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.

*Interpretation*

- 39 The following expressions have the same meaning in this Schedule as they have in Chapter 1 of Part 12 of ICTA—
  - “brought into account” (except in paragraph 24),
  - “gross roll-up business”,
  - “the I minus E basis”,
  - “the life assurance trade profits provisions”,
  - “non-profit fund”,
  - “period of account”,
  - “periodical return”, and
  - “PHI business”.

**Status:**

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**Changes to legislation:**

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