



Finance Act 2012

2012 CHAPTER 14

PART 2

INSURANCE COMPANIES CARRYING ON LONG-TERM BUSINESS

CHAPTER 3

THE I - E BASIS

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.

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- (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.

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

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- (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,
 - “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—

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- (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.
- (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.
- (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.