



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XII

SPECIAL CLASSES OF COMPANIES AND BUSINESSES

CHAPTER II

INSURANCE COMPANIES, ETC

Insurance companies

307 Separation of different classes of business

- (1) Where an insurance company carries on life assurance business in conjunction with insurance business of any other class, the life assurance business shall, for the purposes of the Corporation Tax Acts, be treated as a separate business from any other class of business carried on by the company.
- (2) Where an insurance company carries on both ordinary life assurance business and industrial life assurance business, the business of each such class shall, for the purposes of the Corporation Tax Acts, be treated as though it were a separate business, and section 305 of this Act shall apply separately to each such class of business.

308 Case I computation: investment income, etc.

- (1) Section 239 of this Act shall not prevent franked investment income of a company resident in the United Kingdom which carries on life assurance business from being taken into account as part of the profits in computing trading income in accordance with the provisions applicable to Case I of Schedule D.
- (2) In ascertaining for the purposes of section 177 or section 178 of this Act (relief for losses) whether and to what extent a company has incurred a loss on its life assurance business any profits derived from the investments of its life assurance fund (including

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franked investment income of a company so resident) shall be treated as part of the profits of that business.

309 Case I computation: profits reserved for policy holders and annuitants

Where the profits of an insurance company in respect of its life assurance business are, for the purposes of this Act, computed in accordance with the provisions thereof applicable to Case I of Schedule D, such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants shall be excluded in making the computation, but if any profits so excluded as being reserved for policy holders or annuitants cease at any time to be so reserved and are not allocated to or expended on behalf of policy holders or annuitants, those profits shall be treated as profits of the company for the accounting period in which they ceased to be so reserved.

310 Rate relief: investment income reserved for policy holders

- (1) A claim may be made under this section by an insurance company carrying on life assurance business in respect of unrelieved income from investments held in connection with that business.
- (2) If on the claim the company proves to the satisfaction of the Board that it has, for any year for which the rate of corporation tax exceeds 37.5 per cent., borne corporation tax in respect of any of the said unrelieved income, the company shall be entitled to repayment of so much of that tax borne by it for that year as is equal to the amount by which—
 - (a) the corporation tax borne by the company for that year in respect of the part specified in subsection (6) below of the said unrelieved income, exceeds—
 - (b) the corporation tax which would have been so borne in respect of that part of that income if the rate of corporation tax for that year had been 37.5 per cent.
- (3) If on the claim the company proves to the satisfaction of the Board that it has, for any year for which the standard rate of income tax exceeds 37.5 per cent., borne income tax in respect of any of the said unrelieved income, the company shall be entitled to repayment of so much of that tax borne by it for that year as is equal to the amount by which—
 - (a) the income tax borne by the company for that year in respect of the part specified in subsection (6) below of the said unrelieved income, exceeds—
 - (b) the income tax which would have been so borne in respect of that part of that income if the standard rate of income tax for that year had been 37.5 per cent.
- (4) Subsection (3) above shall apply to franked investment income as if income tax deducted (or treated under paragraph 2 of Schedule F as deducted) from it were income tax borne by the company, and for the purposes of the preceding provisions of this section—
 - (a) "unrelieved income" means income which has not been excluded from charge to tax by virtue of any provision and against which no relief has been allowed by deduction or set-off;
 - (b) the amount of tax which has been or would be borne by a company shall be taken to be the amount of tax which has been or would be so borne after the

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allowance of any relief to which the company is or would be entitled otherwise than under the preceding provisions of this section.

- (5) Except as provided by the preceding provisions of this section, a company resident in the United Kingdom shall not be entitled to repayment of income tax deducted (or treated under paragraph 2 of Schedule F as deducted) from such part of the franked investment income from investments held in connection with its life assurance business as is specified in subsection (6) below.

The reference in this subsection to repayment of income tax includes a reference to the setting off of income tax against tax which the company is liable to pay in respect of its own distributions, and this subsection shall not be taken to apply to repayments of income tax under section 254 of this Act.

- (6) The said part shall be, in the case of any unrelieved income, the same fraction of it as the fraction which, on a computation of the profits of the company in respect of its life assurance business in accordance with the provisions applicable to Case I of Schedule D (whether or not the company is in fact charged to tax under that Case for the relevant accounting period or periods), would be connoted by the words in section 309 above "such part of those profits as belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders or annuitants ":

Provided that, if the income exceeds the profits as computed in accordance with those provisions other than section 309 above, the said part shall be that fraction of the income so far as not exceeding the profits, together with the amount of the excess.

311 Rate relief: chargeable gains reserved for policy holders

- (1) Where an insurance company carrying on life assurance business proves on a claim to the satisfaction of the Board that it has, for any year for which the rate of corporation tax exceeds the rate set out in subsection (2) below, borne corporation tax in respect of chargeable gains from investments held in connection with its life assurance business, the company shall be entitled to repayment of so much of that tax borne by it for that year as is equal to the amount by which—
- (a) the corporation tax borne by the company for that year in respect of such part of those gains as, in the opinion of the Board, belongs or is allocated to, or is reserved for, or expended on behalf of, policy holders,
- exceeds—
- (b) the corporation tax which would have been so borne in respect of that part of those gains if the rate of corporation tax on the gains had been the rate set out below.
- (2) The said rate of corporation tax is 37-5 per cent., or the rate at which capital gains tax is for the time being chargeable under section 20(3) of the Finance Act 1965, whichever is the lower rate.

In relation to corporation tax for any accounting period the relevant rate of capital gains tax under the said section 20(3) shall be that for the year of assessment in which that accounting period ends.

- (3) For the purposes of this section, the amount of corporation tax which has been or would be borne by a company (in respect of chargeable gains from investments held in connection with its life assurance business) shall be taken to be the amount of

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corporation tax which has been or would be so borne after the allowance of any relief to which the company is or would be entitled otherwise than under this section.

312 Annuity business: separate charge on profits

- (1) Subject to the provisions of this section, profits arising to an insurance company from general annuity business or pension annuity business shall be treated as income within Schedule D, and be chargeable under Case VI of that Schedule, and for that purpose—
- (a) the business of each such class shall be treated separately, and
 - (b) subject to paragraph (a) above, and to subsection (2) below, the profits therefrom shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D:

Provided that this subsection shall not apply to an insurance company charged to corporation tax in accordance with the provisions applicable to Case I of Schedule D in respect of the profits of its ordinary life assurance business.

- (2) In making the said computation—
- (a) section 309 of this Act shall apply with the necessary modifications and in particular with the omission therefrom of all references to policy holders, and
 - (b) no deduction shall be allowed in respect of any expenses of management deductible under section 305 of this Act, and
 - (c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen in connection with the granting of annuities on human life in any previous accounting period or year of assessment not earlier than the year 1923-24.
- (3) Section 179 of this Act (Case VI losses) shall not be taken to apply to a loss incurred by a company on its general annuity business or pension annuity business.
- (4) For the purposes of subsection (2) of this section, losses for years of assessment earlier than 1956-57 shall be computed by reference to the annuity business as a whole, and by apportioning any losses which arose on that business (and in respect of which relief has not been given) between the general annuity business and the pension annuity business in such manner as may be appropriate.

313 General annuity business

- (1) In the case of a company carrying on general annuity business, the annuities paid by the company, so far as referable to that business and so far as they do not exceed the taxed income of the part of the annuity fund so referable, shall be treated as charges on income.
- (2) In computing under section 312 above the profits arising to an insurance company from general annuity business—
- (a) taxed income and group income shall not be taken into account as part of those profits, and
 - (b) of the annuities paid by the company and referable to general annuity business—
 - (i) those which under subsection (1) above are treated as charges on income shall not be deductible, and
 - (ii) those which are not so treated shall (notwithstanding section 251(2) of this Act) be deductible.

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- (3) In subsections (1) and (2) above "taxed income " means income charged to corporation tax otherwise than under section 312 above, and franked investment income.
- (4) Subject to subsection (5) below, tax on any franked investment income which is taken into account under subsection (2) above to enable annuities referable to general annuity business to be treated as charges on income shall not be available for setoff against income tax which the company is liable to pay in respect of its own distributions.
- (5) For the purposes of subsection (4) above there shall be deducted from the amount of the franked investment income of the company arising in any accounting period and taken into account under subsection (1) above—
 - (a) the amount of any profit arising in that accounting period to the company from general annuity business and computed under section 312 above, and
 - (b) the amount of any group income arising in that accounting period to the company and referable to its general annuity business.
- (6) A company which is not resident in the United Kingdom but carries on through a branch or agency there any general annuity business shall not be entitled to treat any part of the annuities paid by it which are referable to that business as paid out of profits or gains brought into charge to income tax.

314 Pension annuity business

- (1) Exemption from income tax and corporation tax shall be allowed in respect of income from, and chargeable gains in respect of, investments and deposits of so much of an insurance company's annuity fund as is referable to pension annuity business.
- (2) The exemption from tax conferred by subsection (1) above shall not exclude any sums from being taken into account as receipts in computing profits or losses for any purpose of the Corporation Tax Acts.
- (3) Subject to subsection (4) below—
 - (a) the exclusion by section 239 of this Act from the charge to corporation tax of franked investment income shall not prevent such income being taken into account as part of the profits in computing under section 312 of this Act income from pension annuity business,
 - (b) notwithstanding anything in section 240 of this Act a company resident in the United Kingdom and carrying on life assurance business shall be entitled to repayment of income tax in respect of franked investment income of the company's annuity fund so far as it is referable to pension annuity business, and
 - (c) any franked investment income on which income tax is so repayable shall be left out of account under the said section 240.
- (4) If for any accounting period there is, apart from this subsection, a profit arising to an insurance company from pension annuity business and computed under section 312 of this Act, and the company so elects as respects all or any part of its franked investment income arising in that period, being an amount of franked investment income not exceeding the amount of the said profit, subsection (3) above shall not apply to the franked investment income to which the election relates.

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If an accounting period falls partly in one income tax year of assessment, and partly in another such year, the power of making elections under this subsection may be exercised separately for the respective parts of the accounting period as if they were separate accounting periods, and an election under this subsection shall be made by notice in writing given to the inspector not later than two years after the end of the accounting period, or part of an accounting period, to which the election relates, or within such longer period as the Board may by notice in writing allow.

- (5) In computing under section 312 of this Act profits from pension annuity business—
- (a) group income shall not be taken into account as part of those profits,
 - (b) annuities shall be deductible notwithstanding section 251(2) of this Act,
- and a company shall not be entitled to treat as paid out of profits or gains brought into charge to income tax any part of the annuities paid by the company which is referable to pension annuity business.

315 Foreign life assurance funds

- (1) Corporation tax under Cases IV and V on income arising from investments of the foreign life assurance fund of an insurance company shall be computed as in the cases mentioned in section 122(2) of this Act, that is to say, by reference to the amount of income received in the United Kingdom; and this subsection shall apply notwithstanding that the said section relates only to income tax.
- (2) Where any of the following securities, namely—
- (a) securities issued by the Treasury with the condition that the interest thereon shall not be liable to income tax so long as it is shown, in manner directed by the Treasury, that the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom, or
 - (b) securities issued by the Treasury with the condition that—
 - (i) so long as the securities are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom, the interest thereon shall be exempt from income tax, and
 - (ii) so long as the securities are in the beneficial ownership of persons who are neither domiciled nor ordinarily resident in the United Kingdom, neither the capital thereof nor the interest thereon shall be liable to any taxation present or future, or
 - (c) securities to which section 416 of this Act (local authority securities expressed in foreign currencies) applies,
- for the time being form part of the investments of the foreign life assurance fund of an insurance company, the income arising from those securities, if applied for the purposes of that fund or reinvested so as to form part of that fund, shall not be liable to tax.
- (3) Where any income arising abroad from the investments of the foreign life assurance fund of an insurance company has been remitted to the United Kingdom and invested, as part of the investments of that fund, in any such securities as are mentioned in subsection (2) above, that income shall not be liable to tax and any tax paid thereon shall, if necessary, be repaid to the company on the making of a claim.
- (4) Any securities issued by the Treasury, in pursuance of the power conferred by section 60(1) of the Finance Act 1940, with a modified form of the condition specified in subsection (2)(b) above shall, save in so far as the terms of the issue otherwise

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- provide, be deemed for the purposes of subsections (2) and (3) above to be such securities as are mentioned in the said subsection (2).
- (5) Where income arising from the investments of the foreign life assurance fund of an insurance company has been relieved from tax in pursuance of the provisions of this section, a corresponding reduction shall be made—
- (a) in the relief granted under section 305 of this Act in respect of expenses of management, and
 - (b) in any amount on which the company is chargeable to tax by virtue of section 312 of this Act.
- (6) In this section " foreign life assurance fund "—
- (a) means any fund representing the amount of the liability of an insurance company in respect of its life assurance business with policy holders and annuitants residing outside the United Kingdom whose proposals were made to, or whose annuity contracts were granted by, the company at or through a branch or agency outside the United Kingdom, and
 - (b) where such a fund is not kept separately from the life assurance fund, means such part of the life assurance fund as represents the liability of the company under such policies and contracts, such liability being estimated in the same manner as it is estimated for the purpose of the company's periodical return.
- (7) Subject to subsection (8) below, for any year for which the agreements set out in Part I of Schedule 12 to this Act are in force, subsection (6) above shall have effect as if the expression " the United Kingdom " included the Republic of Ireland.
- (8) Where—
- (a) an insurance company having its head office in the United Kingdom carries on business in the Republic of Ireland, and
 - (b) under provisions of the law of that country corresponding with section 314(1) above exemption from income tax is allowable in respect of income corresponding to the income from investments and deposits referable to pension annuity business to which the said section 314(1) applies,
- this section shall have effect in relation to the income so exempt in the Republic of Ireland with the omission of subsection (7) above.
- (9) Where this section has effect in relation to income arising from investments of any part of an insurance company's life assurance fund, it shall have the like effect in relation to chargeable gains accruing from the disposal of any such investments, and losses so accruing shall not be allowable losses.

316 Overseas life insurance companies: charge on investment income

- (1) Any income of an overseas life insurance company from the investments of its life assurance fund (excluding the annuity fund, if any), wherever received, shall, to the extent provided in this section, be deemed to be profits comprised in Schedule D and shall be charged to corporation tax under Case III of Schedule D.
- (2) Distributions received from companies resident in the United Kingdom shall be brought into account under this section notwithstanding their exclusion from the charge to corporation tax.
- (3) A portion only of the income from the investments of the life assurance fund (excluding the annuity fund, if any) shall be charged in accordance with subsection (1)

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above, and for any accounting period that portion shall be determined by the formula

$$\frac{A \times B}{C}$$

where—

A is the total income from those investments for that period,

B is the average of the liabilities for that period to policy holders resident in the United Kingdom and to policy holders resident abroad whose proposals were made to the company at or through its branch or agency in the United Kingdom, and

C is the average of the liabilities for that period to all the company's policy holders,

but any reference in this subsection to liabilities does not include liabilities in respect of annuity business.

- (4) For the purposes of subsection (3) above, the average of any liabilities for an accounting period shall be taken as one half of the aggregate of the liabilities at the beginning and end of the valuation period which coincides with that accounting period or in which that accounting period falls.
- (5) For the purposes of this section the liabilities of an insurance company attributable to any business at any time shall be ascertained by reference to the net liabilities of the company as valued by an actuary for the purposes of the relevant periodical return.
- (6) Section 129(3) of this Act (income assessable and chargeable in one sum) shall not apply to tax in respect of income to which subsection (1) of this section applies.

317 Management expenses of overseas life insurance companies

The relief under section 305 above available to an overseas life insurance company in respect of its expenses of management shall be limited to expenses attributable to the life assurance business carried on by the company at or through its branch or agency in the United Kingdom.

318 Overseas life insurance companies: annuity business

- (1) Nothing in the Corporation Tax Acts shall prevent the distributions of companies resident in the United Kingdom from being taken into account as part of the profits in computing, under section 312 above, the profits arising from pension annuity business and general annuity business to an overseas life insurance company.
- (2) Any charge to tax under section 312 above for any accounting period on profits arising to an overseas life insurance company from general annuity business shall extend only to a portion of the profits arising from that business and that portion shall be determined by the formula

where—

A is the total amount of those profits,

B is the average of the liabilities attributable to that business for the relevant accounting period in respect of contracts with persons resident in the United Kingdom or contracts with persons resident abroad whose proposals

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were made to the company at or through its branch or agency in the United Kingdom, and

C is the average of the liabilities attributable to that business for that accounting period in respect of all contracts.

- (3) For the purposes of subsection (2) above, the average of any liabilities for an accounting period shall be taken as one half of the aggregate of the liabilities at the beginning and end of the valuation period which coincides with that accounting period or in which that accounting period falls.
- (4) For the purposes of this section the liabilities of an insurance company attributable to general annuity business at any time shall be ascertained by reference to the net liabilities of the company as valued by an actuary for the purposes of the relevant periodical return.

319 Set-off of income tax against corporation tax by overseas life insurance companies

- (1) For the purposes of subsection (3) of section 246 of this Act (set-off by non-resident companies of income tax deducted from payments received against corporation tax), as it applies to life insurance companies, the amount of the income tax referred to in that subsection which shall be available for set-off under that subsection in an accounting period shall be limited in accordance with subsections (2) and (3) below.
- (2) If the company is chargeable to corporation tax for an accounting period in accordance with section 316 above in respect of the income from the investments of its life assurance fund, the amount of income tax available for set-off against any corporation tax assessed for that period on that income shall not exceed an amount equal to income tax at the standard rate on the portion of income from investments which is chargeable to corporation tax by virtue of subsection (3) of the said section 316.
- (3) If the company is chargeable to corporation tax for an accounting period in accordance with section 318 above on a proportion of the total amount of the profits arising from its general annuity business, the amount of income tax available for set-off against any corporation tax assessed for that period on those profits shall not exceed an amount equal to income tax at the standard rate on the like proportion of the income from investments included in computing those profits.

320 Overseas life insurance companies: double taxation agreements

- (1) This section applies to an overseas life insurance company if, by virtue of arrangements specified in an Order in Council under section 497 of this Act (double taxation relief), no charge to corporation tax under Case III of Schedule D arises under section 316 of this Act in respect of any income of the company from the investments of its life assurance fund (excluding the annuity fund, if any).
- (2) For the purposes of section 254 of this Act (set-off of losses etc. against franked investment income), so much of any distributions received in any year of assessment from a company resident in the United Kingdom by an overseas life insurance company to which this section applies as is received in respect of the portion of the investments of its life assurance fund (excluding the annuity fund, if any) attributable to the business of its branch or agency in the United Kingdom shall be deemed to be franked investment income of that company, and accordingly the company may make

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a claim under subsection (1) of the said section 254 for any of the purposes specified in subsection (2) thereof.

321 Life policies carrying rights not in money

- (1) Where any investments or other assets are, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder, the policy holder's acquisition of the assets, and the disposal of them to him, shall be deemed to be for a consideration equal to the market value of the assets—
- (a) for the purposes of Part III of the Finance Act 1965 (chargeable gains), and
 - (b) for the purposes of computing income in accordance with Case I or Case VI of Schedule D, and
 - (c) for the purposes of Case VII of Schedule D.
- (2) This section has effect as respects investments or other assets transferred on or after 6th April 1967.

322 Benefits from life policies issued before 5th August 1965: deduction for tax on chargeable gains

- (1) This section applies in relation to policies of life assurance issued before 5th August 1965 by a company carrying on life assurance business, being policies which—
- (a) provide for benefits consisting to any extent of investments of a specified description or of a sum of money to be determined by reference to the value of such investments, but
 - (b) do not provide for the deduction from those benefits of any amount by reference to tax chargeable in respect of chargeable gains.
- (2) Where—
- (a) the investments of the company's life assurance fund, so far as referable to those policies, consist wholly or mainly of investments of the description so specified, and
 - (b) on the company becoming liable under any of those policies for any such benefits (including benefits to be provided on the surrender of a policy), a chargeable gain accrues to the company from the disposal, in meeting or for the purpose of meeting that liability, of investments of that description forming part of its life assurance fund, or would so accrue if the liability were met by or from the proceeds of such a disposal,

then the company shall be entitled as against the person receiving the benefits to retain thereout a part thereof not exceeding in amount or value corporation tax, at the rate specified in subsection (3) below, in respect of the chargeable gain referred to in paragraph (b) above, computed without regard to any amount retained under this subsection.

- (3) The amount to be retained under subsection (2) above shall be computed by reference to the rate of corporation tax for the time being in force or, if no rate of corporation tax has yet been fixed for the financial year, the rate last in force:

Provided that, in so far as the chargeable gain represents or would represent a gain belonging or allocated to, or reserved for, policy holders, the amount to be retained shall be computed by reference to a rate of tax not exceeding 37.5 per cent.

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323 Interpretation

- (1) This section has effect for the interpretation of the preceding provisions of this Chapter, with this section.
 - (2) Unless the context otherwise requires—
 - " annuity business " means the business of granting annuities on human life,
 - " annuity fund " means, where an annuity fund is not kept separately from the life assurance fund of an insurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts, as stated in its periodical returns,
 - " insurance company " means a company to which the Insurance Companies Act 1958 or the Insurance Companies Act (Northern Ireland) 1968 applies,
 - " life assurance business " includes annuity business,
 - " overseas life insurance company " means an insurance company having its head office outside the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom,
 - " periodical return ", in relation to an insurance company, means a return deposited with the Board of Trade under the Insurance Companies Act 1958 or, as the case may be, with the Ministry of Commerce for Northern Ireland under the Insurance Companies Act (Northern Ireland) 1968.
 - (3) " General annuity business " means any annuity business which is not pension annuity business, and any division to be made between the two classes of business shall be made on the principle of referring to pension annuity business any premiums falling within subsection (4) below, together with the part resulting therefrom of the company's annuity fund and liability for annuities, and of dealing with other incomings and outgoings accordingly.
 - (4) The premiums to be referred to pension annuity business are those payable under contracts falling (at the time when the premium is payable) within one or other of the following descriptions, that is to say—
 - (a) any contract with an individual who is, or would but for an insufficiency of profits or gains be, chargeable to income tax in respect of relevant earnings (as defined in section 226(8) and (9) of this Act) from a trade, profession, vocation, office or employment carried on or held by him, being a contract approved by the Board under that section,
 - (b) any contract with the trustees or other persons having the management of a superannuation fund within the meaning of section 208 of this Act, or of a scheme approved under section 226 of this Act, being a contract which—
 - (i) was entered into for the purposes only of that fund or scheme, or, in the case of a fund part only of which is approved under the said section 208, then for the purposes only of that part of that fund, and
 - (ii) (in the case of a contract entered into or varied after 1st August 1956) is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the fund (or the relevant part of it) or the scheme,
- and in this and the last preceding subsection " premium " includes any consideration for an annuity.