

Status: Point in time view as at 25/07/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1991, SCHEDULE 7. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 48.

BASIC LIFE ASSURANCE AND GENERAL ANNUITY BUSINESS

Management expenses

- 1 In section 76 of the Taxes Act 1988 (expenses of management of insurance companies) in subsection (1)—
- (a) in paragraphs (ca) and (e), for the words “basic life assurance business” there shall be substituted in each place the words “basic life assurance and general annuity business”;
 - (b) in paragraph (d), the words “general annuity business” shall cease to have effect.

Interpretation of Chapter I of Part XII

- 2 In section 431 of that Act (interpretative provisions relating to insurance companies) in subsection (2), after the definition of “basic life assurance business” there shall be inserted—
- “ “basic life assurance and general annuity business means life assurance business other than pension business and overseas life assurance business;”.

Apportionment of income and gains

- 3 (1) In section 432A of that Act (apportionment of income and gains between different categories of business) in subsection (2) (which specifies the categories) paragraphs (b) and (d) shall be omitted and at the end there shall be added—
- “(e) basic life assurance and general annuity business.”
- (2) In subsection (3) of that section, for the words “basic life assurance business” there shall be substituted the words “basic life assurance and general annuity business”.
- (3) In subsection (7)(a)(iii) of that section—
- (a) for the words “general annuity business or basic life assurance business” there shall be substituted the words “or basic life assurance and general annuity business”, and
 - (b) for the words “pension business and basic life assurance business” there shall be substituted the words “those categories of business”.
- (4) In section 432C of that Act (apportionment: income of non-participating funds) in subsection (1), for the words “basic life assurance business” there shall be substituted the words “basic life assurance and general annuity business”.

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- (5) In subsection (5)(a)(ii) of that section—
- (a) for the words “general annuity business or basic life assurance business there shall be substituted the words “or basic life assurance and general annuity business ”, and
 - (b) for the words “pension business and basic life assurance business there shall be substituted the words “those categories of business ”.
- (6) In section 432D of that Act (apportionment: value of non-participating funds) in subsection (1), for the words “basic life assurance business there shall be substituted the words “basic life assurance and general annuity business ”.

Computation of trading profit

- 4 (1) In section 436 of that Act (general annuity business and pension business: separate charge on profits) in subsection (1)—
- (a) the words “general annuity business or” shall cease to have effect, and
 - (b) in paragraph (a), for the words “the business of each such class” there shall be substituted the words “that business ”.
- (2) In subsection (3) of that section—
- (a) in paragraph (c), the words “or general annuity business”, and
 - (b) in paragraph (e), the words “general annuity business or”, shall cease to have effect.
- (3) In subsection (4) of that section, the words “general annuity business or” shall cease to have effect.
- (4) In section 437 of that Act (general annuity business) subsections (2) to (5) shall cease to have effect.

Deduction for annuities referable to basic life assurance and general annuity business

- 5 In section 437 of that Act, for subsection (1) there shall be substituted—
- “(1A) In the case of a company carrying on basic life assurance and general annuity business, the new annuities paid in any accounting period by the company shall be regarded as charges on income only to the extent that they do not exceed the income limit for that accounting period.
- (1B) Subsection (1A) above 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 life assurance business.
- (1C) For the purposes of this section—
- (a) “new annuity means any annuity, so far as paid under a contract made by an insurance company in an accounting period beginning on or after 1st January 1992 and so far as referable to the company’s basic life assurance and general annuity business;
 - (b) “the income limit for an accounting period of an insurance company is the difference between—
 - (i) the total amount of the new annuities paid by the company in that accounting period; and

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- (ii) the total of the capital elements contained in the new annuities so paid; and
 - (c) the capital element contained in an annuity shall be determined in accordance with Chapter V of Part XIV, but for this purpose—
 - (i) it is immaterial whether or not an annuitant claims any relief to which he is entitled under that Chapter; and
 - (ii) where, by virtue of subsection (2) of section 657, section 656 does not apply to an annuity, the annuity shall be treated as containing the capital element that it would have contained apart from that subsection.
- (1D) In any case where—
- (a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in an accounting period beginning before 1st January 1992,
 - (b) the company's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
 - (c) the company's liability in respect of that annuity is referable to its basic life assurance and general annuity business,
- the payment shall be treated for the purposes of this section, other than this subsection, as if the group annuity contract had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).
- (1E) In any case where—
- (a) a payment in respect of an annuity is made by a reinsurer under a reinsurance treaty made in an accounting period beginning before 1st January 1992,
 - (b) the reinsurer's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
 - (c) the reinsurer's liability in respect of that annuity is referable to its basic life assurance and general annuity business,
- the payment shall, as respects the reinsurer, be treated for the purposes of this section, other than this subsection, as if the reinsurance treaty had been made in an accounting period beginning on or after 1st January 1992 (and, accordingly, as payment of a new annuity).
- (1F) In this section—
- “group annuity contract means a contract between an insurance company and some other person under which the company undertakes to become liable to pay annuities to or in respect of such persons as may subsequently be specified or otherwise ascertained under or in accordance with the contract (whether or not annuities under the contract are also payable to or in respect of persons who are specified or ascertained at the time the contract is made);
- “reinsurance treaty means a contract under which one insurance company is obliged to cede, and another (in this section referred to as a “reinsurer) to accept, the whole or part of a risk of a class or description to which the contract relates.”

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Transfer of assets between classes of business

- 6 (1) In section 440 of that Act (transfers of assets etc) in subsection (4) (categories of business) for paragraph (a) there shall be substituted—
- “(a) assets linked solely to basic life assurance and general annuity business;”.
- (2) In section 440A of that Act (securities treated as one holding) in subsection (2)(a)—
- (a) after the word “policies there shall be inserted the words “or annuity contracts ”; and
- (b) for the words “basic life assurance business there shall be substituted the words “basic life assurance and general annuity business ”.
- (3) Immediately before the commencement of the first accounting period of an insurance company beginning on or after 1st January 1992—
- (a) all the assets held by the company and falling within the category set out in paragraph (a) of subsection (4) of section 440 of that Act (basic life assurance business),
- (b) so much of the assets held by the company and falling within the category set out in paragraph (d) of that subsection (assets not falling within any other category) as are linked solely to general annuity business, and
- (c) so much of the assets held by the company and falling within that category as, although not falling within paragraph (b) above, would be regarded as linked solely to the company’s basic life assurance business were its general annuity business treated as forming part of its basic life assurance business and as not being a separate category of business,
- shall be taken to have been transferred from the category in question to the category set out in the paragraph (a) inserted by sub-paragraph (1) above.
- (4) Neither section 440(1) nor section 724(1A) of that Act shall have effect in relation to the transfer of assets from one category to another by sub-paragraph (3) above.

Modifications etc. (not altering text)

C1 Sch. 7 para. 6 modified by S.I. 1992/1655, regs. 1,20

United Kingdom branches of overseas life assurance companies

- 7 (1) In section 446 of that Act (computation under section 436 of profits arising to an overseas life assurance company)—
- (a) in subsection (1), the words “and general annuity business, and
- (b) subsections (2) and (3),
- shall cease to have effect.
- (2) In section 447 of that Act (set-off of income tax and tax credits against corporation tax) in subsection (1), for the words “(2) to (4) there shall be substituted the words “(2) and (4) ”.

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- (3) Subsection (3) of that section (proportion of profits arising from general annuity business for purposes of section 446) shall cease to have effect.
- (4) In subsection (4) of that section (which refers to section 446 and to subsection (3))—
 - (a) the words “or 446 shall cease to have effect; and
 - (b) for the words “subsections (2) and (3) there shall be substituted the words “subsection (2) ”.
- (5) In section 448 of that Act (qualifying distributions and tax credits) in subsection (3), paragraph (a) (limit on amounts that may be set against profits from general annuity business) shall cease to have effect.

Treatment of tax-free income

- 8 In section 474 of that Act, in subsection (1)(b) (certain tax-free income to be included in computing profits or loss from pension business and general annuity business) the words “and general annuity business” shall cease to have effect.

Life annuity contracts: taxation of gain on chargeable event

- 9 (1) In section 547 of that Act (method of charging gain on surrender etc to tax) after subsection (5) there shall be inserted—
 - “(5A) Where a gain is to be treated under section 543 as arising in connection with a contract for a life annuity made—
 - (a) after 26th March 1974, and
 - (b) unless the contract falls, or has at any time fallen, to be regarded as not forming part of any insurance company or friendly society’s basic life assurance and general annuity business the income and gains of which are subject to corporation tax, in an accounting period of the insurance company or friendly society beginning before 1st January 1992,subsection (6) below shall apply in relation to the gain unless subsection (7) below applies in relation to it.”
- (2) In subsection (6) of that section (income constituted by gains on life annuity contracts made after 26th March 1974 not to be treated as if paid after deduction of tax at the basic rate etc) for the words from the beginning to “26th March 1974” there shall be substituted the words “Where this subsection applies in relation to such a gain as is mentioned in subsection (5A) above ”.
- (3) After subsection (8) of that section there shall be inserted—
 - “(9) In this section “basic life assurance and general annuity business has the same meaning as in Chapter I of Part XII.”
- (4) In section 549 of that Act, in subsection (2) (which limits the deduction that may be made under that section to the purposes of excess liability, except where the contract was made after 26th March 1974) after the words “after 26th March 1974” there shall be inserted the words “but in an accounting period of the insurance company or friendly society beginning before 1st January 1992, ”.

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Computation of offshore income gains

- 10 In Schedule 28 to that Act, in paragraph 3(4), paragraph (a) (computation of unindexed gain in case of certain profits arising from general annuity business and falling to be taken into account under section 436) shall cease to have effect.

Interpretation of sections 85 to 89 of Finance Act 1989

- 11 In section 84 of the ^{M1}Finance Act 1989, for subsection (1) (meaning of “basic life assurance business” in sections 85 to 89) there shall be substituted—

“(1) In sections 85 to 89 below “basic life assurance and general annuity business has the same meaning as in Chapter I of Part XII of the Taxes Act 1988.”

Marginal Citations

M1 1989 c. 26.

Miscellaneous receipts

- 12 In section 85 of the ^{M2}Finance Act 1989 (charge of certain receipts of basic life assurance business) in subsection (1), for the words “basic life assurance business” there shall be substituted the words “basic life assurance and general annuity business”.

Marginal Citations

M2 1989 c. 26.

Spreading of relief for acquisition expenses

- 13 (1) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses) in subsections (1) and (5), for the words “basic life assurance business” there shall be substituted in each place the words “basic life assurance and general annuity business”.

- (2) After subsection (3) of that section there shall be inserted—

“(3A) Nothing in subsection (1), (2) or (3) above applies to commissions (however described) in respect of annuity contracts made in accounting periods beginning before 1st January 1992, but without prejudice to the application of subsections (1) and (2) above to any commission attributable to a variation, in an accounting period beginning on or after that date, of an annuity contract so made; and for this purpose the exercise of any rights conferred by an annuity contract shall be regarded as a variation of it.”

- (3) In subsection (4) of that section (meaning of “the acquisition of business”) after the word “includes” there shall be inserted “(a)” and at the end there shall be added the words “and

(b) the securing, in an accounting period beginning on or after 1st January 1992, of the payment of increased or additional

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consideration in respect of an annuity contract already made (whether in an accounting period beginning before, or on or after, that date).”

Deemed disposal of unit trusts etc

- 14 (1) In section 46 of the ^{M3}Finance Act 1990 (annual deemed disposal of holdings of unit trusts etc) in subsection (2) (subsection (1) to apply only to relevant chargeable fraction except in the case of assets linked solely to basic life assurance business) for the words “basic life assurance business there shall be substituted the words “basic life assurance and general annuity business ”.
- (2) In subsection (3)(a) of that section (denominator of the relevant chargeable fraction) for the words “basic life assurance business there shall be substituted the words “basic life assurance and general annuity business ”.

Marginal Citations

M3 1990 c. 29.

Exemptions and exclusions from charges by virtue of section 46

- 15 (1) Schedule 8 to that Act (which provides certain exemptions and exclusions from charges by virtue of section 46 of that Act) shall have effect, and be deemed always to have had effect, with the following amendments.
- (2) In paragraph 1, at the beginning there shall be inserted “(1) ” and in paragraph (c) (definition of “relevant linked liabilities)—
- (a) for the words “basic life assurance business there shall be substituted the words “basic life assurance and general annuity business ”; and
- (b) after the words “pre-commencement policies there shall be inserted the words “or contracts ”.
- (3) For paragraph (d) of that paragraph (definition of “pre-commencement policies) there shall be substituted—
- “(d) “pre-commencement policies or contracts means—
- (i) policies issued in respect of insurances made before 1st April 1990, and
- (ii) annuity contracts made before that date,
- but excluding policies or annuity contracts varied on or after that date so as to increase the benefits secured or to extend the term of the insurance or annuity (any exercise of rights conferred by a policy or annuity contract being regarded for this purpose as a variation);
- (e) “basic life assurance and general annuity business means life assurance business, other than pension business and overseas life assurance business.”
- (4) At the end of that paragraph there shall be added—

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“(2) The assets which are to be regarded for the purposes of this Schedule as linked solely to an insurance company’s basic life assurance and general annuity business at any time before the first accounting period of the company which begins on or after 1st January 1992 are all the assets which at that time—

- (a) are or were linked solely to the company’s basic life assurance business or general annuity business, or
- (b) although not falling within paragraph (a) above, would be, or would have been, regarded as linked solely to the company’s basic life assurance business, were its general annuity business treated as forming, or having at all times formed, part of its basic life assurance business and as not being a separate category of business.”

(5) In paragraph 3 (roll-over relief on replacement of assets) in sub-paragraph (1)(c), for the words “basic life assurance business in both places where they occur there shall be substituted the words “basic life assurance and general annuity business ”.

Transitional relief for old general annuity contracts

16 (1) In computing for the purposes of corporation tax the profits of an insurance company for any accounting period beginning on or after 1st January 1992, there shall be treated as a charge on income an amount equal to the lesser of—

- (a) A, and
- (b) $A - (R1 - R2 + C - SV - DB)$,

and if the result of the formula in paragraph (b) above is a negative amount, it shall be taken to be nil.

(2) For the purposes of sub-paragraph (1) above—

A is the gross amount of any annuities paid in the accounting period so far as referable to old annuity contracts;

R1 is the amount of the company’s opening liabilities for the accounting period in respect of old annuity contracts;

R2 is the amount of the company’s closing liabilities for the accounting period in respect of old annuity contracts;

C is the amount of any consideration received in the accounting period in respect of old annuity contracts;

SV is the amount of any sums paid in the accounting period by reason of the surrender of rights conferred by old annuity contracts;

DB is the amount of any death benefits paid in the accounting period in respect of old annuity contracts.

(3) An annuity paid in an accounting period beginning on or after 1st January 1992, so far as referable to an old annuity contract, shall not to any extent be regarded as constituting a charge on income except as provided by sub-paragraph (1) above.

(4) Neither sub-paragraph (1) nor sub-paragraph (3) above shall 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 life assurance business.

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(5) If, in the case of an annuity under a group annuity contract made by an insurance company in an accounting period beginning before 1st January 1992—

- (a) the company's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (b) the company's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the group annuity contract, so far as relating to that annuity, shall be treated for the purposes of this paragraph, other than this sub-paragraph, as if it had been made in an accounting period beginning on or after 1st January 1992 (and were, accordingly, not an old annuity contract).

(6) If, in the case of an annuity which is subject to a reinsurance treaty made by the reinsurer in an accounting period beginning before 1st January 1992—

- (a) the reinsurer's liabilities first include an amount in respect of that annuity in an accounting period beginning on or after that date, and
- (b) the reinsurer's liability in respect of that annuity is referable to its basic life assurance and general annuity business,

the reinsurance treaty, as respects the reinsurer and so far as relating to that annuity, shall be treated for the purposes of this paragraph, other than this sub-paragraph, as if it had been made in an accounting period beginning on or after 1st January 1992 (and were, accordingly, not an old annuity contract).

(7) In this paragraph—

“general annuity contract means an annuity contract so far as referable to general annuity business;

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

“old annuity contract means a general annuity contract made by an insurance company in an accounting period beginning before 1st January 1992;

“reinsurance treaty means a contract under which one insurance company is obliged to cede, and another (in this paragraph referred to as a “reinsurer) to accept, the whole or part of a risk of a class or description to which the contract relates;

and, subject to that, expressions used in this paragraph and in Chapter I of Part XII of the Taxes Act 1988 have the same meaning in this paragraph as they have in that Chapter.

Modifications etc. (not altering text)

- C2 Sch. 7 para. 16 modified (10.8.1995) by S.I. 1992/1655, reg. 20A (as inserted by S.I. 1995/1916, reg. 10)
- C3 Sch. 7 para. 16(7) modified (20.3.1997; but shall have effect retrospective to 1.1.1995) by S.I. 1997/473, regs. 1(2), 42

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Transitional provisions for chargeable gains and unrelieved general annuity losses

- 17 (1) An insurance company's unrelieved general annuity losses shall be relieved under this paragraph by setting them against the relevant part of any chargeable gains arising to the company in accounting periods beginning on or after 1st January 1992.
- (2) Any relief under this paragraph shall be given as far as possible for the first accounting period of the company beginning on or after 1st January 1992 and, so far as it cannot be so given, for the next accounting period, and so on.
- (3) For the purposes of this paragraph an insurance company's "unrelieved general annuity losses are so much of any losses—
- (a) arising from the company's general annuity business in an accounting period or year of assessment beginning before 1st January 1992, and
 - (b) computed as mentioned in paragraph (c) of subsection (3) of section 436 of the Taxes Act 1988 as it applied in relation to such accounting periods,
- as, by virtue only of an insufficiency of profits, cannot be relieved under that subsection (or any previous enactment which it re-enacts) by setting them off against the profits of such an accounting period or year of assessment.
- (4) For the purposes of this paragraph the relevant part of the chargeable gains arising to a company in an accounting period shall be determined by the application of the following formula—

$$X \times \frac{Y}{Z}$$

where—

X is so much of the chargeable gains arising to the company in the accounting period as are referable to its basic life assurance and general annuity business;
 Y is the mean of the company's opening and closing liabilities for the accounting period in respect of old annuity contracts; and
 Z is the mean of the company's opening and closing liabilities for the accounting period in respect of its basic life assurance and general annuity business.

- (5) Sub-paragraphs (5) to (7) of paragraph 16 above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

Modifications etc. (not altering text)

- C4** Sch. 7 para. 17(4) modified (20.3.1997; but with retrospective effect to 1.1.1995) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), regs. 1(2), **43**

Application of this Schedule

- 18 Paragraphs 1, 3, 4, 5, 6(1) and (2), 7, 8, 10 to 14, 16 and 17 above have effect with respect only to accounting periods beginning on or after 1st January 1992.

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