

SCHEDULES

SCHEDULE 8

LIFE ASSURANCE BUSINESS

PART II

APPLICATION OF PROVISIONS TO OVERSEAS LIFE INSURANCE COMPANIES

- 35 (1) After paragraph 5 of Schedule 19AC to the Taxes Act 1988 insert—
- “5A (1) Where an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom and the distribution (or part of the distribution)—
- (a) would fall within paragraph (a), (aa) or (ab) of section 11(2) but for the exclusion contained in that paragraph, and
 - (b) is referable to life assurance business, but not to overseas life assurance business,
- then the recipient shall be treated for the purposes of the Corporation Tax Acts as entitled to such a tax credit in respect of the distribution (or part of the distribution) as it would be entitled to under section 231 if it were resident in the United Kingdom.
- (2) Where part only of a qualifying distribution would fall within paragraph (ab) of section 11(2) but for the exclusion contained in that paragraph, the tax credit to which the recipient shall be treated as entitled by virtue of sub-paragraph (1) above is the proportionate part of the tax credit to which the recipient would be so treated as entitled in respect of the whole of the distribution.
- 5B (1) An overseas life insurance company may, on making a claim for the purpose, require that any UK distribution income for an accounting period shall for all or any of the purposes mentioned in sub-paragraph (2) below be treated as if it were a like amount of profits chargeable to corporation tax; and where it does so—
- (a) the provisions mentioned in that sub-paragraph shall apply to reduce the amount of the UK distribution income, and
 - (b) the company shall be entitled to have paid to it the amount of the tax credits comprised in the amount of UK distribution income which is so reduced.
- (2) The purposes for which a claim may be made under this paragraph are those of—
- (a) the setting of trading losses against total profits under section 393A(1);
 - (b) the deduction of charges on income under section 338 or paragraph 5 of Schedule 4;

Status: This is the original version (as it was originally enacted).

- (c) the deduction of expenses of management under section 76;
 - (d) the setting of certain capital allowances against total profits under section 145(3) of the 1990 Act.
- (3) Subsections (3), (4) and (8) of section 242 shall apply for the purposes of a claim under this paragraph as they apply for the purposes of a claim under that section.
- (4) In this paragraph “UK distribution income” means income of an overseas life insurance company which consists of a distribution (or part of a distribution) in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution (or part) and the amount of that credit).
- 5C (1) This paragraph applies to income from the investments of an overseas life insurance company attributable to the basic life assurance and general annuity business of the branch or agency in the United Kingdom through which the company carries on life assurance business.
- (2) Where, in computing the income to which this paragraph applies, any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue of those securities regulating the treatment of the interest on them for tax purposes, the relief under section 76 shall be reduced so that it bears to the amount of relief which would be granted apart from this sub-paragraph the same proportion as the amount of that income excluding that interest bears to the amount of that income including that interest.”.
- (2) In paragraph 2(1) of Schedule 19AC to the Taxes Act 1988, for “section 444D” substitute “paragraph 5B of Schedule 19AC”.
- (3) After paragraph 6(4) of that Schedule insert—
- “(4A) In that subsection the following definition shall be inserted at the appropriate place—
- “UK distribution income” has the meaning given by paragraph 5B(4) of Schedule 19AC;”.
- (4) In section 475(6) of the Taxes Act 1988 for “section 444E(2)” (twice) substitute “paragraph 5C(2) of Schedule 19AC”.
- (5) In paragraph 2(2) of Schedule 8A to the Finance Act 1989 for “section 444D(4) of the Taxes Act 1988” substitute “paragraph 5B(4) of that Schedule”.
- 36 In paragraph 5(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted subsection (6B)—
- (a) for “242” substitute “section 242”, and
 - (b) for “444D” substitute “paragraph 5B of Schedule 19AC”.
- 37 In paragraph 6 of Schedule 19AC to the Taxes Act 1988, omit sub-paragraphs (3) and (4).
- 38 After paragraph 6 of Schedule 19AC to the Taxes Act 1988 insert—

Status: This is the original version (as it was originally enacted).

- “6A In section 431D(1), the words “carried on through a branch or agency in the United Kingdom by an overseas life insurance company” shall be treated as inserted after the words “means life assurance business”.”.
- 39 For paragraph 7 of Schedule 19AC to the Taxes Act 1988 substitute—
- “7 (1) Section 432A has effect as if the references in subsections (3), (6) and (8) to assets were to such of the assets concerned as are—
- (a) section 11(2)(b) assets,
 - (b) section 11(2)(c) assets, or
 - (c) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
- and as if the references in subsections (6) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency.
- Expressions used in this sub-paragraph to which a meaning is given by section 11A have that meaning.
- (2) For the purposes of section 432A as it applies in relation to an overseas life insurance company, income which falls within section 11(2)(aa) or (ab), and chargeable gains or allowable losses which fall within section 11(2)(d) or (e)—
- (a) shall not be referable to long term business other than life assurance business; and
 - (b) shall be apportioned under subsections (5) and (6) of that section separately from other income, gains and losses.
- (3) For the purposes of the application of section 432A(6) in relation to such income, gains or losses as are mentioned in sub-paragraph (2) above—
- (a) “liabilities” does not include liabilities of the long term business other than life assurance business;
 - (b) the value of assets directly referable to any category of business does not include assets directly referable to long term business other than life assurance business; and
 - (c) the reference in section 432A(6)(b)(ii) to the investment reserve shall be construed as a reference to so much of the investment reserve as is not referable to long term business other than life assurance business.”.

40 (1) Paragraph 8 of Schedule 19AC to the Taxes Act 1988 is amended as follows.

(2) In sub-paragraph (1)—

 - (a) for “paragraph 1” substitute “paragraph 1C”; and
 - (b) for “the word “1982”” substitute “the words “brought into account, within the meaning of that section,””.

(3) In sub-paragraph (2) for “paragraph 1(6), (7) or (8)” substitute “any provision of paragraph 1C”.

(4) For sub-paragraph (3) substitute—

Status: This is the original version (as it was originally enacted).

“(3) Subsection (3) of section 432B shall have effect as if after the words “with which an account is concerned” there were inserted the words “or in respect of which items are treated as brought into account by virtue of paragraph 1C of Schedule 8A to the Finance Act 1989”; and that subsection and sections 432C to 432E shall have effect as if the reference to relevant business were to relevant business of the branch or agency in the United Kingdom through which the company carries on life assurance business.”.

41 In paragraph 9(1) of Schedule 19AC to the Taxes Act 1988 in the notionally inserted section 434(1A)—

- (a) after “UK distribution income of” insert “, or foreign income dividends arising to,”; and
- (b) for the words from “as part of the profit” to the end substitute—

“—

- (a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or
- (b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.”.

42 After paragraph 9 of Schedule 19AC to the Taxes Act 1988 insert—

“9A In section 434A(1)—

- (a) the words “UK distribution income” shall be treated as substituted for “franked investment income”, and
- (b) the words “an overseas life insurance company” shall be treated as substituted for “a company resident in the United Kingdom”.

9B In section 434B the following subsection shall be treated as inserted after subsection (2)—

“(3) An overseas life insurance 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 its life assurance business.”.

9C In its application to an overseas life insurance company section 434D(4) shall have effect as if the references to liabilities were only to such liabilities as are attributable to the branch or agency in the United Kingdom through which the company carries on the business concerned.”.

43 (1) In paragraph 10(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted section 438(3A)—

- (a) for “subsection (6)” substitute “subsections (6) and (6B)”;
- (b) after “UK distribution income of ” insert “, or foreign income dividends arising to,”;
- (c) after “taken into account” insert “—(a)”; and
- (d) after “pension business” insert—

“, or

Status: This is the original version (as it was originally enacted).

- (b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.”.

(2) In paragraph 10(2) for “subsections (6) and (6A)” substitute “subsections (6), (6A), (6D) and (6E)”.

44 After paragraph 10 of Schedule 19AC to the Taxes Act 1988 insert—

“10A In section 439B the following subsection shall be treated as inserted after subsection (7) of that section—

“(7A) In ascertaining whether or to what extent the company has incurred a loss on its life reinsurance business, UK distribution income of an overseas life insurance company shall be taken into account (notwithstanding anything in paragraph (a), (aa) or (ab) of section 11(2)) as part of the profits of that business.”.

10B (1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 has effect with the following modifications.

(2) Subsection (4) shall be treated as if—

(a) in paragraphs (a), (b), (d), (e) and (f) the words “UK assets” were substituted for the words “assets”; and

(b) at the end there were inserted—

“(g) section 11C assets;

(h) non-UK assets.”.

(3) The following subsection shall be treated as inserted at the end of the section—

“(7) For the purposes of this section—

(a) UK assets are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) section 11C assets are assets—

(i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or

(ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;

(c) non-UK assets are assets which are not UK assets or section 11C assets;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning.”.

(4) Where one of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) shall have effect as if for the words “is within another of those categories” there were substituted “is not within the corresponding category”.

Status: This is the original version (as it was originally enacted).

- (5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in sub-paragraphs (2) and (3) above.
- (6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in sub-paragraphs (2) and (3) above.
- 10C (1) In section 440B the following subsection shall be treated as substituted for subsection (3)—
- “(3) Section 440(1) and (2) have effect as if the only categories specified in subsection (4) of that section were—
- (a) UK assets of the long term business fund,
- (b) other UK assets,
- (c) section 11C assets, and
- (d) non-UK assets,
- (those expressions having the meanings given by section 440(7)).”
- (2) The following subsection shall be treated as substituted for subsection (4) of that section—
- “(4) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—
- “(a) so many of the UK securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of long term business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,
- (b) any remaining UK securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph,
- (c) the section 11C securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs, and
- (d) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.””
- 45 (1) Paragraph 11 of Schedule 19AC to the Taxes Act 1988 is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) In section 440A(2), in paragraph (a) the words “UK securities” shall be treated as substituted for the word “securities” in the first place where it occurs.”

- (3) Omit sub-paragraph (2).
- (4) In sub-paragraph (5) renumber the notionally inserted subsection as (6A).
- 46 After paragraph 11 of Schedule 19AC to the Taxes Act 1988 insert—
- “11A (1) In section 441A, the following subsection shall be treated as inserted after subsection (1)—
- “(1A) The exclusion from section 11(2)(a), (aa) and (ab) of distributions received from companies resident in the United Kingdom shall not apply in relation to a distribution in respect of any asset of the overseas life assurance fund of an overseas life insurance company.”.
- (2) The following subsection shall be treated as substituted for subsections (2) and (3) of that section—
- “(3) An overseas life insurance company shall be entitled to a tax credit in respect of a distribution which—
- (a) is a distribution in respect of an asset of the company’s overseas life assurance fund, and
- (b) is received from a company resident in the United Kingdom, if and to the extent that regulations made by the Board so provide.”.
- 11B In section 442A the following subsection shall be treated as inserted after subsection (6)—
- “(7) In the case of an overseas life insurance company, the investment return treated as accruing under this section in any accounting period in relation to a policy or contract shall be treated as chargeable profits within section 11(2) of the Taxes Act 1988 where the policy or contract is one which in that accounting period gives rise, or but for the reinsurance arrangement would give rise, to such profits.”.
- 47 In paragraph 12(1) of Schedule 19AC to the Taxes Act 1988, for “section 444D” substitute “paragraph 5B of Schedule 19AC”.
- 48 After paragraph 14 of Schedule 19AC to the Taxes Act 1988 insert—
- “14A (1) In Schedule 19AA, paragraph 5(5)(c) (and the reference to it in paragraph 2(3) of that Schedule) shall be treated as omitted.
- (2) The following paragraph shall be treated as inserted at the end of that Schedule—
- “6 In its application to an overseas life insurance company this Schedule shall have effect as if—
- (a) the references in paragraphs 2 and 3 to assets of the long term business fund were to such of the assets as are—
- (i) section 11(2)(b) assets;
- (ii) section 11(2)(c) assets; or
- (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business; and

Status: This is the original version (as it was originally enacted).

- (b) the references in paragraphs 2 and 4 to the liabilities of the company's long term business were to such of those liabilities as are attributable to the branch or agency; and any expression used in this paragraph to which a meaning is given by section 11A has that meaning.””.
- 49 (1) Schedule 8A to the Finance Act 1989 is amended as follows.
- (2) For paragraph 1 substitute—
- “1 (1) In their application to an overseas life insurance company sections 83 and 83A of this Act shall have effect with the modifications specified in paragraphs 1A to 1C below.
- (2) In those paragraphs—
- (a) any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act; and
- (b) any expression to which a meaning is given by section 11A of that Act has that meaning.
- 1A (1) The reference in section 83(2)(a) to investment income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.
- (2) The reference to assets in section 83(2)(b) (as it applies apart from subsection (3) of that section) shall be construed as a reference to such of the assets concerned—
- (a) as are—
- (i) section 11(2)(b) assets;
- (ii) section 11(2)(c) assets; or
- (iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or
- (b) as are assets—
- (i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or
- (ii) (in a case where that section including that subsection applies) of the relevant funds,
- other than assets which fall within paragraph (a) above.
- (3) In determining for the purposes of section 83(2) (as it applies apart from subsection (3) of that section) whether there has been any increase or reduction in the value (whether realised or not) of assets—
- (a) no regard shall be had to any period of time during which an asset held by the company does not fall within paragraph (a) or (b) of sub-paragraph (2) above; and
- (b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account.

For the purposes of paragraph (b) above the specified portion of any increase or reduction in the value of an asset is found by applying to that

Status: This is the original version (as it was originally enacted).

increase or reduction the same fraction as would, by virtue of section 11C of the Taxes Act 1988, be applied to any relevant gain accruing to the company on the disposal of the asset.

- (4) For the reference in section 83(3) to any amount being transferred into the company's long term business fund from other assets of the company, or otherwise added to that fund, there shall be substituted a reference to assets becoming assets of the long term business fund used or held for the purposes of the company's United Kingdom branch or agency, having immediately previously been held by the company otherwise than as assets of that fund or used or held otherwise than for those purposes.

The amount of the increase in value under section 83(2)(b), as it applies in relation to such a transfer, shall be taken to be an amount equal to the value of the assets transferred.

- 1B The references in section 83A to the company's long term business shall be construed as references to the whole of that business or to the whole of that business other than business in respect of which preparation of a revenue account for the purposes of the Insurance Companies Act 1982 is not required.

- 1C (1) Where for a period of account any investment income referred to in section 83(2)(a) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it arises in the period.
- (2) Where for a period of account any increase in value referred to in section 83(2)(b) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.
- (3) Where for a period of account any reduction in value referred to in section 83(2) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.
- (4) Where in any period of account any such transfer is made as is mentioned in section 83(3) which is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period in which it is made."

- (3) In paragraph 2(7) for the words following paragraph (b) substitute—

“and in paragraph (b) above “the specified portion” has the same meaning as in paragraph 1A(3)(b) above.”.

- (4) After paragraph 2(7) insert—

Status: This is the original version (as it was originally enacted).

“(7A) For the purposes of this paragraph any expression to which a meaning is given by section 11A of the Taxes Act 1988 has that meaning.”.