



# Finance Act 2012

## 2012 CHAPTER 14

### PART 2

#### INSURANCE COMPANIES CARRYING ON LONG-TERM BUSINESS

### CHAPTER 1

#### INTRODUCTORY

#### *Outline of provisions of Part*

#### **55 Overview**

- (1) This Part makes special provision for corporation tax purposes in relation to life assurance business and other long-term business carried on by insurance companies.
- (2) Chapter 1 explains some of the key concepts for the purposes of this Part, including the concept of basic life assurance and general annuity business (abbreviated to “BLAGAB”).
- (3) Chapter 2—
  - (a) provides for the profits of BLAGAB to be subject to a charge to corporation tax on the I - E basis as the profits of a separate business, and
  - (b) provides for the profits of other long-term business to be charged to corporation tax under section 35 of CTA 2009 as the profits of a single trade.
- (4) Chapter 3 sets out the rules applicable to the I - E charge (which operate in part by reference to the calculation of an insurance company’s BLAGAB trade profit or loss).
- (5) Chapter 4 sets out rules for determining for the purposes of the I - E charge how to apportion items to an insurance company’s basic life assurance and general annuity business.
- (6) Chapter 5—

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- (a) provides for the policyholders' share of the I - E profit to be charged at the policyholders' rate (the basic rate of income tax), and
  - (b) provides for policyholder tax to be taken into account in calculating an insurance company's BLAGAB trade profit or loss.
- (7) Chapter 6 contains special rules that are to apply for the purpose of calculating an insurance company's BLAGAB trade profit or loss or the profits of an insurance company's other long-term business.
- (8) Chapter 7 sets out rules for determining for the purposes of that calculation how to allocate items between BLAGAB and other long-term business.
- (9) The remainder of the Part contains—
- (a) provision in relation to assets held for the purposes of an insurance company's long-term business (see Chapter 8),
  - (b) provision for relieving BLAGAB trade losses and restrictions in relation to the policyholders' share of an I - E profit (see Chapter 9),
  - (c) provision in relation to the transfer of BLAGAB or other long-term business (see Chapter 10), and
  - (d) definitions and other supplementary material (see Chapters 11 and 12).

*Meaning of "life assurance business"*

**56 Meaning of "life assurance business"**

- (1) This section defines for the purposes of this Part what is meant by "life assurance business".
- (2) Business is "life assurance business" if—
- (a) it consists of the effecting or carrying out of contracts of insurance which fall within paragraph I, II, III or VII(b) of Part 2 of Schedule 1 to the FISMA (Regulated Activities) Order 2001, or
  - (b) it is capital redemption business (see subsection (3)).
- (3) Business is "capital redemption business" if it consists of the effecting on the basis of actuarial calculations, and the carrying out, of contracts under which, in return for one or more fixed payments, a sum of a specified amount (or a series of sums of a specified amount) become payable at a future time or over a period.

*Meaning of "basic life assurance and general annuity business"*

**57 Meaning of "basic life assurance and general annuity business"**

- (1) This section defines for the purposes of this Part what is meant by "basic life assurance and general annuity business".
- (2) "Basic life assurance and general annuity business" means life assurance business other than—
- (a) pension business (which is defined for the purposes of this section by section 58),
  - (b) child trust fund business (which is defined for the purposes of this section by section 59),

- (c) individual savings account business (which is defined for the purposes of this section by section 60),
  - (d) business which consists of the effecting or carrying out of immediate needs annuities (within the meaning of section 725 of ITTOIA 2005),
  - (e) re-insurance of life assurance business other than excluded business,
  - (f) overseas life assurance business (which is defined for the purposes of this section by section 61), or
  - (g) protection business (which is defined for the purposes of this section by section 62).
- (3) In subsection (2)(e) “excluded business” means business of any description excluded for the purposes of this section by regulations made by HMRC Commissioners.

### **58 Section 57: meaning of “pension business”**

- (1) This section defines for the purposes of the definition of “basic life assurance and general annuity business” given by section 57 what is meant by “pension business”.
- (2) Life assurance business is “pension business” if—
- (a) it consists of the effecting or carrying out of contracts entered into for the purposes of a registered pension scheme, or
  - (b) it is the re-insurance of business within paragraph (a).
- (3) Subsection (4) applies if the pension scheme ceases to be a registered pension scheme as a result of the withdrawal of its registration under section 157 of FA 2004.
- (4) The company’s life assurance business that was pension business when the scheme was a registered pension scheme is treated as ceasing to be pension business at the beginning of the company’s period of account in which the scheme so ceases to be a registered pension scheme.
- (5) If—
- (a) immediately before 6 April 2006 an annuity contract fell within any of the descriptions of contracts specified in section 431B(2) of ICTA as it had effect immediately before that date, but
  - (b) the contract does not fall to be regarded for the purposes of this section as having been entered into for the purposes of a registered pension scheme,
- the contract is treated for the purposes of this section as having been entered into for those purposes.

### **59 Section 57: meaning of “child trust fund business”**

- (1) This section defines for the purposes of the definition of “basic life assurance and general annuity business” given by section 57 what is meant by “child trust fund business”.
- (2) Life assurance business is “child trust fund business” if it consists of the effecting or carrying out of child trust fund policies.
- (3) But the re-insurance of business consisting of the effecting or carrying out of child trust fund policies is not “child trust fund business”.

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- (4) In this section “child trust fund policy” means a policy of life insurance which is an investment under a child trust fund (within the meaning of the Child Trust Funds Act 2004).

**60 Section 57: meaning of “individual savings account business”**

- (1) This section defines for the purposes of the definition of “basic life assurance and general annuity business” given by section 57 what is meant by “individual savings account business”.
- (2) Life assurance business is “individual savings account business” if it consists of the effecting or carrying out of individual savings account policies.
- (3) But the re-insurance of business consisting of the effecting or carrying out of individual savings account policies is not “individual savings account business”.
- (4) In this section “individual savings account policy” means a policy of life insurance which is an investment of a kind specified in regulations made as a result of section 695(1) of ITTOIA 2005.

**61 Section 57: meaning of “overseas life assurance business”**

- (1) This section defines for the purposes of the definition of “basic life assurance and general annuity business” given by section 57 what is meant by “overseas life assurance business”.
- (2) Life assurance business is “overseas life assurance business” if—
- (a) it consists of the effecting or carrying out of contracts with policyholders or annuitants who are not resident in the United Kingdom, and
  - (b) it does not consist of excluded business,
- but the re-insurance of business that meets the conditions in paragraphs (a) and (b) is not “overseas life assurance business”.
- (3) For this purpose “excluded business” means—
- (a) business which is pension business within the meaning of section 58,
  - (b) business which is child trust fund business within the meaning of section 59,
  - (c) business which is individual savings account business within the meaning of section 60, or
  - (d) business of any description excluded by regulations made by HMRC Commissioners.
- (4) HMRC Commissioners may by regulations—
- (a) make provision as to the circumstances in which a trustee who is a policyholder or annuitant residing in the United Kingdom is to be treated for the purposes of this section as not residing there, and
  - (b) provide that nothing in Chapter 9 of Part 4 of ITTOIA 2005 is to apply to a policy or contract which constitutes overseas life assurance business as a result of provision made under paragraph (a).
- (5) HMRC Commissioners may by regulations make provision for giving effect to this section.
- (6) Regulations under subsection (5) may—

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- (a) provide that, in prescribed circumstances, any prescribed issue as to whether business is, or is not, overseas life assurance business (or overseas life assurance business of a particular kind) is to be determined by reference to prescribed matters,
  - (b) require companies to obtain certificates, undertakings, information or declarations from any person for the purposes of the regulations,
  - (c) make provision for dealing with cases where any issue within paragraph (a) is (for any reason) wrongly determined, including provision allowing for charges to tax to be imposed (with or without limits on time) on the insurance company concerned or on the policyholders or annuitants concerned,
  - (d) require companies to supply information and make available books, documents and other records for inspection by officers of Revenue and Customs, and
  - (e) make provision (including provision imposing penalties) for contravention of, or non-compliance with, the regulations.
- (7) The matters that may be prescribed under subsection (6)(a) include—
- (a) the giving of certificates or undertakings,
  - (b) the giving or possession of information, and
  - (c) the making of declarations.
- (8) Regulations under this section may—
- (a) make different provision for different cases or circumstances, and
  - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision (including provision amending any enactment or instrument made under any enactment).

## **62 Section 57: meaning of “protection business”**

- (1) This section defines for the purposes of the definition of “basic life assurance and general annuity business” given by section 57 what is meant by “protection business”.
- (2) Life assurance business is “protection business” if it consists of the effecting or carrying out of any contract of long-term insurance in relation to which the following conditions are met—
- (a) the benefits payable cannot exceed the amount of premiums paid except on death or in respect of incapacity due to injury, sickness or other infirmity, and
  - (b) the contract is made on or after 1 January 2013.
- (3) For the purposes of subsection (2)(a) ignore—
- (a) any benefit (other than a payment of money) that, when the contract is entered into, is provided as an inducement for entering into the contract and that is not repayable (to any extent) in any circumstances,
  - (b) any case where the amount by which the benefits can exceed the amount of premiums paid is an insignificant proportion of those premiums, and
  - (c) any case which a reasonable person, as the policyholder under the policy effected by the contract, can reasonably regard as highly unlikely to arise.
- (4) If at any time—
- (a) a contract is varied otherwise than as a result of the operation of, or the exercise of rights conferred by, provisions forming part of the contract or a connected arrangement, and

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- (b) as a result of the variation the contract becomes, or ceases to be, one in respect of which the condition in subsection (2)(a) is met,  
the contract is to be treated for the purposes of this section as ending at that time and a new contract (on the varied terms) is to be treated for those purposes as being made immediately after that time.
- (5) For this purpose a “connected arrangement”, in relation to a contract, means any agreement or other arrangement entered into in connection with the making of the contract.
- (6) If—
- (a) a contract (“the new contract”) is made on or after 1 January 2013 as a result of the operation of, or the exercise of rights conferred by, provisions of a contract (“the old contract”) made before that date, and
  - (b) the provisions of the new contract were (or could have been) determined by reference to provisions of the old contract when the old contract was made,
- the new contract is to be regarded for the purposes of this section as if it were made before 1 January 2013.

*Meaning of “long-term business” and “PHI business”*

**63 Meaning of “long-term business” and “PHI business”**

- (1) For the purposes of this Part “long-term business” means—
- (a) life assurance business, or
  - (b) other business which consists of the effecting or carrying out of contracts of long-term insurance.
- (2) For the purposes of this Part “PHI business” means the other business mentioned in subsection (1)(b).

*Meaning of contract of “insurance” or “long-term insurance” and “insurance company”*

**64 Meaning of “contract of insurance” and “contract of long-term insurance”**

For the purposes of this Part—

“contract of insurance” has the meaning given by article 3(1) of the FISMA (Regulated Activities) Order 2001, and

“contract of long-term insurance” means a contract which falls within Part 2 of Schedule 1 to that Order.

**65 Meaning of “insurance company”**

- (1) This section defines for the purposes of this Part what is meant by an “insurance company”.
- (2) A person who carries on the activity of effecting or carrying out contracts of insurance is an “insurance company” if—
- (a) the person has permission under Part 4 of FISMA 2000 to carry on that activity,

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- (b) the person is of the kind mentioned in paragraph 5(d) or (da) of Schedule 3 to FISMA 2000 (EEA passport rights) and carries on that activity in the United Kingdom through a permanent establishment there, or
  - (c) the person qualifies for authorisation under Schedule 4 to FISMA 2000 (Treaty rights) and carries on that activity in the United Kingdom through a permanent establishment there.
- (3) The above definition is subject to the following qualifications—
- (a) a friendly society within the meaning of Part 3 is not an insurance company, and
  - (b) an insurance special purpose vehicle (see section 139) is an insurance company only if, in addition to falling within subsection (2)(a), (b) or (c), it is a BLAGAB group re-insurer.
- (4) A person is a “BLAGAB group re-insurer” if for an accounting period—
- (a) the person carries on basic life assurance and general annuity business,
  - (b) it is not the case that substantially all of the person’s long-term business is long-term business other than basic life assurance and general annuity business, and
  - (c) all of its life assurance business is re-insurance business of a description which is excluded business for the purposes of section 57(2)(e).

## CHAPTER 2

### CHARGE TO TAX ON I - E BASIS ETC

#### *Separate businesses etc*

#### **66 Separate businesses for BLAGAB and other long-term business**

- (1) If an insurance company carries on—
- (a) basic life assurance and general annuity business, and
  - (b) other long-term business,
- the general rule is that business within paragraphs (a) and (b) is to be treated for corporation tax purposes as two separate businesses carried on by the company.
- (2) One of the separate businesses is to consist of the basic life assurance and general annuity business.
- (3) The other separate business is to be regarded for corporation tax purposes as a single trade consisting of the other long-term business.
- (4) If an insurance company carries on—
- (a) life assurance business none of which is basic life assurance and general annuity business, and
  - (b) PHI business,
- the company is to be treated for corporation tax purposes as carrying on a single trade consisting of the businesses within paragraphs (a) and (b).
- (5) For the purposes of this Part “non-BLAGAB long-term business” means—
- (a) a single trade within subsection (3) or (4), or

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- (b) in a case where an insurance company carries on life assurance business none of which is basic life assurance and general annuity business but does not carry on other long-term business, that life assurance business.
- (6) If an insurance company carries on short-term insurance business, that business is to be regarded for corporation tax purposes as a separate trade.
- (7) For this purpose “short-term insurance business” means any insurance business which is not long-term business.

#### **67 Exception where BLAGAB small part of long-term business**

- (1) There is an exception to the general rule set out in section 66(1) if for an accounting period of an insurance company substantially all of its long-term business is not basic life assurance and general annuity business.
- (2) In that case, there is for the accounting period to be no separate business consisting of the company’s basic life assurance and general annuity business.
- (3) There is instead to be one business that is to be regarded for corporation tax purposes as a single trade of the company consisting of its long-term business.
- (4) That single trade is to be regarded as “non-BLAGAB long-term business” for the purposes of this Part.
- (5) Accordingly, references in this Part (apart from in section 66 and this section) to a company’s basic life assurance and general annuity business do not include any business which, as a result of this section, is regarded as non-BLAGAB long-term business.

*BLAGAB taxed on I - E basis*

#### **68 Charge to tax on I - E profit**

- (1) The charge to corporation tax applies to the I - E profit of the basic life assurance and general annuity business carried on by an insurance company.
- (2) For the meaning of “I - E profit”, see section 73.

#### **69 Exclusion of charge under s.35 of CTA 2009 etc**

The charge to corporation tax under section 68 has effect instead of—

- (a) the charge to corporation tax on income under section 35 of CTA 2009 (charge to tax on trade profits),
- (b) any other charge to corporation tax on income under any other provision of the Corporation Tax Acts that would otherwise have applied, and
- (c) the charge to corporation tax on chargeable gains so far as referable, in accordance with Chapter 4, to the company’s basic life assurance and general annuity business.



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## **70 Rules for calculating I - E profit or excess BLAGAB expenses**

- (1) The rules set out in Chapter 3 determine whether for an accounting period an insurance company carrying on basic life assurance and general annuity business has an I - E profit or excess BLAGAB expenses (and, if so, the amount of the profit or expenses).
- (2) Those rules are referred to in this Part as “the I - E rules”.
- (3) The calculation of the I - E profit or excess BLAGAB expenses is to operate by reference to the amounts that are credited or debited in the accounts of the company for a period of account drawn up in accordance with generally accepted accounting practice.
- (4) But, in the case of amounts of a particular description, that is subject to any provision which (whether expressly or by implication) provides for that calculation to operate by reference to something else.
- (5) For the meaning of “excess BLAGAB expenses”, see section 73.

### *Non-BLAGAB long-term business*

## **71 Charge to tax on profits of non-BLAGAB long-term business**

- (1) The charge to corporation tax on income under section 35 of CTA 2009 (charge to tax on trade profits) applies to the profits of non-BLAGAB long-term business carried on by an insurance company.
- (2) The rules for calculating those profits are subject to the provision made by—
  - (a) Chapter 6 (trade calculation rules applying to long-term business),
  - (b) Chapter 7 (trading apportionment rules), and
  - (c) section 131 (transfers of business).
- (3) Subsection (1) does not apply if the business is mutual business, and in that case no other provision of the Corporation Tax Acts has effect to charge the income of the business to corporation tax.

### *PHI only business*

## **72 Companies carrying on only PHI business**

Nothing in—

- (a) this Part, or
- (b) any other provision of the Corporation Tax Acts that makes special provision in relation to, or by reference to, long-term business carried on by insurance companies,

is to apply in relation to a company which carries on long-term business which consists wholly of PHI business.

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## CHAPTER 3

### THE I - E BASIS

#### *Introduction*

#### **73 The I - E basis**

This section sets out rules, in relation to the basic life assurance and general annuity business carried on by an insurance company, for determining whether the company has an I - E profit or excess BLAGAB expenses for an accounting period (and, if so, the amount of the profit or expenses).

*Step 1*

Calculate the income chargeable for the accounting period that is referable, in accordance with Chapter 4, to the company's basic life assurance and general annuity business.

The meaning here of "income" is given by section 74.

*Step 2*

Calculate the BLAGAB chargeable gains of the company for the accounting period as adjusted for allowable losses (see section 75).

*Step 3*

Calculate so much of the amount (or the total amount) of any I - E receipt under section 92 or 93(5)(a) as is not taken into account in the calculation required by step 1 or 2.

*Step 4*

Add together the amounts given by the calculations required by steps 1 to 3.

Reduce the total of those amounts (but not below nil) by the amount of any non-trading deficit which the company has for the accounting period under section 388 of CTA 2009 (loan relationships and derivative contracts).

The result is "I".

*Step 5*

Calculate the adjusted BLAGAB management expenses of the company for the accounting period (see section 76).

The result is "E".

*Step 6*

Subtract E from I (which, if E is a negative figure, would have the effect of increasing the result of the calculation).

If the result is a positive amount, that is (subject to section 95) the amount for the accounting period chargeable to corporation tax under section 68.

That amount is referred to in this Part as an "I - E profit".

If the result is a negative amount, that amount is to be carried forward by the company as an expense to its next accounting period to be used in accordance with step 5 of section 76.

That amount is referred to in this Part as "excess BLAGAB expenses"

*Definitions of expressions comprising “I”*

**74 Meaning of “income”**

- (1) In section 73 “income”, in relation to an insurance company, means the following income or credits so far as arising from the company’s long-term business—
  - (a) income of the company chargeable under Chapter 3 of Part 4 of CTA 2009 in respect of any separate UK property business or overseas property business within section 86(4),
  - (b) credits in respect of any loan relationships of the company,
  - (c) credits in respect of any derivative contracts of the company,
  - (d) credits brought into account by the company under Part 8 of CTA 2009 (intangible fixed assets),
  - (e) income of the company chargeable under Part 9A of CTA 2009 (company distributions),
  - (f) income of the company chargeable under Chapter 5 of Part 10 of CTA 2009 (distributions from unauthorised unit trusts),
  - (g) income of the company chargeable under Chapter 6 of Part 10 of CTA 2009 (sale of foreign dividend coupons),
  - (h) income of the company chargeable under Chapter 7 of Part 10 of CTA 2009 (annual payments not otherwise charged),
  - (i) income of the company arising from a source outside the United Kingdom which is chargeable under Chapter 8 of Part 10 of CTA 2009 (income not otherwise charged), and
  - (j) income of the company 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).
- (2) The reference in subsection (1)(a) to income chargeable under Chapter 3 of Part 4 of CTA 2009 includes income chargeable under that Chapter in respect of distributions treated by section 548(5) of CTA 2010 as profits of a UK property business carried on by the company.
- (3) References in subsection (1)(b) to (d) to credits need to be read with section 88(3) and (4).
- (4) The reference in subsection (1)(j) to income chargeable as mentioned there needs to be read with section 89(1).
- (5) For the purposes of this section references to income or credits that are chargeable or brought into account under any provision are to income or credits that, but for sections 68 and 69, would be chargeable or brought into account under that provision.
- (6) For the purposes of this section no account is to be taken of income which arises from an asset forming part of the long-term business fixed capital of the company (see section 137).

**75 Meaning of “BLAGAB chargeable gains” etc**

- (1) This section explains for the purposes of section 73 how to calculate the BLAGAB chargeable gains of the company for the accounting period as adjusted for allowable losses.

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*Step 1*

First, calculate the chargeable gains—

- (a) that accrue to the company in the accounting period from the disposal of assets held for the purposes of the company’s long-term business, and
- (b) that are referable, in accordance with Chapter 4, to its basic life assurance and general annuity business.

*Step 2*

Then, deduct from the amount of those gains—

- (a) any allowable losses that accrue to the company in the accounting period from the disposal of assets held for the purposes of the company’s long-term business and that are so referable, and
- (b) so far as not previously deducted from any chargeable gains, any allowable losses that accrued to the company in a previous accounting period from the disposal of assets held for the purposes of the company’s long-term business and that were so referable.

The resulting amount is the amount of the BLAGAB chargeable gains of the company for the accounting period as adjusted for allowable losses.

- (2) The deduction at step 2 may reduce an amount to nil but no further.
- (3) For the purposes of this section no account is to be taken of a chargeable gain or allowable loss accruing to the company on a disposal for the purposes of TCGA 1992 of an asset that forms part of the long-term business fixed capital of the company.
- (4) References in this section to chargeable gains or allowable losses are references to those gains or losses as calculated in accordance with the rules contained in TCGA 1992.

*Definitions of expressions comprising “E”*

**76 Meaning of “adjusted BLAGAB management expenses”**

This section explains for the purposes of section 73 how to calculate the adjusted BLAGAB management expenses of the company for the accounting period.

*Step 1*

Calculate the ordinary BLAGAB management expenses of the company referable to the accounting period (see sections 77, 81 and 82).

In making the calculation ignore so much of those expenses as is deductible under other relevant rules (see section 78(2)).

If the company is an overseas life insurance company, see also section 96.

*Step 2*

If the expenses calculated in accordance with step 1 include acquisition expenses for the purposes of section 79, reduce the amount given by step 1 in accordance with the rules in that section (which, in the typical case, provide for six-sevenths of the adjusted amount of those expenses to be disallowed for the accounting period and relieved instead as deemed BLAGAB management expenses for the next six accounting periods).

*Step 3*

Calculate the total amount of any deemed BLAGAB management expenses for the accounting period (see section 78(3)).

For this purpose ignore any amounts that have already been included in step 1.

*Step 4*

Find the basic amount by adding together the amount given by the calculation required by step 1 (adjusted, where relevant, in accordance with step 2) and the amount given by the calculation required by step 3.

Adjust the basic amount by deducting from it any expenses reversed in the accounting period (see section 78(4)) and any BLAGAB trade loss relieved for the accounting period (see section 78(5)).

*Step 5*

Add together any amounts carried forward as expenses from the previous accounting period to the accounting period as a result of section 73 or 93 to give the carried-forward amount.

Add the carried-forward amount to the basic amount or, as the case may be, the basic amount adjusted in accordance with step 4.

The resulting amount is the amount of adjusted BLAGAB management expenses of the company for the accounting period.

**77 Section 76: meaning of “ordinary BLAGAB management expenses” etc**

- (1) This section explains for the purposes of section 76 what is meant by the “ordinary BLAGAB management expenses of the company referable to the accounting period”.
- (2) Amounts are “ordinary BLAGAB management expenses” of the company if—
  - (a) they are, in accordance with generally accepted accounting practice, debited in accounts drawn up by the company for a period of account (but see subsection (3)),
  - (b) they are expenses of management of the company’s long-term business that are referable, in accordance with Chapter 4, to its basic life assurance and general annuity business, and
  - (c) they are not excluded amounts (see subsections (4) to (7)).
- (3) In a case where acquisition expenses (within the meaning of section 80) incurred in the accounting period fall to be debited in successive accounts drawn up for successive periods of account, those expenses are treated instead as if they were all debited in the accounts drawn up for the first of those periods of account.
- (4) The following are “excluded amounts”—
  - (a) amounts of a capital nature,
  - (b) re-insurance premiums,
  - (c) refunds of premiums,
  - (d) profit commissions and profit participations (however described),
  - (e) a liability of the company to pay an amount of commission or other expenses so far as exceeding the amount which it could reasonably be expected to pay if sections 68 and 69 were not applicable,
  - (f) non-commercial amounts payable by the company,
  - (g) amounts payable in connection with a policy or contract to a policyholder or annuitant under the policy or contract or to any other person entitled to receive benefits under the policy or contract.

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- (5) For the purposes of subsection (4)(f) expenses or other amounts are “non-commercial amounts” payable by the company so far as the company’s purpose in incurring the liability to make the payment is not a business or other commercial purpose of the company.
- (6) Amounts payable as mentioned in paragraph (g) of subsection (4) include—
  - (a) amounts payable to any person acting on behalf of a person within that paragraph, and
  - (b) amounts payable to the personal representatives of a deceased person who was (or acted on behalf of a person who was) within that paragraph.
- (7) Amounts payable as mentioned in subsection (4)(g) do not include amounts payable to an insurance company which is a policyholder under the policy.
- (8) In the case of ordinary BLAGAB management expenses in respect of a period of account which coincides with or falls wholly in an accounting period of the company, all of those expenses are “referable to” the accounting period.
- (9) In the case of ordinary BLAGAB management expenses in respect of any other period of account—
  - (a) those expenses are to be apportioned to the accounting period of the company in accordance with section 1172 of CTA 2010, and
  - (b) the apportioned amount of those expenses is “referable to” the accounting period.

## **78 Section 76: meaning of other expressions**

- (1) This section explains for the purposes of section 76 what is meant by—
  - “other relevant rules”,
  - “deemed BLAGAB management expenses for the accounting period”,
  - “expenses reversed in the accounting period”, and
  - “BLAGAB trade loss relieved for the accounting period”.
- (2) An expense is deductible under another “relevant rule” if—
  - (a) it is deductible as a result of section 92(3),
  - (b) it is deductible in calculating, for corporation tax purposes, the profits of a property business, or
  - (c) it is deductible as a result of section 272 of CTA 2009 in calculating income from the letting of rights to work minerals in the United Kingdom.
- (3) An amount is a “deemed BLAGAB management expense for the accounting period” if it is treated as such for the purposes of section 76 as a result of—
  - section 79 or paragraph 33(2) of Schedule 17 (spreading of acquisition expenses),
  - section 83 (general annuity business),
  - section 87(3) (losses from property businesses where land held for purposes of long-term business),
  - section 88(6) (excess of debits in respect of intangible fixed assets),
  - section 89(2) (excess of miscellaneous losses),
  - paragraph 16(1) of Schedule 7 to FA 1991 (transitional relief for old general annuity contracts),

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- section 256(2)(a) of CAA 2001 (allowances in respect of plant or machinery consisting of management asset),  
section 391(3) of CTA 2009 (loan relationships: carry forward of surplus to next accounting period),  
section 1080(2) of CTA 2009 (additional relief for expenditure on research and development),  
section 1162 of CTA 2009 (additional relief for remediation of contaminated or derelict land), or  
section 783(6), 785(4) or 791(6) of CTA 2010 (manufactured dividends).
- (4) “Expenses reversed in the accounting period” means the total amount of the expenses —
- (a) which were relieved in any previous accounting period in accordance with step 1 (as read with step 2) or step 3 of section 76, but
  - (b) which are subsequently reversed in the accounting period.
- (5) A “BLAGAB trade loss relieved for the accounting period” means so much of a BLAGAB trade loss of the company for the accounting period for which relief is given under—
- (a) section 37 of CTA 2010 (relief for trade losses against total income), as applied by section 123, or
  - (b) Chapter 4 of Part 5 of that Act (group relief), as applied by section 125.

## **79 Spreading of acquisition expenses**

- (1) This section applies if the ordinary BLAGAB management expenses of an insurance company referable to an accounting period for the purposes of section 76 include acquisition expenses (as defined by section 80) incurred in the accounting period.
- (2) In the case of the acquisition expenses—
- (a) a reduction is to be made at step 2 in section 76 so as to secure that only one-seventh of the adjusted amount of those expenses counts as ordinary BLAGAB management expenses of the company referable to the accounting period, and
  - (b) the remainder of that adjusted amount is to be relieved as deemed BLAGAB management expenses for succeeding accounting periods in accordance with the following provisions.
- (3) References in this section to the adjusted amount of the acquisition expenses are to—
- (a) the amount of those expenses calculated as mentioned in step 1 of section 76 (and see, in particular, section 77(3)), less
  - (b) any amount of re-insurance commission or any repayment or refund (in whole or in part) that forms part of an I - E receipt of the company for the accounting period as a result of section 92.
- (4) The remainder of the adjusted amount of the acquisition expenses is relieved as follows.
- (5) One-seventh of the adjusted amount of the acquisition expenses is treated for the purposes of section 76 as a deemed BLAGAB management expense for each succeeding accounting period.

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- (6) But, if a succeeding accounting period is less than a year, the fraction of that amount to be relieved for that period is proportionately reduced.
- (7) The reliefs operate until the whole of the adjusted amount of the acquisition expenses has been used up (and, accordingly, the rules in subsections (5) and (6) have effect subject to this subsection).
- (8) The treatment of any part of the adjusted amount of the acquisition expenses as a deemed BLAGAB management expense for an accounting period (“the period concerned”) as set out in subsections (5) to (7) is subject to the following restriction.
- (9) If expenses are reversed in the period concerned or any preceding accounting period, any acquisition expenses included in those expenses are not to count as deemed BLAGAB management expenses for the period concerned.

#### **80 Section 79: meaning of “acquisition expenses”**

- (1) This section explains for the purposes of section 79 what is meant by “acquisition expenses”.
- (2) The following are “acquisition expenses”—
  - (a) commissions (however described) other than commissions for persons who collect premiums from house to house,
  - (b) any other expenses payable solely for the purpose of the acquisition of business, and
  - (c) so much of any other expenses payable partly for that purpose, and partly for other purposes, as are properly attributable to the acquisition of business.
- (3) The exclusion from paragraph (a) of subsection (2) of commissions for persons who collect premiums from house to house does not prevent their counting as expenses under another paragraph of that subsection.
- (4) For the purposes of that subsection “the acquisition of business” includes—
  - (a) the securing of the payment of increased or additional premiums in respect of a policy of insurance issued in respect of an insurance already made, and
  - (b) the securing of the payment of increased or additional consideration in respect of an annuity contract already made.

#### **81 Amounts treated as ordinary BLAGAB management expenses**

- (1) This section applies in relation to amounts which meet the conditions in section 77(2) (a) and (b).
- (2) The relevant permissive rules apply for the purpose of treating the amounts as ordinary BLAGAB management expenses for the purposes of section 76 as they apply for the purpose of treating amounts as expenses of management for the purposes of Chapter 2 of Part 16 of CTA 2009 (companies with investment business).
- (3) The following provisions of CTA 2009 are “relevant permissive rules”—
  - (a) section 1000 (costs of setting up employee share ownership trust),
  - (b) section 1234 (payments for restrictive undertakings),
  - (c) section 1235 (employees seconded to charities and educational establishments),



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- (d) section 1237 (counselling and other outplacement expenses),
  - (e) section 1238(1) to (3) (retraining courses),
  - (f) sections 1239 to 1242 (redundancy payments and approved contractual payments),
  - (g) section 1243 (payments made by the Government), and
  - (h) section 1244 (contributions to local enterprise organisations or urban regeneration companies).
- (4) If—
- (a) an employer's liability to corporation tax for an accounting period is determined on the assumption that a deduction for expenditure is allowed as a result of the application by this section of section 1238(1) to (3) of CTA 2009, and
  - (b) the deduction would not otherwise have been allowed,
- section 75(2) to (4) of CTA 2009 (retraining courses: recovery of tax) apply.
- (5) If—
- (a) an amount is treated as an ordinary BLAGAB management expense as a result of the application by this section of section 1242 of CTA 2009, and
  - (b) the amount would otherwise be regarded as an acquisition expense for the purposes of section 79,
- the expense is not to be so regarded.
- (6) Section 1253 of CTA 2009 (contributions to local enterprise organisations or urban regeneration companies: disqualifying benefits) applies in the case of amounts treated, as a result of the application by this section of section 1244 of that Act, as ordinary BLAGAB management expenses as it applies in the case of amounts for which a deduction has been made under section 1219 of that Act as a result of section 1244 of that Act.
- (7) For the purposes of this section—
- (a) references in any relevant permissive rule to a company carrying on business that consists wholly or partly of making investments or to a company with investment business are to be read as references to a company carrying on basic life assurance and general annuity business,
  - (b) references in any relevant permissive rule to an amount being deductible under section 1219 of CTA 2009 are to be read as references to an amount being deductible as an ordinary BLAGAB management expense,
  - (c) section 1239 of CTA 2009 is to be treated as having effect with the omission of subsection (1)(c),
  - (d) the reference in section 1240(4) of CTA 2009 to sections 1224 to 1227 of that Act is to be read as a reference to section 77(8) and (9) of this Act, and
  - (e) section 1243 of CTA 2009 is to be treated as having effect with the omission of subsection (1)(c).
- (8) An amount is treated as an ordinary BLAGAB management expense as a result of this section only so far as it would not otherwise be regarded as an ordinary BLAGAB management expense.

## **82 Restrictions in relation to ordinary BLAGAB management expenses**

- (1) This section applies in relation to an amount which is (or, but for this section, would be) regarded for the purposes of section 76 as an ordinary BLAGAB management expense of an insurance company.
- (2) Section 1249(1) and (2) of CTA 2009 (unpaid remuneration) apply for the purpose of determining the period of account for which the amount is debited in the accounts of the company for the purposes of section 77; but this subsection is subject to the operation of section 79.
- (3) Section 1249(1) and (3) of CTA 2009 apply for the purpose of determining whether the amount is to be regarded as an ordinary BLAGAB management expense of the company.
- (4) Section 1251(1) and (2) of CTA 2009 (car hire) apply for the purpose of determining the amount of the ordinary BLAGAB management expense of the company.
- (5) For the purposes of subsections (2) to (4)—
  - (a) references in section 1249 or 1251 of CTA 2009 to a company with investment business are to be read as references to a company carrying on basic life assurance and general annuity business (and, accordingly, the reference in section 1251(1) to total profits is to be read as a reference to profits of basic life assurance and general annuity business), and
  - (b) references in section 1249 or 1251 of CTA 2009 to an amount being deductible under section 1219 of CTA 2009 are to be read as references to an amount being deductible as an ordinary BLAGAB management expense.
- (6) If—
  - (a) an amount is reduced as a result of subsection (4) or a corresponding rule,
  - (b) subsequently there is a rebate (however described) of the hire charges, and
  - (c) an amount representing the rebate is deductible as a reversed expense or taken into account in calculating the amount of an I - E receipt under section 92,
 the amount that would otherwise be so deductible or taken into account is reduced by 15%.
- (7) If—
  - (a) an amount is reduced as a result of subsection (4) or a corresponding rule,
  - (b) subsequently a debt in respect of any of the hire charges is released otherwise than as part of a statutory insolvency arrangement, and
  - (c) an amount representing the release is deductible as a reversed expense,
 the amount that would otherwise be so deductible is reduced by 15%.
- (8) For the purposes of subsections (6) and (7)—
 

“corresponding rule” means section 56(2) or 1251(2) of CTA 2009 or section 48(2) of ITTOIA 2005,

“deductible as a reversed expense” means deductible at step 4 in section 76 as an expense reversed in an accounting period, and

“statutory insolvency arrangement” has the meaning given by section 1319(1) of CTA 2009.

### **83 General annuity business**

- (1) This section applies if an insurance company pays qualifying BLAGAB annuities in an accounting period.
- (2) An amount equal to the difference between—
  - (a) the total amount of those annuities paid by the company in the accounting period, and
  - (b) the total of the amounts exempt under section 717 of ITTOIA 2005 (exemption for part of purchased life annuity payments) contained in those annuities so paid,is treated for the purposes of section 76 as a deemed BLAGAB management expense for the accounting period.
- (3) An annuity is a “qualifying BLAGAB annuity” if—
  - (a) it is referable to the company’s basic life assurance and general annuity business, and
  - (b) it is paid under a contract made by the company in an accounting period beginning on or after 1 January 1992 (but see section 85).
- (4) For the purposes of this section the amounts exempt under section 717 of ITTOIA 2005 are so much of the payments under the qualifying BLAGAB annuities as would be within the exemption under that section if—
  - (a) section 718 of ITTOIA 2005 were omitted, and
  - (b) the exemption under section 717 of ITTOIA 2005 applied in relation to companies as well as individuals.
- (5) If a qualifying BLAGAB annuity (“the actual annuity”) is a steep-reduction annuity, the calculations required by subsection (2)(a) and (b) are to be made as if—
  - (a) the contract for the actual annuity provided instead for the annuities identified below (“the deemed annuities”), and
  - (b) the consideration for each of the deemed annuities were equal to an apportionment of the consideration for the actual annuity on a just and reasonable basis.
- (6) The deemed annuities are—
  - (a) an annuity the payments in respect of which are confined to payments in respect of the actual annuity that fall to be made at the earliest time for the making in respect of that annuity of a reduced payment within section 84(1)(c), and
  - (b) an annuity the payments in respect of which are all the payments in respect of the actual annuity other than those mentioned in paragraph (a).
- (7) If a deemed annuity within subsection (6)(b) (“the later annuity”) would itself be a steep-reduction annuity, the deemed annuities—
  - (a) do not include the later annuity, but
  - (b) include instead the annuities which would be identified by subsection (6) (with as many further applications of this subsection as may be necessary for securing that none of the deemed annuities is a steep-reduction annuity) if references in that subsection to the actual annuity were to the later annuity.
- (8) This section needs to be read with section 84 (meaning of “steep-reduction annuity” etc).

#### **84 General annuity business: meaning of “steep-reduction annuity” etc**

- (1) For the purposes of section 83 an annuity is a “steep-reduction annuity” if—
  - (a) the amount of any payment in respect of it (but not its term) depends on a contingency other than the duration of a human life or lives,
  - (b) the annuitant is entitled to payments of different amounts at different times, and
  - (c) the payments include a payment (“a reduced payment”) of an amount which is substantially smaller than the amount of at least one of the earlier payments.
- (2) If there are different intervals between the payments, it is to be assumed for the purposes of subsection (1)(b) and (c)—
  - (a) that the annuitant’s entitlement, after the first payment, to payments is an entitlement to payments at yearly intervals on the anniversary of the first payment, and
  - (b) that the amount to which the annuitant is assumed to be entitled is equal to the annuitant’s assumed entitlement for the year ending with the anniversary in question.
- (3) For this purpose the annuitant’s assumed entitlement for a year is determined as follows—
  - (a) the annuitant’s entitlement to each payment is taken to accrue at a constant rate during the interval between the previous payment and that payment, and
  - (b) the annuitant’s assumed entitlement for a year is taken to be equal to the total amount which, in accordance with paragraph (a), is treated as accruing in the year.
- (4) In the case of an annuity to which subsection (2) applies, the reference in section 83(6)(a) to the making of a reduced payment is to be read as a reference to the making of a payment which (applying subsection (3)(a)) is taken to accrue at a rate that is substantially less than the rate at which at least one of the earlier payments is taken to accrue.
- (5) If—
  - (a) a question arises whether a payment is substantially smaller than, or accrues at a rate substantially less than, an earlier payment, and
  - (b) the annuitant or (as the case may be) every annuitant is an individual who is beneficially entitled to all the rights conferred on him or her as such an annuitant,

the question is determined without regard to so much of the difference between the amounts or rates as is referable to a reduction falling to be made as a result of a death.
- (6) If the amount of any one or more of the payments depends on a contingency, the annuitant’s entitlement to the payments is determined for the purposes of section 83 and this section according to whatever is the most likely outcome in relation to the contingency (applying any relevant actuarial principles).
- (7) If an agreement or other arrangement has effect for varying the rights of the annuitant in relation to a payment, the payment is taken for the purposes of section 83 and this section to be a payment of the amount to which the annuitant is entitled in accordance with the agreement or other arrangement.
- (8) For the purposes of this section references to a contingency include a contingency consisting wholly or partly in the exercise of an option.

## **85 General annuity business: payments made in pre-1992 accounting periods**

- (1) If—
- (a) a payment in respect of an annuity is made by an insurance company under a group annuity contract made in a pre-1992 accounting period, and
  - (b) the company's liabilities first include an amount in respect of that annuity in a post-1992 accounting period,
- the payment is treated for the purposes of section 83(3)(b) as if the contract had been made in a post-1992 accounting period.
- (2) If—
- (a) a payment in respect of an annuity is made by a re-insurer under a re-insurance treaty made in a pre-1992 accounting period, and
  - (b) the re-insurer's liabilities first include an amount in respect of that annuity in a post-1992 accounting period,
- the payment is, as respects the re-insurer, treated for the purposes of section 83(3)(b) as if the treaty had been made in a post-1992 accounting period.
- (3) In this section—
- “a pre-1992 accounting period” means an accounting period beginning before 1 January 1992,
  - “a post-1992 accounting period” means an accounting period beginning on or after 1 January 1992,
  - “group annuity contract” means a contract under which the insurance company undertakes to become liable to pay annuities to or in respect of persons who 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), and
  - “re-insurance treaty” means a contract under which one insurance company is obliged to cede, and another (referred to in this section as a “re-insurer”) to accept, the whole or part of a risk of a class or description to which the contract relates.

### *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—

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- (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.
- (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
  - (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

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- (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—
    - (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.

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### *Deemed I - E receipts*

## **92 Certain BLAGAB trading receipts to count as deemed I - E receipts**

- (1) This section applies if—
  - (a) an insurance company has receipts that are taken into account in calculating its BLAGAB trade profit or loss (see section 136) for an accounting period,
  - (b) the receipts would not fall within the charge to corporation tax apart from this section, and
  - (c) the receipts are not excluded receipts.
- (2) The appropriate amount of the receipts is an I - E receipt of the company for the accounting period.
- (3) The “appropriate amount” of the receipts is found by deducting expenses from the receipts so far as is necessary for calculating the full amount of the profits.
- (4) Chapter 1 of Part 20 of CTA 2009 (general rules for restricting deductions) is to apply to that calculation.
- (5) The following receipts are “excluded” receipts—
  - (a) premiums,
  - (b) sums received under re-insurance contracts (but see subsection (6) for exceptions),
  - (c) sums which do not fall within the charge to corporation tax because of an exemption,
  - (d) payments received under the Financial Services Compensation Scheme, and
  - (e) payments received from other insurance companies to enable the company to meet its obligations to policyholders.
- (6) A sum received under a re-insurance contract is not an excluded receipt if—
  - (a) it is a re-insurance commission (however described), or
  - (b) it is a sum calculated to any extent by reference to the ordinary BLAGAB management expenses of the company referable to the accounting period (within the meaning of section 77).

### *Minimum profits charge*

## **93 Minimum profits test**

- (1) This section applies if an insurance company has a BLAGAB trade profit for an accounting period.
- (2) A comparison must be made between—
  - (a) the I - E profit or excess BLAGAB expenses for the accounting period, and
  - (b) the BLAGAB trade profit for the accounting period,
 adjusted as need be in accordance with sections 94 and 124.
- (3) In making the calculation required by subsection (2)(a), it is to be assumed that this Chapter has effect with the omission of subsection (5)(a) (but, apart from that, all the other rules in this Chapter have effect for the purposes of that calculation).

- (4) If there are excess BLAGAB expenses for the accounting period, the amount of the excess is treated for the purposes of this section as a negative figure equal to that amount.
- (5) If, for the accounting period, the adjusted BLAGAB trade profit exceeds the adjusted I - E profit or excess BLAGAB expenses—
  - (a) an amount equal to the difference is an I - E receipt of the company for the accounting period (see section 73), and
  - (b) the same amount is carried forward to the company's next accounting period as an expense (see section 76).

#### **94 Adjustment of I - E profit or excess BLAGAB expenses**

- (1) This section applies if the BLAGAB trade profit for the accounting period includes non-taxable distributions receivable by the company in that period that are referable, in accordance with Chapter 7, to the company's basic life assurance and general annuity business.
- (2) For the purposes of section 93(5) (the comparison of the BLAGAB trade profit with the I - E profit or excess BLAGAB expenses), the calculation required by section 73 is performed again but adding to the amount of "I" found by step 4 the total amount of the non-taxable distributions receivable by the company in the accounting period that are so referable.
- (3) Accordingly, once an adjustment is made in accordance with subsection (2), an amount of excess BLAGAB expenses for the accounting period might become an adjusted I - E profit for that period.
- (4) For the purposes of this Part "non-taxable distributions" means distributions that are exempt for the purposes of Part 9A of CTA 2009 (company distributions).
- (5) For the purposes of this Part the amount of a non-taxable distribution does not include any amount withheld from it on account of tax payable under the laws of a territory outside the United Kingdom.

#### *Non-BLAGAB allowable losses*

#### **95 Use of non-BLAGAB allowable losses to reduce I - E profit**

- (1) This section applies if—
  - (a) an insurance company has an I - E profit for an accounting period, and
  - (b) non-BLAGAB allowable losses have accrued to the company that are available for deduction in accordance with section 210A(2) of TCGA 1992 from the shareholders' share of BLAGAB chargeable gains that have accrued to the company.
- (2) Those losses may be deducted from those gains in accordance with that provision so as to reduce the amount of the I - E profit for the accounting period to nil but no further.
- (3) For the purposes of subsection (1)(a), assume that non-BLAGAB allowable losses cannot be deducted from any BLAGAB chargeable gains (and, accordingly, ignore the effect of this section).

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*Overseas life insurance companies*

**96 Expenses referable to exempt FOTRA profits**

- (1) This section applies if the profits for an accounting period of the basic life assurance and general annuity business carried on by an overseas life insurance company in the United Kingdom consist of or include exempt FOTRA profits.
- (2) In making the calculation required by step 1 of section 76 for the accounting period, ignore so much of the ordinary BLAGAB management expenses of the company as are referable to exempt FOTRA profits.
- (3) The relevant proportion of those expenses is to be regarded for the purposes of this section as referable to exempt FOTRA profits.
- (4) The relevant proportion is—

$$\frac{\text{FOTRA}}{\text{FOTRA} + \text{I}}$$

where—

FOTRA is the amount of the exempt FOTRA profits arising in the accounting period, and

I is the amount of I found by the calculations required by step 4 in section 73 in relation to the company's basic life assurance and general annuity business for the accounting period.

- (5) In this section “exempt FOTRA profits” means profits in respect of which no liability to corporation tax arises as a result of section 1279 of CTA 2009.

**CHAPTER 4**

APPORTIONMENT RULES FOR I - E CHARGE

*Introduction*

**97 Application of Chapter**

- (1) This Chapter applies in the case of an insurance company that carries on—
  - (a) basic life assurance and general annuity business, and
  - (b) other business.
- (2) This Chapter contains rules for determining for the purposes of Chapter 3—
  - (a) the credits or other income, the debits or other losses and the expenses that are referable to the company's basic life assurance and general annuity business, and
  - (b) the chargeable gains and allowable losses accruing on the disposal of assets (or parts of assets) that are referable to the company's basic life assurance and general annuity business.

*Allocation of income, losses and expenses*

**98 Commercial allocation**

- (1) This section makes provision for determining—
  - (a) the credits or other income and the debits or other losses arising from the company’s long-term business, and
  - (b) the expenses incurred in the course of the company’s long-term business, that, for the purposes of Chapter 3, are to be regarded as referable to its basic life assurance and general annuity business.
- (2) Those items are to be determined in accordance with an acceptable commercial method adopted by the company for the period of account in which the income or losses arise or the expenses are incurred.
- (3) A method is an “acceptable commercial method” if, in all the circumstances, it can reasonably be regarded as providing a fair method for the purposes of Chapter 3 for determining for a period of account what is referable to the company’s basic life assurance and general annuity business.
- (4) The Treasury may make regulations for the purposes of this section—
  - (a) prescribing cases in which a method is, or is not, to be regarded as an acceptable commercial method, and
  - (b) prescribing cases in which the only acceptable commercial method is to be a method prescribed, or of a description prescribed, in the regulations.
- (5) Subject to any provision made by regulations under subsection (4), the method adopted for the purposes of this section for a period of account—
  - (a) must be consistent with the method adopted for the purposes of section 115 for that period, and
  - (b) in the case of an overseas life insurance company, must also be consistent with the method for that period for attributing assets in accordance with the provision made by or under Chapter 4 of Part 2 of CTA 2009 to its permanent establishment in the United Kingdom.
- (6) In this section “debits or other losses” means—
  - (a) losses in any separate UK property business carried on by the company which is within section 86(4),
  - (b) losses in any separate overseas business carried on by the company which is within section 86(4),
  - (c) debits in respect of any loan relationships of the company,
  - (d) debits in respect of any derivative contracts of the company,
  - (e) debits brought into account by the company under Part 8 of CTA 2009 (intangible fixed assets), and
  - (f) losses of the company which arise from miscellaneous transactions (as defined by section 89(4)).

*Allocation of chargeable gains and allowable losses on disposals of assets*

**99 Application of sections 100 and 101**

- (1) Sections 100 and 101 apply for determining the chargeable gains or allowable losses that, for the purposes of Chapter 3, are to be regarded as referable to a company's basic life assurance and general annuity business whenever it disposes of assets held for the purposes of its long-term business (including cases where, as a result of Chapter 8 or any other provision of the Corporation Tax Acts, it is deemed to make a disposal).
- (2) Expressions that are used in sections 100 and 101 and in TCGA 1992 have the same meaning in those sections as they have for the purposes of that Act.

**100 Assets wholly or partly matched to BLAGAB liabilities**

- (1) If, immediately before the disposal, the whole of the asset was matched to a BLAGAB liability, the whole of the gain or loss is referable to the company's basic life assurance and general annuity business.
- (2) If, immediately before the disposal, a part of the asset was matched to a BLAGAB liability, the appropriate portion of the gain or loss is referable to the company's basic life assurance and general annuity business.
- (3) "The appropriate proportion" means the proportion equal to the proportion of the asset matched to the BLAGAB liability.
- (4) If, as a result of Chapter 8, there is a disposal of a part of an asset where the part concerned is matched to a BLAGAB liability, the whole of the gain or loss is referable to the company's basic life assurance and general annuity business.
- (5) The concept of the whole or a part of an asset being matched to a BLAGAB liability is explained by section 138.

**101 Commercial allocation for disposals not wholly dealt with by section 100**

- (1) This section applies if, in the case of the disposal—
  - (a) no part of the gain or loss is dealt with by section 100, or
  - (b) section 100 deals with only a proportion of the gain or loss.
- (2) The gain or loss, or (as the case may be) the remaining proportion of the gain or loss, which is referable to the company's basic life assurance and general annuity business is determined in accordance with an acceptable commercial method adopted by the company for the period of account in which the disposal is made.
- (3) A method is an "acceptable commercial method" if it secures that gains or losses are referable to the company's basic life assurance and general annuity business in a way that fairly represents the contribution that the assets in question have made to that business during the period in which they have been held for the purposes of the company's long-term business.
- (4) The Treasury may make regulations for the purposes of this section—
  - (a) prescribing cases in which a method is, or is not, to be regarded as an acceptable commercial method, and

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- (b) prescribing cases in which the only acceptable commercial method is to be a method prescribed, or of a description prescribed, in the regulations.
- (5) Subject to any provision made by regulations under subsection (4), the method adopted for the purposes of this section for a period of account—
- (a) must be consistent with the method adopted for the purposes of section 98 for that period and the method adopted for the purposes of section 115 for that period, and
  - (b) in the case of an overseas life insurance company, must also be consistent with the method for that period for attributing assets in accordance with the provision made by or under Chapter 4 of Part 2 of CTA 2009 to its permanent establishment in the United Kingdom.

## CHAPTER 5

### I - E PROFIT: POLICYHOLDERS' RATE OF TAX

#### *Tax rate on policyholders' share of I - E profit*

#### **102 Policyholders' rate of tax on policyholders' share of I - E profit**

- (1) This section applies if an insurance company has an I - E profit for an accounting period.
- (2) The rate of corporation tax chargeable for a financial year on the policyholders' share (if any) of the I - E profit is the policyholders' rate of tax.
- (3) The policyholders' rate of tax is the rate at which income tax at the basic rate is charged for the tax year that begins on 6 April in the financial year.
- (4) The policyholders' share of the I - E profit is determined in accordance with section 103.
- (5) The policyholders' share of the I - E profit for an insurance company's accounting period is to be left out of account in determining for the purposes of Part 3 of CTA 2010 (companies with small profits)—
  - (a) the augmented profits of the company for the accounting period, and
  - (b) the taxable total profits of the company for the accounting period.

#### **103 Rules for determining policyholders' share of I - E profit**

- (1) This section determines for the purposes of section 102 the policyholders' share of the I - E profit of an insurance company for an accounting period.
- (2) If the basic life assurance and general annuity business of the company carried on by the company in the accounting period is mutual business, the policyholders' share of the I - E profit is the whole of that profit.
- (3) In any other case, the policyholders' share of the I - E profit is determined as follows.
- (4) The first step is to calculate whether the company has a BLAGAB trade profit for the accounting period, and, if so, its amount.

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- (5) If the company does not have a BLAGAB trade profit for that period, the policyholders' share of the I - E profit is the whole of that profit.
- (6) If—
- (a) the company has a BLAGAB trade profit for that period, and
  - (b) the adjusted amount of the BLAGAB trade profit is less than the amount of the I - E profit for that period,
- the difference between those amounts represents the policyholders' share of the I - E profit.
- (7) If—
- (a) the company has a BLAGAB trade profit for that period, and
  - (b) the adjusted amount of the BLAGAB trade profit is equal to or more than the amount of the I - E profit,
- there is no policyholders' share of the I - E profit.
- (8) References to the adjusted amount of the BLAGAB trade profit are to be read in accordance with section 104.

#### **104 Meaning of “the adjusted amount”**

- (1) This section explains for the purposes of section 103 what is meant by the adjusted amount of the BLAGAB trade profit.
- (2) The following adjustments are to be made to the amount of the BLAGAB trade profit.
- (3) If relief is available under section 124 (carry forward of BLAGAB trade losses against subsequent profits), the BLAGAB trade profit is to be reduced as mentioned in that section.
- (4) If, as a result of relief given under that section, the BLAGAB trade profit is reduced to nil, then the adjusted amount of the BLAGAB trade profit for the purposes of section 103 is nil.
- (5) If—
  - (a) the BLAGAB trade profit is not reduced to nil as a result of relief given under section 124 or no relief is available under that section, and
  - (b) in the accounting period BLAGAB non-taxable distributions are receivable by the company,

the BLAGAB trade profit is reduced or further reduced (but not below nil) by subtracting from it an amount equal to the shareholders' share of those distributions.
- (6) The BLAGAB trade profit as so reduced or further reduced is the adjusted BLAGAB trade profit for the purposes of section 103.

#### **105 Meaning of “BLAGAB non-taxable distributions” and “shareholders' share”**

- (1) This section explains for the purposes of section 104 what is meant by—
 

“BLAGAB non-taxable distributions”, and

“the shareholders' share” of BLAGAB non-taxable distributions.



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- (2) Non-taxable distributions are “BLAGAB” non-taxable distributions if they are referable, in accordance with Chapter 7, to the company’s basic life assurance and general annuity business.
- (3) The “shareholders’ share” of the BLAGAB non-taxable distributions receivable by the company in the accounting period is the relevant proportion of those distributions.
- (4) The relevant proportion is—

$$\frac{\text{BTP}}{\text{BNTD} + \text{I}}$$

where—

BTP is the amount of the BLAGAB trade profit of the company for the accounting period,

BNTD is the amount of the BLAGAB non-taxable distributions receivable by the company in the accounting period, and

I is the total of the amounts given by the calculations required by steps 1 to 3 in section 73 (I - E basis: income referable to BLAGAB) in relation to the company’s basic life assurance and general annuity business for the accounting period.

- (5) If BTP exceeds BNTD + I, the shareholders’ share of the BLAGAB non-taxable distributions receivable by the company in the accounting period is the whole of those distributions.

#### *Policyholder tax and calculation of BLAGAB trade profit or loss*

### **106 Deduction for current policyholder tax**

- (1) This section applies for the purpose of calculating the BLAGAB trade profit or loss for an accounting period of any basic life assurance and general annuity business carried on by an insurance company in a case where the company has an I - E profit for that period.
- (2) In calculating the profit or loss for the accounting period, a deduction is allowed for an amount equal to the amount of corporation tax charged at the policyholders’ rate of tax on the policyholders’ share of the company’s I - E profit for that period.

### **107 Expenses or receipts for deferred policyholder tax**

- (1) This section applies for the purpose of calculating the BLAGAB trade profit or loss for a period of account of any basic life assurance and general annuity business carried on by an insurance company.
- (2) In calculating the profit or loss, an amount is brought into account that is equal to—
  - (a) the closing deferred policyholder tax balance for the period of account, less
  - (b) the closing deferred policyholder tax balance for the previous period of account.
- (3) The amount—
  - (a) is brought into account as an expense, if it is a negative figure, and

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- (b) is brought into account as a receipt, if it is a positive figure.
- (4) The amount is brought into account under this section only if, in accordance with generally accepted accounting practice, it is debited or credited in accounts drawn up by the company for the period of account.
- (5) If the closing deferred policyholder tax balance for a period of account is a liability, the amount of the balance is taken to be a negative figure for the purposes of this section.
- (6) If the closing deferred policyholder tax balance for a period of account is an asset, the amount of the balance is taken to be a positive figure for the purposes of this section.
- (7) Section 108 applies for determining the closing deferred policyholder tax balance for a period of account.

### **108 Meaning of “the closing deferred policyholder tax balance” etc**

- (1) For the purposes of section 107 “the closing deferred policyholder tax balance for a period of account” means so much of the closing amount shown, in accordance with generally accepted accounting practice, in the accounts of the company for that period in respect of deferred tax as is wholly attributable to policyholder tax.
- (2) Provision forming part of the closing amount is “wholly attributable to policyholder tax” if—
  - (a) the provision is made in respect of a BLAGAB matter (see subsection (3)), and
  - (b) anything included in the closing amount in respect of that matter is calculated wholly by reference to the policyholders’ rate of tax chargeable on the policyholders’ share of the company’s I - E profit for any accounting period.
- (3) A “BLAGAB matter” means—
  - (a) an amount of excess BLAGAB expenses,
  - (b) an amount of acquisition expenses falling to be relieved in the future in accordance with section 79,
  - (c) an amount of expenses otherwise falling to be taken into account in the future under the I - E rules,
  - (d) an amount of BLAGAB allowable loss (within the meaning of section 210A of TCGA 1992) carried forward for future use,
  - (e) an amount to which section 213 of TCGA 1992 applies (spreading of gains and losses under section 212), or
  - (f) an amount in respect of the future disposal (or part disposal) of an asset which would fall to be taken into account in accordance with section 75.
- (4) If—
  - (a) for a period of account of the company the provision made in respect of a BLAGAB matter is taken into account for the purposes of section 107, and
  - (b) for a subsequent period of account of the company the provision made in respect of that matter is no longer wholly attributable to policyholder tax because the condition in subsection (2)(b) ceases to be met,
 there is to be a reversal in the subsequent period of account in respect of the provision (so far as section 107 does not otherwise apply in relation to the case).
- (5) The reversal in the subsequent period of account is to be made as follows—

- (a) if the provision was an amount which for accounting purposes was regarded as an asset, a negative amount equal to that amount is to be taken into account in calculating the closing deferred policyholder tax balance for that period for the purposes of section 107, and
  - (b) if the provision was an amount which for accounting purposes was regarded as a liability, a positive amount equal to that amount is to be taken into account in calculating the closing deferred policyholder tax balance for that period for the purposes of section 107.
- (6) The Treasury may by order amend the definition of a “BLAGAB matter”.
- (7) An order under subsection (6) may contain incidental, supplementary, consequential, transitional, transitory or saving provision.

## CHAPTER 6

### TRADE CALCULATION RULES APPLYING TO LONG-TERM BUSINESS

#### 109 Application of Chapter

- (1) The rules contained in this Chapter have effect for the purpose of—
- (a) calculating the BLAGAB trade profit or loss of any basic life assurance and general annuity business carried on by an insurance company, and
  - (b) calculating for corporation tax purposes the profits of any non-BLAGAB long-term business carried on by an insurance company,
- but, in the case of section 112, see also subsection (6) of that section.
- (2) In this Chapter references to the calculation of the profits are, in the case of the calculation of the BLAGAB trade profit or loss, to be read as references to the calculation of that profit or loss.
- (3) See also section 47 of CTA 2009 (losses calculated on same basis as profits).
- (4) In the case of the calculation of the BLAGAB trade profit or loss, see also sections 106 to 108.

#### 110 Allocations to policyholders

- (1) In calculating the profits for an accounting period, a deduction is allowed for any amount which is allocated to policyholders or annuitants in respect of the accounting period.
- (2) But there is no deduction for an amount of a capital nature that—
- (a) is allocated to holders of with-profits policies, and
  - (b) has not been funded from an amount credited in accounts of the business drawn up in accordance with generally accepted accounting practice (whether drawn up by the company or another company).
- (3) For this purpose a payment made in connection with the reattribution of inherited estate is to be regarded as an amount of a capital nature.
- (4) “With-profits policies” means policies under which the holders are eligible to participate in surplus.

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## **111 Dividends and other distributions**

- (1) Dividends or other distributions—
  - (a) which are receivable by the company, and
  - (b) which are referable, in accordance with Chapter 7, to the business concerned, are to be brought into account as receipts in calculating the profits.
- (2) This rule—
  - (a) applies whether or not the distributions are exempt for the purposes of Part 9A of CTA 2009 or would otherwise be dealt with under that Part, but
  - (b) does not apply in the case of distributions that are of a capital nature.

## **112 Index-linked gilt-edged securities**

- (1) If, for an accounting period, a company has a loan relationship which is represented by an index-linked gilt-edged security, sections 400 to 400C of CTA 2009 (adjustments for changes in index) are not to apply in calculating the profits for the accounting period.
- (2) But subsection (1) does not apply to loan relationships of the company that are qualifying PHI loan relationships.
- (3) A loan relationship is a “qualifying PHI loan relationship” if
  - (a) the loan relationship is identified in the records of the company as an asset held for the purposes of index-linked PHI business carried on by the company, and
  - (b) none of the credits or debits in respect of the loan relationship are referable to BLAGAB,but see subsection (5) for a case in which a loan relationship meeting the conditions in paragraphs (a) and (b) is not a qualifying PHI loan relationship.
- (4) Credits or debits are referable to BLAGAB if—
  - (a) they are referable, in accordance with Chapter 4, to any basic life assurance and general annuity business of the company, or
  - (b) they are taken into account in calculating the profit or loss that is, in accordance with Chapter 7, allocated to any basic life assurance and general annuity business of the company.
- (5) A loan relationship which, but for this subsection, would be a qualifying PHI loan relationship of the company is not a qualifying PHI loan relationship if the value of the loan relationship when added to the value of qualifying PHI loan relationships of the company exceeds the value of the liabilities incurred by the company for the purposes of its index-linked PHI business.
- (6) A loan relationship of the company which at any time is a qualifying PHI loan relationship is to be regarded for the purposes of this Part as an asset which is held at that time for the purposes of the company’s long-term business but which is not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds.
- (7) In this section—

“index-linked gilt-edged security” has the same meaning as it has in sections 400 to 400C of CTA 2009 (see section 399(4) of that Act), and

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“index-linked PHI business” means PHI business so far as consisting of the effecting or carrying out of contracts of long-term insurance under which the benefits payable are linked to an index of prices published by the Statistics Board.

### **113 Receipts or expenses relating to long-term business fixed capital**

Receipts or expenses which arise from an asset forming part of the long-term business fixed capital of the company are to be left out of account in calculating the profits.

## **CHAPTER 7**

### TRADING APPORTIONMENT RULES

### **114 Application of Chapter**

- (1) This Chapter applies in the case of an insurance company which, as a result of section 66, has—
  - (a) a business consisting of basic life assurance and general annuity business, and
  - (b) a non-BLAGAB long-term business.
- (2) The rules contained in this Chapter determine—
  - (a) how to allocate between those two businesses the profits or loss of the long-term business calculated in accordance with generally accepted accounting practice, and
  - (b) how to allocate the tax adjustments in making the calculations mentioned in subsection (5)(a) and (b).
- (3) The amount of the profits or loss mentioned in subsection (2)(a) is referred to in this Chapter as the “accounting profit or loss”.
- (4) For the purposes of this Chapter “the tax adjustments” means the adjustments required or authorised by law in calculating for corporation tax purposes the profits of the long-term business (applying the same rules as apply to the calculation for those purposes of the profits of non-BLAGAB long-term business).
- (5) The rules contained in this Chapter have effect for the purpose of—
  - (a) calculating the BLAGAB trade profit or loss of the company, and
  - (b) calculating for corporation tax purposes the profits of the non-BLAGAB long-term business carried on by the company.

### **115 Commercial allocation of accounting profit or loss and tax adjustments**

- (1) The accounting profit or loss, and the tax adjustments, are to be allocated between the two separate businesses in accordance with an acceptable commercial method adopted by the company.
- (2) A method is an “acceptable commercial method” if it secures that the accounting profit or loss, and the tax adjustments, are allocated to the two separate businesses in a way that fairly represents the contribution made by those businesses to the accounting profit or loss as adjusted to take into account the tax adjustments.

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- (3) The Treasury may make regulations for the purposes of this section—
- (a) prescribing cases in which a method is, or is not, to be regarded as an acceptable commercial method, and
  - (b) prescribing cases in which the only acceptable commercial method is to be a method prescribed, or of a description prescribed, in the regulations.
- (4) Subject to any provision made by regulations under subsection (3), the method adopted for the purposes of this section for a period of account—
- (a) must be consistent with the method adopted for the purposes of section 98 for that period, and
  - (b) in the case of an overseas life insurance company, must also be consistent with the method for that period for attributing assets in accordance with the provision made by or under Chapter 4 of Part 2 of CTA 2009 to its permanent establishment in the United Kingdom.

## CHAPTER 8

### ASSETS HELD FOR PURPOSES OF LONG-TERM BUSINESS

#### *Transfers of assets from different categories*

#### **116 UK life insurance companies**

- (1) If, at any time in a period of account of a UK life insurance company, an asset (or a part of an asset) held by the company—
- (a) ceases to be within one of the long-term business categories, and
  - (b) comes within another of those categories,
- the company is treated for the purposes of corporation tax on chargeable gains as if it had disposed of and immediately re-acquired the asset (or part) at that time for a consideration equal to the fair value of the asset (or part) at that time.
- (2) The long-term business categories in question are—
- (a) assets which are matched to BLAGAB liabilities of the company,
  - (b) assets which are matched to other long-term business liabilities of the company,
  - (c) assets which are held by the company for the purposes of any with-profits fund but which are not matched to its long-term business liabilities, and
  - (d) assets which are held for the purposes of the company's long-term business but which are not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds.
- (3) If the company has more than one with-profits fund within subsection (2)(c), the assets which are held by it for the purposes of a particular fund but which are not matched to its long-term business liabilities are treated as assets within a separate long-term business category.
- (4) Subsection (1) does not apply if all the income of the company's long-term business is chargeable to corporation tax on income under section 35 of CTA 2009.

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- (5) If, at any time in a period of account of a UK life insurance company, an asset (or a part of an asset) held by the company—
- (a) ceases to be within a category set out in subsection (6), and
  - (b) comes within the other category set out there,
- the company is treated for the purposes of corporation tax as if it had disposed of and immediately re-acquired the asset (or part) for a consideration equal to the fair value of the asset (or part) at that time.
- (6) The categories in question are—
- (a) assets which are held for the purposes of the company's long-term business, and
  - (b) other assets.

### **117 Overseas life insurance companies: rule corresponding to s.116**

- (1) If, at any time in a period of account of an overseas life insurance company, an asset (or a part of an asset) held by the company—
- (a) ceases to be within one of the UK long-term business categories, and
  - (b) comes within another of those categories,
- the company is treated for the purposes of corporation tax on chargeable gains as if it had disposed of and immediately re-acquired the asset (or part) at that time for a consideration equal to the fair value of the asset (or part) at that time.
- (2) The UK long-term business categories in question are—
- (a) UK assets which are matched to BLAGAB liabilities of the company,
  - (b) UK assets which are matched to other long-term business liabilities of the company,
  - (c) UK assets which are held by the company for the purposes of any with-profits fund but which are not matched to its long-term business liabilities, and
  - (d) UK assets which are held for the purposes of the company's long-term business but which are not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds.
- (3) If the company has more than one with-profits fund within subsection (2)(c), the UK assets which are held by it for the purposes of a particular fund but which are not matched to its long-term business liabilities are treated as assets within a separate UK long-term business category.
- (4) Subsection (1) does not apply if all the income of the company's long-term business is chargeable to corporation tax on income under section 35 of CTA 2009.
- (5) If, at any time in a period of account of an overseas life insurance company, an asset (or a part of an asset) held by the company—
- (a) ceases to be within a category set out in subsection (6), and
  - (b) comes within another category set out there,
- the company is treated for the purposes of corporation tax as if it had disposed of and immediately re-acquired the asset (or part) for a consideration equal to the fair value of the asset (or part) at that time.
- (6) The categories in question are—

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- (a) UK assets which are held for the purposes of the company's long-term business,
  - (b) other UK assets, and
  - (c) assets which are held by the company but which are not UK assets.
- (7) For the purposes of this section and section 118, assets (whether situated in the United Kingdom or elsewhere) are “UK assets” of an overseas life insurance company if, in accordance with the provision made by or under Chapter 4 of Part 2 of CTA 2009, they fall to be attributed to the permanent establishment in the United Kingdom through which the company carries on life assurance business.

## **118 Transfers of business and transfers within a group**

- (1) If—
- (a) as a result of an insurance business transfer scheme transferring long-term business, a UK life insurance company or an overseas life insurance company acquires an asset, and
  - (b) the asset (or part of it) is within one of the applicable categories at the time immediately before the acquisition but is not within that category immediately after that time,
- the transferor is treated for the purposes of corporation tax on chargeable gains as if it had disposed of and immediately re-acquired the asset (or part) at the time immediately before the acquisition.
- (2) The consideration for this deemed disposal and re-acquisition is equal to the fair value of the asset (or part) at that time.
- (3) If the transferor or the transferee is an overseas life insurance company, an asset (or part of an asset) is taken as being in the same category immediately before and after the acquisition if the asset (or part)—
- (a) was within one category immediately before the acquisition, and
  - (b) was within a corresponding category immediately after the acquisition.
- (4) Subsections (1) to (3) do not apply if all the income of the long-term business of either the transferor or the transferee is chargeable to corporation tax on income under section 35 of CTA 2009.
- (5) For the purposes of subsections (1) to (3) “the applicable categories” means—
- (a) in the case of a UK life insurance company, the long-term business categories or a category of assets which are not held for the purposes of its long-term business, and
  - (b) in the case of an overseas life insurance company, the UK long-term business categories, a category of UK assets which are not held for the purposes of its long-term business or a category of assets which are held by it but which are not UK assets.
- (6) If—
- (a) a UK life insurance company or an overseas life insurance company disposes of or acquires an asset (or part of an asset),
  - (b) immediately before or after doing so, the asset (or part) is within the applicable category, and



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- (c) section 171 or 173 of TCGA 1992 (transfers within a group) would, but for this subsection, apply to the disposal or acquisition, that section does not apply to the disposal or acquisition.
- (7) For the purposes of subsection (6) “the applicable category” means—
  - (a) in the case of a UK life insurance company, the category of assets which are held for the purposes of its long-term business, and
  - (b) in the case of an overseas life insurance company, the category of UK assets which are held for the purposes of its long-term business.

### *Share pooling rules*

## **119 UK life insurance companies**

- (1) If the assets of a UK life insurance company include securities of a class all of which would, but for this section, be regarded as one holding for the purposes of corporation tax on chargeable gains, the following pooling rules apply instead for those purposes—
  - (a) so many of the securities so far as matched to BLAGAB liabilities of the company are treated as a separate holding,
  - (b) so many of the securities so far as matched to other long-term business liabilities of the company are treated as a separate holding,
  - (c) so many of the securities as are held by the company for the purposes of any with-profits fund but are not matched to its long-term business liabilities are treated as a separate holding,
  - (d) so many of the securities as are held for the purposes of the company’s long-term business but are not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds are treated as a separate holding, and
  - (e) any remaining securities are treated as a separate holding which is held otherwise than for the purposes of the company’s long-term business.
- (2) If the company has more than one with-profits fund within subsection (1)(c), so many of the securities as are held by it for the purposes of a particular fund but are not matched to its long-term business liabilities are treated as a separate holding for the purposes of corporation tax on chargeable gains.
- (3) Subsection (1) does not apply if all the income of the company’s long-term business is chargeable to corporation tax on income under section 35 of CTA 2009.
- (4) In that case, if the company’s assets include securities of a class all of which would, but for this section, be regarded as one holding for the purposes of corporation tax on chargeable gains, the following pooling rules apply instead for those purposes—
  - (a) so many of the securities as are held for the purposes of its long-term business are treated as a separate holding, and
  - (b) any remaining securities are treated as a separate holding which is held otherwise than for the purposes of its long-term business.

## **120 Overseas life insurance companies: rule corresponding to s.119**

- (1) If the assets of an overseas life insurance company include securities of a class all of which would, but for this section, be regarded as one holding for the purposes

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of corporation tax on chargeable gains, the following pooling rules apply instead for those purposes—

- (a) so many of the securities so far as UK securities matched to BLAGAB liabilities of the company are treated as a separate holding,
  - (b) so many of the securities so far as UK securities matched to other long-term business liabilities of the company are treated as a separate holding,
  - (c) so many of the securities as are UK securities held by the company for the purposes of any with-profits fund but not matched to its long-term business liabilities are treated as a separate holding,
  - (d) so many of the securities as are UK securities held for the purposes of the company’s long-term business but not matched to its long-term business liabilities or held by it for the purposes of any with-profits funds are treated as a separate holding,
  - (e) any remaining UK securities are treated as a separate holding which is held otherwise than for the purposes of the company’s long-term business, and
  - (f) any securities which are held by the company but which are not UK securities are treated as a separate holding.
- (2) If the company has more than one with-profits fund within subsection (1)(c), so many of the securities as are UK securities held by it for the purposes of a particular fund but are not matched to its long-term business liabilities are treated as a separate holding for the purposes of corporation tax on chargeable gains.
- (3) Subsection (1) does not apply if all the income of the company’s long-term business is chargeable to corporation tax on income under section 35 of CTA 2009.
- (4) In that case, if the company’s assets include securities of a class all of which would, but for this section, be regarded as one holding for the purposes of corporation tax on chargeable gains, the following pooling rules apply instead for those purposes—
- (a) so many of the securities as are UK securities held for the purposes of its long-term business are treated as a separate holding,
  - (b) any remaining UK securities are treated as a separate holding which is held otherwise than for the purposes of its long-term business, and
  - (c) any securities which are held by the company but which are not UK securities are treated as a separate holding.
- (5) For the purposes of this section, securities (whether situated in the United Kingdom or elsewhere) are “UK securities” of an overseas life insurance company if, in accordance with the provision made by or under Chapter 4 of Part 2 of CTA 2009, they fall to be attributed to the permanent establishment in the United Kingdom through which the company carries on life assurance business.

## **121 Sections 119 and 120: supplementary**

- (1) The applicable pooling rules also apply if the assets of the company in question include securities of a class and but for this section—
- (a) some of them would be regarded as a 1982 holding for the purposes of corporation tax on chargeable gains, and
  - (b) the rest of them would be regarded as a section 104 holding for those purposes.
- (2) “The applicable pooling rules” means—
- (a) the pooling rules set out in section 119(1)(a) to (e) and (4)(a) and (b), or

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- (b) the pooling rules set out in section 120(1)(a) to (f) and (4)(a) to (c).
- (3) In applying the applicable pooling rules in a case within subsection (1)—
- (a) the reference in any of the paragraphs in section 119(1) or (4) or 120(1) or (4) to a separate holding is to be read, where necessary, as a reference to a separate 1982 holding and a separate section 104 holding, and
  - (b) the questions whether that reading is necessary for a paragraph and, if it is, how many securities falling within the paragraph constitute each of the two holdings are determined in accordance with paragraph 12 of Schedule 6 to FA 1990 and the identification rules applying on any subsequent acquisitions and disposals.
- (4) If the applicable pooling rules apply, section 105 of TCGA 1992 has effect as if securities regarded as included in different holdings as a result of those rules were securities of different classes.
- (5) In this section—
- “1982 holding” has the same meaning as in section 109 of TCGA 1992, and
  - “section 104 holding” has the same meaning as in section 104(3) of TCGA 1992.
- (6) In this section and sections 119 and 120 “securities” means—
- (a) shares,
  - (b) securities of a company, and
  - (c) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

#### *Long-term business fixed capital*

### **122 Assets forming part of long-term business fixed capital**

For the purposes of this Chapter assets that form part of the long-term business fixed capital of an insurance company are to be regarded as assets held by the company otherwise than for the purposes of its long-term business.

## **CHAPTER 9**

### **RELIEF FOR BLAGAB TRADE LOSSES ETC**

#### *The reliefs*

### **123 Relief for BLAGAB trade losses against total profits**

- (1) Section 37 of CTA 2010 (relief for trade losses against total profits) is to apply in relation to a BLAGAB trade loss for an accounting period as it applies in relation to any other loss made in a trade for an accounting period.
- (2) Subsection (1) applies despite the fact that, had there been a BLAGAB trade profit for the accounting period, that profit would not have been charged to tax under section 35 of CTA 2009 and the I - E rules would have been applicable instead.

## **124 Carry forward of BLAGAB trade losses against subsequent profits**

- (1) This section applies if an insurance company carrying on basic life assurance and general annuity business makes a BLAGAB trade loss for an accounting period.
- (2) Relief is available under this section for that part of the BLAGAB trade loss (“the unrelieved loss”) for which no relief is given under section 37 of CTA 2010 (as applied by section 123).
- (3) The relief for the unrelieved loss is to be given as follows.
- (4) The unrelieved loss is to be carried forward to subsequent accounting periods (so long as the company continues to carry on basic life assurance and general annuity business).
- (5) For the purposes of—
  - (a) section 93 (minimum profits charge), and
  - (b) section 104 (policyholders’ rate of tax),
 the BLAGAB trade profit of any such period is reduced by the unrelieved loss so far as that loss cannot be used under this subsection to reduce the BLAGAB trade profit of an earlier period.
- (6) Relief under this section is subject to restriction or modification in accordance with section 137(7) of CTA 2010 and other applicable provisions of the Corporation Tax Acts.

## **125 Group relief**

- (1) Part 5 of CTA 2010 (group relief) is to apply in relation to a BLAGAB trade loss for an accounting period as it applies in relation to any other loss made in a trade for an accounting period.
- (2) Subsection (1) applies despite the fact that, had there been a BLAGAB trade profit for the accounting period, that profit would not have been charged to tax under section 35 of CTA 2009 and the I - E rules would have been applicable instead.
- (3) If for an accounting period an insurance company has—
  - (a) an I - E profit, and
  - (b) losses or other amounts within section 99(1)(d) to (g) of CTA 2010,
 the company’s gross profits of the accounting period for the purposes of section 105 of that Act (restriction on surrender of those amounts) are not to include the policyholders’ share of the I - E profit (as determined for the purposes of section 102).

### *Restrictions*

## **126 Restrictions in respect of non-trading deficit**

- (1) The amount of a BLAGAB trade loss for an accounting period of an insurance company that is available for relief under—
  - (a) section 37 of CTA 2010 (as applied by section 123), or
  - (b) Part 5 of CTA 2010 (group relief) (as applied by section 125),
 is to be reduced by the amount of any relevant non-trading deficit which the company has for the accounting period.

- (2) The reference to a relevant non-trading deficit for an accounting period is a reference to the non-trading deficit which the company would have under section 388 of CTA 2009 (loan relationships and derivative contracts) if credits and debits given in respect of the company's creditor relationships (within the meaning of Part 5 of that Act) were ignored.

### **127 No relief against policyholders' share of I - E profit**

- (1) This section applies in the case of an insurance company carrying on basic life assurance and general annuity business.
- (2) None of the following reliefs are to be given against the policyholders' share of any I - E profit of the company for any accounting period (as determined for the purposes of section 102).
- (3) The reliefs in question are—
- (a) relief under section 37 of CTA 2010 (including as applied by section 123),
  - (b) relief under Chapter 2 or 4 of Part 4 of CTA 2010 (loss relief),
  - (c) relief under Part 5 of CTA 2010 (group relief) (including as applied by section 125),
  - (d) relief in respect of any qualifying charitable donation,
  - (e) relief in respect of any amount representing a non-trading deficit on the company's loan relationships calculated otherwise than by reference to debits and credits referable, in accordance with Chapter 4, to its basic life assurance and general annuity business.
- (4) If the company's basic life assurance and general annuity business is mutual business, subsection (3)(d) does not apply.

## **CHAPTER 10**

### TRANSFERS OF LONG-TERM BUSINESS

#### *Transfers of BLAGAB*

### **128 Relief for transferee in respect of transferor's BLAGAB expenses**

- (1) This section applies if, under an insurance business transfer scheme, there is a transfer of basic life assurance and general annuity business (or any part of that business) from one insurance company to another.
- (2) Acquisition expenses relief is to be given to the transferee for any acquisition expenses for which, on the assumptions set out below, that relief would have been given to the transferor for an accounting period starting after the date of the transfer.
- (3) "Acquisition expenses relief" means relief given, in accordance with section 79 (spreading of acquisition expenses), at step 3 in section 76.
- (4) For the transferee's first accounting period ending after the date of the transfer, acquisition expenses relief for the acquisition expenses within subsection (2) is to be determined as if that period had started with the date after the date of the transfer.

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- (5) Relief at step 5 in section 76 is to be given to the transferee for any excess BLAGAB expenses for which, on the assumptions set out below, that relief would have been given to the transferor for an accounting period starting after the date of the transfer.
- (6) For the purposes of this section it is to be assumed that—
  - (a) the transferor had continued to carry on the transferred business after the transfer, and
  - (b) the transferor had an accounting date ending with the date of the transfer (if that would not otherwise be the case).
- (7) If the transfer is a transfer of part of the business, references in this section to any expenses are to be read as references to the appropriate part of the expenses.
- (8) Any relief given to the transferee as a result of this section is instead of any relief that would otherwise have been given to the transferor.

## **129 Intra-group transfers and demutualisation**

- (1) This section applies if—
  - (a) under an insurance business transfer scheme, there is a transfer of basic life assurance and general annuity business (or any part of that business) from one insurance company to another, and
  - (b) the transfer is a relevant intra-group transfer or is in connection with a demutualisation.
- (2) A transfer is a “relevant intra-group transfer” if—
  - (a) the transferor and transferee are members of the same group of companies when the transfer occurs, and
  - (b) the transferee is within the charge to corporation tax in relation to the transfer.
- (3) A transfer is “in connection with a demutualisation” if—
  - (a) it is for the purposes of the conversion of a company (under the law of any territory) from one without share capital to one with share capital (without any change of legal personality), or
  - (b) it is a transfer by a mutual life insurance company of all, or substantially all, of its basic life assurance and general annuity business to an insurance company which is not a mutual life insurance company,

and for the purposes of paragraph (b) a “mutual life insurance company” means an insurance company which carries on mutual life assurance business.
- (4) For the purpose of calculating the BLAGAB trade profit or loss of the transferor for any accounting period, any amount in respect of the transfer that is debited or credited in accounts drawn up by the transferor in accordance with generally accepted accounting practice is to be ignored.
- (5) For the purpose of calculating the BLAGAB trade profit or loss of the transferee for any accounting period, any amount in respect of the transfer that is debited or credited in accounts drawn up by the transferee in accordance with generally accepted accounting practice is to be ignored.
- (6) But if there is a difference between—

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- (a) the net amount recognised by the transferee in respect of the transfer of contracts of long-term insurance or contracts made in the course of capital redemption business, and
- (b) the net amount recognised by the transferor in respect of the transfer of those contracts,

the amount of the difference is to be taken into account for the purpose of calculating the BLAGAB trade profit or loss of the transferee for the accounting period in which those contracts are transferred.

- (7) The difference is to be taken into account—
  - (a) as a receipt (if, when added to the net amount in subsection (6)(b), the result is the net amount in subsection (6)(a)), and
  - (b) as an expense (if, when subtracted from the net amount in subsection (6)(b), the result is the net amount in subsection (6)(a)).
- (8) The net amount recognised by an insurance company in respect of the transfer of the contracts is determined by subtracting—
  - (a) the total amount in respect of liabilities relating to the contracts that is or would be recognised for the purposes of a balance sheet drawn up at the relevant time by the company in accordance with generally accepted accounting practice, from
  - (b) the total amount in respect of assets relating to the contracts that is or would be recognised for those purposes,and “the relevant time” means the time immediately before the transfer (in the case of the transferor) and the time immediately after it (in the case of the transferee).
- (9) The Treasury may by order amend any of subsections (6) to (8).
- (10) This section does not apply to any amount that arises in respect of a transfer so far as the transfer consists of a with-profits fund transfer.

The reference here to a with-profits fund transfer is a reference to—

- (a) a transfer of business from a with-profits fund to a fund that is not a with-profits fund, or
- (b) a transfer of business from a fund that is not a with-profits fund to a with-profits fund.

- (11) If this section applies, the provisions of Part 4 of TIOPA 2010 (transfer pricing) do not apply.

### **130 Transfers between non-group companies: present value of in-force business**

- (1) This section applies if—
  - (a) under an insurance business transfer scheme, there is a transfer of basic life assurance and general annuity business (or any part of that business) from one insurance company to another,
  - (b) either the transferor and transferee are not members of the same group of companies when the transfer occurs or, if they are, the transfer consists of or includes a with-profits fund transfer within the meaning of section 129(10),
  - (c) the accounts of the transferee drawn up in accordance with generally accepted accounting practice include an asset that represents, as at the time of the

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- transfer, the value of future profits arising from the relevant transferred business, and
- (d) the asset is not one to which Part 8 of CTA 2009 (intangible fixed assets) applies.
- (2) Amounts in respect of the asset that are debited or credited in accounts drawn up by the transferee in accordance with generally accepted accounting practice are to be taken into account in calculating the BLAGAB trade profit or loss of the transferee.
- (3) In subsection (1)(c) “the relevant transferred business” means—
- (a) if the transferor and transferee are not members of the same group of companies when the transfer occurs, the business (or part of the business) transferred under the insurance business transfer scheme, and
- (b) if the transfer consists of or includes a with-profits fund transfer, the business transferred by the with-profits fund transfer.
- (4) For the purposes of subsection (1)(c) no account is to be taken of an asset so far as it is regarded for accounting purposes as internally-generated.
- (5) This section does not apply so far as section 129(5) applies in relation to the transfer.
- (6) Nothing in this section is to apply in relation to transfers taking place before 1 January 2013.

*Transfers of non-BLAGAB long-term business*

**131 Application of ss. 129 and 130 to transfers of non-BLAGAB long-term business**

- (1) This section applies if, under an insurance business transfer scheme, there is a transfer of non-BLAGAB long-term business (or any part of that business) from one insurance company to another.
- (2) If, for the purposes of section 129, the transfer—
- (a) is a relevant intra-group transfer, or
- (b) is in connection with a demutualisation,
- section 129 applies for the purpose of calculating for corporation tax purposes the profits of the non-BLAGAB long-term business of the transferor or transferee for any accounting period.
- (3) If the conditions in section 130(1)(b) to (d) are met in the case of the transfer, section 130 applies for the purpose of calculating for corporation tax purposes the profits of the non-BLAGAB long-term business of the transferee for any accounting period.

*Transfers of long-term business: anti-avoidance*

**132 Anti-avoidance**

- (1) This section applies if—
- (a) under an insurance business transfer scheme, there is a transfer on or after 1 January 2013 from one insurance company to another of basic life assurance and general annuity business (or any part of that business) or non-BLAGAB long-term business (or any part of that business), and



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- (b) the main purpose, or one of the main purposes, of a company (“C”) in entering into one or more of the arrangements included in the insurance business transfer arrangements is an unallowable purpose.
- (2) The “insurance business transfer arrangements” consist of—
  - (a) the insurance business transfer scheme under which the transfer is made, and
  - (b) any arrangement entered into on or after 1 January 2013 with a connection (direct or indirect) to that scheme.
- (3) A purpose is an “unallowable purpose” if—
  - (a) it consists of securing a tax advantage for C or any other company, or
  - (b) it is not amongst C’s business or other commercial purposes.
- (4) There are to be made such adjustments of any income or gains chargeable to corporation tax as are required to negate any tax advantage arising to C or any other company so far as referable to the unallowable purpose on a just and reasonable apportionment.
- (5) For the purposes of this section—
  - (a) “arrangement” includes any agreement, scheme, transaction or understanding (whether or not legally enforceable), and
  - (b) section 1139 of CTA 2010 (meaning of “tax advantage”) applies, but reading references to tax as references to corporation tax.
- (6) If C is not within the charge to corporation tax in respect of a part of its activities, C’s business or other commercial purposes for the purposes of this section do not include the purposes of that part of its activities.

### **133 Clearance procedure**

- (1) Section 132 does not apply if, on an application by C, HMRC Commissioners give a notice under this section stating that they are satisfied—
  - (a) that C’s main purpose in entering into the arrangements included in the insurance business transfer arrangements is not an unallowable purpose or none of C’s main purposes in entering into those arrangements is an unallowable purpose, or
  - (b) that the transferor and the transferee are members of the same group of companies when the transfer occurs and that the transfer produces no tax advantage for the group.
- (2) For this purpose the transfer produces no tax advantage for the group if—
  - (a) as a result of the insurance business transfer arrangements, there is an increase in the liability to corporation tax of one or more companies which are members of the group, and
  - (b) the amount (or total amount) of that increase is at least equal to the amount (or total amount) of the reduction in the liability to corporation tax of the transferor or the transferee that arises as a result of those arrangements.

### **134 Section 133: supplementary**

- (1) An application under section 133 must—
  - (a) be in writing, and

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- (b) contain particulars of the insurance business transfer arrangements.
- (2) HMRC Commissioners may by notice require C to provide further particulars in order to enable them to determine the application.
- (3) A requirement may be imposed under subsection (2) within 30 days of the receipt of the application or of any further particulars required under that subsection.
- (4) If a notice under that subsection is not complied with within 30 days or such longer period as HMRC Commissioners may allow, they need not proceed further on the application.
- (5) HMRC Commissioners must give notice to C of their decision on an application under section 133—
  - (a) within 30 days of receiving the application, or
  - (b) if they give a notice under subsection (2), within 30 days of that notice being complied with.
- (6) If any particulars provided under this section do not fully and accurately disclose all facts and considerations material for the decision of HMRC Commissioners, any resulting notice under section 133 is void.

### *Interpretation*

#### **135 Meaning of “group” of companies**

For the purposes of this Chapter whether or not at any time companies are members of the same group of companies is to be determined in accordance with section 170(2) to (11) of TCGA 1992.

## **CHAPTER 11**

### DEFINITIONS

#### **136 Meaning of “BLAGAB trade profit” and “BLAGAB trade loss”**

- (1) In relation to the carrying on by an insurance company of basic life assurance and general annuity business, this section explains for the purposes of this Part what is meant by—
  - (a) the “BLAGAB trade profit” of the company, and
  - (b) the “BLAGAB trade loss” of the company.
- (2) The company has a “BLAGAB trade profit” for an accounting period if, calculated in accordance with the ordinary trading rules, there are profits of that business for the accounting period that, but for sections 68 and 69, would be chargeable to corporation tax on income under section 35 of CTA 2009 (charge to tax on trade profits).
- (3) The amount of the BLAGAB trade profit is the amount of those profits that, but for those sections, would be so chargeable.
- (4) The company has a “BLAGAB trade loss” for an accounting period if, calculated in accordance with the ordinary trading rules, the company makes a loss in that business

for the accounting period in a case where, had there been profits, they would, but for those sections, have been so chargeable.

- (5) The ordinary trading rules have effect for the purpose of calculating the company's BLAGAB trade profit or loss subject to the provision made by—
  - (a) sections 106 to 108 (policyholder tax),
  - (b) Chapter 6 (trade calculation rules applying to long-term business),
  - (c) Chapter 7 (trading apportionment rules), and
  - (d) sections 129 and 130 (transfers of BLAGAB).
- (6) For the purposes of this section “the ordinary trading rules” means the rules for calculating the profits of a trade for the purposes of the charge to corporation tax on income under section 35 of CTA 2009.

### **137 Meaning of “the long-term business fixed capital”**

- (1) This section explains for the purposes of this Part what is meant by an asset forming part of “the long-term business fixed capital” of an insurance company.
- (2) An asset forms part of “the long-term business fixed capital” of the company if—
  - (a) it is held for the purposes of its long-term business, and
  - (b) it is a structural asset of that business.
- (3) The reference to a structural asset of a company's long-term business includes shares, debts and loans which—
  - (a) are held by the company in a fund that is not a with-profits fund, and
  - (b) are of a kind that, if they had been held on 31 December 2012, their value would have been required to be entered in lines 21 to 24 of Form 13 in the periodical return of the company for the period ending immediately before 1 January 2013 (UK insurance dependants and other insurance dependants).
- (4) For the purposes of subsection (3)(b) “periodical return” has the same meaning as it has in Chapter 1 of Part 12 of ICTA.
- (5) The Treasury may make regulations providing for assets of a company's long-term business which are of a description specified in the regulations to be regarded for the purposes of this section as being, or as not being, structural assets of that business.

### **138 Meaning of assets that are “matched to” liabilities**

- (1) This section—
  - (a) defines for the purposes of this Part what is meant by an asset that is matched to a BLAGAB liability or other long-term business liability and what is meant by the whole or a part of an asset being matched, and
  - (b) explains for those purposes how to work out the part of an asset that is matched to a BLAGAB liability or other long-term business liability.
- (2) An asset is matched to a BLAGAB liability if, in accordance with the applicable method, some or all of the income or other return arising from that particular asset is specifically referable to the company's basic life assurance and general annuity business.

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- (3) An asset is matched to another long-term business liability if, in accordance with the applicable method, some or all of the income or other return arising from that particular asset is specifically referable to the company's non-BLAGAB long-term business.
- (4) The whole of an asset is matched to a BLAGAB liability if, in accordance with the applicable method, the whole of the income or other return arising from that particular asset is specifically referable to the company's basic life assurance and general annuity business.
- (5) A part of an asset is matched to a BLAGAB liability or other long-term business liability if, in accordance with the applicable method, part of the income or other return arising from that particular asset is specifically referable to the company's basic life assurance and general annuity business or (as the case may be) its non-BLAGAB long-term business.
- (6) A part of an asset is matched to a BLAGAB liability or other long-term business liability in proportion to the income or other return arising from that particular asset that, in accordance with the applicable method, is specifically referable to the company's basic life assurance and general annuity business or (as the case may be) its non-BLAGAB long-term business.
- (7) For the purposes of this section "the applicable method"—
  - (a) in relation to the company's basic life assurance and general annuity business, means the method adopted for the purposes of section 98 which has effect in relation to the period of account in which the income or other return arises, and
  - (b) in relation to the company's non-BLAGAB long-term business, means the method adopted for the purposes of section 115 which has effect in relation to the period of account in which the income or other return arises.
- (8) For the purposes of this section any income or other return arising from an asset is to be regarded as specifically referable to a category of business in accordance with the applicable method in so far as that method is adopted in relation to the income or other return in consequence of a contractual requirement imposed on the company relating to the category of business in question.

### **139 Minor definitions**

- (1) In this Part—
  - "closing", in relation to a period of account, means the position at the end of the period of account,
  - "derivative contract" has the same meaning as in Part 7 of CTA 2009,
  - "fair value"—
    - (a) in relation to money, means its amount, and
    - (b) in relation to other assets, means the amount which an independent person selling the assets would get,
  - "HMRC Commissioners" means the Commissioners for Her Majesty's Revenue and Customs,
  - "insurance business transfer scheme" means—
    - (a) a scheme falling within section 105 of FISMA 2000, including an excluded scheme falling within Case 2, 3, 4 or 5 of subsection (3) of that section, or

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- (b) a scheme which would fall within that subsection but for subsection (1) (b) of that section,
  - “insurance special purpose vehicle” means an undertaking which—
    - (a) assumes risks from insurance or re-insurance undertakings, and
    - (b) fully funds its exposures to those risks through the proceeds of a debt issue or other financing mechanism where the repayment rights of the providers of the mechanism are subordinated to the re-insurance obligations of the undertaking,
  - “liabilities”, in relation to an insurance company, means—
    - (a) the mathematical reserves of the company as determined in accordance with section 1.2 of the Insurance Prudential Sourcebook, and
    - (b) liabilities of the company (whose value falls to be determined in accordance with section 1.3 of the General Prudential Sourcebook) which arise from deposit back arrangements,
  - “overseas life insurance company” means an insurance company which is not resident in the United Kingdom but which carries on life assurance business in the United Kingdom through a permanent establishment there,
  - “re-insurance” includes retrocession,
  - “UK life insurance company” means an insurance company other than an overseas life insurance company,
  - “with-profits fund” has the meaning given by the Prudential Sourcebook (Insurers).
- (2) In this Part any reference to the debiting or crediting of an amount in accounts drawn up by an insurance company is a reference to bringing in the amount as a debit or credit in—
  - (a) the company’s profit and loss account, income statement or statement of comprehensive income (or other comprehensive income),
  - (b) a statement of total recognised gains and losses, or
  - (c) any other statement of items used in calculating the company’s income or gains, or its losses or expenses, for accounting purposes,irrespective of how any account or statement within any of paragraphs (a) to (c) is described or otherwise referred to.
- (3) For this purpose—
  - “credit” means an amount which for accounting purposes increases or creates a profit, or reduces a loss, for a period of account, and
  - “debit” means an amount which for accounting purposes reduces a profit, or increases or creates a loss, for a period of account.
- (4) In this section—
  - “deposit back arrangements” means arrangements by which an amount is deposited by the re-insurer under a contract of re-insurance with the cedant,
  - “the Insurance Prudential Sourcebook” means the Insurance Prudential Sourcebook made by the Financial Services Authority under FISMA 2000,
  - “the General Prudential Sourcebook” means the General Prudential Sourcebook made by the Financial Services Authority under FISMA 2000, and

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“the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under FISMA 2000.

#### 140 Abbreviations

(1) In this Part—

“FISMA 2000” means the Financial Services and Markets Act 2000, and

“FISMA (Regulated Activities) Order 2001” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.

(2) For abbreviations of other Acts, see section 228.

#### 141 Index of defined terms, etc

(1) In this Part the following expressions are defined or otherwise explained by the provisions indicated—

| <i>Expression</i>   | <i>Where explained</i> |
|---|------------------------|
| basic life assurance and general annuity business (abbreviated to “BLAGAB”) | sections 57 and 67(5)  |
| BLAGAB trade loss   | section 136            |
| BLAGAB trade profit   | section 136            |
| closing   | section 139(1)         |
| contract of insurance   | section 64             |
| contract of long-term insurance   | section 64             |
| debiting or crediting an amount in accounts drawn up by a company           | section 139(2) and (3) |
| derivative contract   | section 139(1)         |
| excess BLAGAB expenses  | section 73             |
| fair value  | section 139(1)         |
| HMRC Commissioners  | section 139(1)         |
| I - E profit  | section 73             |
| the I - E rules   | section 70(1) and (2)  |
| insurance business transfer scheme  | section 139(1)         |
| insurance company   | section 65             |
| insurance special purpose vehicle   | section 139(1)         |
| liabilities   | section 139(1)         |
| life assurance business   | section 56             |
| long-term business  | section 63(1)          |
| long-term business fixed capital  | section 137            |

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| <i>Expression</i>   | <i>Where explained</i> |
|---|------------------------|
| matched (in case of assets matched to a BLAGAB liability or other long-term business liability) | section 138            |
| non-BLAGAB long-term business   | sections 66 and 67     |
| non-taxable distributions   | section 94(4) and (5)  |
| overseas life insurance company   | section 139(1)         |
| PHI business  | section 63(2)          |
| re-insurance  | section 139(1)         |
| UK life insurance company   | section 139(1)         |
| with-profits fund   | section 139(1)         |

- (2) The expressions in the above table have the same meaning in any other provision of the Corporation Tax Acts that makes special provision in relation to—
- insurance companies,
  - any category of life assurance business carried on by insurance companies, or
  - long-term business carried on by insurance companies.

## CHAPTER 12

### SUPPLEMENTARY

#### *Powers conferred on Treasury or HMRC Commissioners*

#### **142 Power to amend Part 2 etc**

- (1) If, in consequence of the exercise of any power under FISMA 2000, they consider it expedient to do so, the Treasury may by order amend—
- this Part, or
  - any other provision of the Corporation Tax Acts that makes special provision in relation to insurance companies, any category of life assurance business carried on by insurance companies or long-term business carried on by insurance companies.
- (2) An order under subsection (1) may be made so as to have effect in relation to—
- any period ending on or before the day on which the order is made, or
  - any period beginning before and ending after that day,
- but only if the power under FISMA 2000 is exercised so as to have effect in relation to the period.
- (3) An order under subsection (1) may—
- make different provision for different cases or circumstances, and
  - contain incidental, supplementary, consequential, transitional, transitory or saving provision.

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### **143 Power to amend definition of “insurance business transfer scheme” etc**

- (1) If, in consequence of any amendment of section 105 of FISMA 2000 (insurance business transfer schemes), they consider it expedient to do so, the Treasury may by order amend—
  - (a) the definition of “insurance business transfer scheme” given by section 139, or
  - (b) any other provision of the Corporation Tax Acts that makes special provision in relation to insurance companies, any category of life assurance business carried on by insurance companies or long-term business carried on by insurance companies.
- (2) An order under subsection (1) may be made so as to have effect in relation to—
  - (a) any period ending on or before the day on which the order is made, or
  - (b) any period beginning before and ending after that day,
 but only if the amendment of section 105 of FISMA 2000 has effect in relation to that period.
- (3) An order under subsection (1) may—
  - (a) make different provision for different cases or circumstances, and
  - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.

### **144 Power to modify provisions applying to overseas life insurance companies**

- (1) The Treasury may by regulations provide for the Corporation Tax Acts to have effect in relation to overseas life insurance companies subject to such exceptions and other modifications as may be prescribed by the regulations.
- (2) The power under subsection (1) includes power to make provision in place of, and in consequence to repeal or revoke, any provision in relation to overseas life insurance companies which is made by or under—
  - (a) this Part, or
  - (b) any other provision of the Corporation Tax Acts.
- (3) Regulations under subsection (1) may be made so as to have effect in relation to any period ending on or after the day on which the regulations are made.
- (4) Regulations under subsection (1) may—
  - (a) make different provision for different cases or circumstances, and
  - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.
- (5) The power to make consequential provision conferred by subsection (4)(b) includes power to amend any provision made by or under any Act.

### **145 Orders and regulations**

- (1) Any power of the Treasury or HMRC Commissioners to make any order or regulations under this Part is exercisable by statutory instrument.
- (2) Any statutory instrument containing any order or regulations made by the Treasury or HMRC Commissioners under this Part is subject to annulment in pursuance of a resolution of the House of Commons.



- (3) Nothing in this Part that authorises the inclusion of any particular kind of provision in any order or regulations under this Part is to be read as restricting the generality of the provision that may be included in the order or regulations.

*Minor and consequential amendments and transitional provision*

**146 Minor and consequential amendments**

Schedule 16 contains minor and consequential amendments.

**147 Transitional provision**

Schedule 17 contains transitional provision in connection with the coming into force of this Part.

*Commencement etc*

**148 Commencement**

- (1) The provisions of this Part (other than section 149) have effect in relation to accounting periods of companies beginning on or after 1 January 2013.
- (2) Subsection (1) is subject to the operation of any provision of Schedule 17 in relation to times before that date.

**149 Accounting periods straddling 1 January 2013**

- (1) If, apart from this section, an insurance company would have had an accounting period beginning before 1 January 2013 and ending on or after that date, the accounting period of the company is to end instead on 31 December 2012.
- (2) Accordingly, the rules in section 10 of CTA 2009 (end of accounting period) are subject to this section.