



# Finance Act 1989

## 1989 CHAPTER 26

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### *Life assurance*

#### **82 Calculation of profits.**

- (1) Where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D, then, in calculating the profits for any period of account,—
  - (a) there shall be taken into account as an expense (so far as not so taken into account apart from this section) any amounts which [<sup>F1</sup>are allocated to, and any amounts of [<sup>F2</sup>tax or] foreign tax which are expended on behalf of, policy holders or annuitants in respect of the period]; and
  - (b) if, at the end of the period, the company has an unappropriated surplus on valuation, as shown in its return for the purposes of the <sup>M1</sup> Insurance Companies Act 1982, then, subject to subsection (3) below, the closing liabilities of the period may include such amount, forming part of that surplus, as is required to meet the reasonable expectations of policyholders or annuitants with regard to bonuses or other additions to benefit of a discretionary nature.
- (2) For the purposes of this section an amount is allocated to policy holders or annuitants if, and only if,—
  - (a) bonus payments are made to them; or

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- (b) reversionary bonuses are declared in their favour or a reduction is made in the premiums payable by them;
- and the amount of the allocation is, in a case within paragraph (a) above, the amount of the payments and, in a case within paragraph (b) above, the amount of the liabilities assumed by the company in consequence of the declaration or reduction.
- (3) The amount which, apart from this subsection, would be included in the closing liabilities of a period of account by virtue of subsection (1)(b) above shall be reduced or, as the case may be, extinguished by deducting there from the total of the amounts which—
- (a) for periods of account ending before 14th March 1989 have been excluded, by virtue of section 433 of the Taxes Act 1988, as being reserved for policyholders or annuitants, and
  - (b) have not before that date either been allocated to or expended on behalf of policy holders or annuitants or been treated as profits of an accounting period on ceasing to be so reserved.
- (4) Where the closing liabilities of a period of account include an amount by virtue of subsection (1)(b) above, the like amount shall be included in the opening liabilities of the next following period of account.
- (5) This section has effect with respect to periods of account ending on or after 14th March 1989; and the following provisions of this section shall apply for the purposes of the application of this section to any such period which begins before that date (in this section referred to as a “straddling period”).
- (6) For the purposes referred to in subsection (5) above, it shall be assumed that the straddling period consists of two separate periods of account,—
- (a) the first beginning at the beginning of the straddling period and ending on 13th March 1989 (in this section referred to as “the first notional period”); and
  - (b) the second beginning on 14th March 1989 and ending at the end of the straddling period (in this section referred to as “the second notional period”);
- and any reference in subsection (7) or subsection (8) below to a time apportionment is a reference to an apportionment made by reference to the respective lengths of the two notional periods.
- (7) To determine the profits of the first notional period and the amount excluded from the profits of that period by virtue of section 433 of the Taxes Act 1988 as being reserved for policy holders or annuitants,—
- (a) in the first instance the profits of the straddling period and the amount so excluded from those profits shall be computed as if subsections (1) to (4) above did not apply with respect to any part of the straddling period; and
  - (b) there shall then be determined that part of the profits and the amount computed under paragraph (a) above which, on a time apportionment, is properly attributable to the first notional period.
- (8) To determine the profits of the second notional period,—
- (a) in the first instance the profits of the straddling period shall be computed as if subsections (1) to (4) above applied to the whole of the straddling period; and
  - (b) there shall then be determined that part of the profits computed under paragraph (a) above which, on a time apportionment, is properly attributable to the second notional period.

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### Textual Amendments

- F1** [Finance Act 1990 \(c. 29\)](#) s. 43(1)(3)—*deemed always to have had effect. Previously* “, in respect of the period, are allocated to or expended on behalf of policy holders or annuitants”
- F2** *Words*  
“tax or”  
*omitted when s.82(1)(2)(4) and s. 83 applied to profits chargeable under Schedule D (see [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 441)*

### Modifications etc. (not altering text)

- C1** [S. 82](#) modified (31.7.1992 with effect for accounting periods beginning on and after 1.1.1990) by [S.I. 1992/1655](#), [regs. 1, 17](#)  
[S. 82](#) modified (23.3.1999 with effect with respect to accounting periods of insurance companies ending on or after 1.7.1999) by [S.I. 1999/498](#), [regs. 1, 10](#)
- C2** [S. 82](#) subs. (1)(2) and (4) and s. 83 *apply to profits chargeable under Schedule D (see [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [s. 441](#))*  
[S. 82\(1\)\(2\)\(4\)](#) applied (with modifications) (1.5.1995) by [1988 c. 1, s. 439B\(3\)\(a\)](#) (as inserted (1.5.1995) by [1998 c. 36, s. 51, Sch. 8 Pt. 1 para. 27\(1\)](#) (with [Sch. 8 paras. 55\(2\), 57\(1\)](#))
- C3** *See [S.I. 1989/2417](#), [reg. 5](#) (in Part III Vol.5) for modification applicable to life or endowment business carried on by registered friendly societies (but [S.I. 1989/2417](#) was revoked (31.7.1992) by [S.I. 1992/1655](#), [regs. 1, 22](#) and deemed never to have had effect).*

### Marginal Citations

- M1** [1982 c.50](#).

## 83 Receipts to be brought into account.

- (1) Where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D, then, so far as referable to that business, the following items, as brought into account for a period of account (and not otherwise), namely,—
- the company’s investment income from the assets of its long-term business fund, and
  - any increase in the value (whether realised or not) of those assets,
- shall be taken into account as receipts of the period; and if for any period of account there is a reduction in the value referred to in paragraph (b) above (as brought into account for the period), that reduction shall be taken into account as an expense of that period.
- (2) Except in so far as regulations made by the Treasury otherwise provide, in subsection (1) above “brought into account” means brought into account in the revenue account prepared for the purposes of the <sup>M2</sup> Insurance Companies Act 1982.
- (3) Subject to subsection (5) below, this section has effect with respect to periods of account ending on or after 1st January 1990; and the following provisions of this section shall apply for the purposes of the application of this section to any such period which begins before that date (in this section referred to as a “straddling period”).
- (4) Subject to subsection (5) below, for the purposes referred to in subsection (3) above, it shall be assumed that the straddling period consists of two separate periods of account,
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- (a) the first beginning at the beginning of the straddling period and ending on 31st December 1989 (in this section referred to as “the first notional period”); and
- (b) the second beginning on 1st January 1990 and ending at the end of the straddling period (in this section referred to as “the second notional period”);

and any reference in subsection (6) or subsection (7) below to a time apportionment is a reference to an apportionment made by reference to the respective lengths of the two notional periods.

- (5) In the case of any company which, by notice in writing given to the inspector on or before 31st December 1992, so elects,—
  - (a) subsections (3) and (4)(b) above shall have effect as if for “1st January 1990” there were substituted “14th March 1989”; and
  - (b) subsection (4)(a) above shall have effect as if for “31st December” there were substituted “13th March”.
- (6) To determine the profits of the first notional period,—
  - (a) in the first instance the profits of the straddling period shall be computed as if subsections (1) and (2) above did not apply with respect to any part of that period; and
  - (b) there shall then be determined that part of the profits computed under paragraph (a) above which, on a time apportionment, is properly attributable to the first notional period.
- (7) To determine the profits of the second notional period,—
  - (a) in the first instance the profits of the straddling period shall be computed as if subsections (1) and (2) above applied with respect to the whole of that period; and
  - (b) there shall then be determined that part of the profits computed under paragraph (a) above which, on a time apportionment, is properly attributable to the second notional period.

#### Modifications etc. (not altering text)

- C4** S. 82 subs. (1)(2) and (4) and s. 83 apply to profits chargeable under Schedule D (see Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 441)
- C5** S. 83 modified (retrospective to 1.1.1995) by S.I. 1997/473, **regs. 1(2), 33, 34**
- C6** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **s. 432B** to E—rules for determining amounts referable to life assurance business
- C7** S. 83(1) restricted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), **s. 65(2)(d)(5)**
- C8** See S.I. 1989/2417, **reg. 5** (in Part III Vol. 5) for the omission of subs. (2) in the case of life endowment business carried on by registered friendly societies (but S.I. 1989/2417 was revoked (31.7.1992) by S.I. 1992/1655, **regs. 1, 22** and deemed never to have had effect).  
 S. 83(2) modified (31.7.1992 with effect for accounting periods beginning on and after 1.1.1990) by S.I. 1992/1655, **regs. 1, 18**.

#### Marginal Citations

- M2** 1982c. 50.

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VALID FROM 01/05/1995

**[<sup>F3</sup>83A Meaning of “brought into account”.**

- (1) In section 83 “brought into account” means brought into account in an account which is recognised for the purposes of that section.
- (2) Subject to the following provisions of this section and to any regulations made by the Treasury, the accounts recognised for the purposes of that section are—
  - (a) a revenue account prepared for the purposes of the Insurance Companies Act 1982 in respect of the whole of the company’s long term business;
  - (b) any separate revenue account required to be prepared under that Act in respect of a part of that business.

Paragraph (b) above does not include accounts required in respect of internal linked funds.

- (3) Where there are prepared any such separate accounts as are mentioned in subsection (2)(b) above, reference shall be made to those accounts rather than to the account for the whole of the business.
- (4) If in any such case the total of the items brought into account in the separate accounts is not equal to the total amount brought into account in the account prepared for the whole business, there shall be treated as having been required and prepared a further separate revenue account covering the balance.
- (5) Where a company carries on both ordinary long term business and industrial assurance business, the references above to the company’s long term business shall be construed as references to either or both of those businesses, as the case may require.]

**Textual Amendments**

**F3** SS. 83, 83A substituted for s. 83 (1.5.1995) by 1995 c. 4, s. 51, **Sch. 8 Pt. I para. 16(1)** (with **Sch. 8 paras. 55(2), 57(1)**)

**Modifications etc. (not altering text)**

**C9** S. 83A modified (*retrospective* to 1.1.1995) by S.I. 1997/473, **regs. 1(2), 36, 37**

VALID FROM 29/04/1996

**[<sup>F4</sup>83AA Amounts added to long term business fund of a company in excess of that company’s loss.**

- (1) If one or more relevant amounts are brought into account for a period of account of a company and either—
  - (a) the aggregate of those amounts exceeds the loss which, after the making of any reduction under subsection (6) below but before any application of section 83(3) above in relation to that period, would have arisen to the company in that period in respect of its life assurance business, or

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- (b) no such loss would have so arisen,  
 the surplus for that period shall be applied in accordance with the following provisions of this section and section 83AB below.
- (2) In this section—
- “relevant amount” means so much of any amount which is added to the long term business fund of a company as mentioned in subsection (3) of section 83 above as does not fall within any of the paragraphs of subsection (4) of that section;
- “surplus”, in relation to a period of account of a company, means (subject to section 83AB(2) below)—
- (a) if the aggregate of the relevant amounts brought into account for that period exceeds the amount of any loss which, after the making of any reduction under subsection (6) below but before any application of section 83(3) above in relation to that period, would have arisen to the company in that period in respect of its life assurance business, the amount of the excess; or
- (b) if no such loss would have so arisen, the aggregate of the relevant amounts brought into account for that period.
- (3) Where, apart from section 83AB(2) below, there is a surplus for a period of account of a company for which there are brought into account one or more relevant amounts which were added to the company’s long term business fund as part of, or in connection with, a particular transfer of business, the appropriate portion of the surplus for that period shall be treated as reducing (but not below nil) so much of any loss arising to the transferor company in the relevant accounting period as, on a just and reasonable apportionment of the loss, is referable to the business which is the subject of that particular transfer.
- (4) For the purposes of subsection (3) above, the appropriate portion of the surplus for a period of account of a company is, in the case of any particular transfer of business, the amount which bears to that surplus (apart from any additions by virtue of section 83AB(2) below) the proportion which A bears to B, where—
- A is the aggregate of such of the relevant amounts added to the company’s long term business fund as part of, or in connection with, that particular transfer of business as are brought into account for that period, and
- B is the aggregate of the relevant amounts brought into account for that period.
- (5) Any reduction pursuant to subsection (3) above of the loss arising to the transferor company in the relevant accounting period shall be made after—
- (a) the making of any reduction under subsection (6) below, and
- (b) any application of section 83(3) above,
- in relation to the period of account of that company in which falls the date of the particular transfer of business in question.
- (6) Any loss arising to a company in respect of its life assurance business in a period of account subsequent to one for which there is a surplus shall be reduced (but not below nil) by so much of that surplus as cannot be applied—
- (a) under subsection (3) above;
- (b) under this subsection, in the reduction of a loss arising to the company in an earlier period of account; or

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- (c) under section 83AB below, in relation to a transfer of business from the company in that or any earlier period of account.
- (7) Any reduction pursuant to subsection (6) above of a loss arising to a company in a period of account shall be made—
- (a) before any application of section 83(3) above in relation to that period, and
  - (b) if the company is also the transferor company in relation to a particular transfer of business, before the making of any reduction under subsection (3) above in relation to that one of its accounting periods which is the relevant accounting period in relation to that transfer.
- (8) A surplus in respect of an earlier period of account shall be applied under subsection (6) above before a surplus in respect of a later period of account.
- (9) All such adjustments to the liability to tax of any person shall be made, whether by assessment or otherwise, as may be required to give effect to this section.
- (10) In this section—
- “add” has the same meaning as in section 83 above;
  - “the relevant accounting period” means the accounting period of the transferor company which—
    - (a) ends on the date of the transfer of business mentioned in subsection (3) above, or
    - (b) if that transfer of business falls within section 83(6)(c) above and no accounting period of the transferor company ends on that date, ends next after that date;
  - “transfer of business” has the same meaning as in section 83(3) above;
  - “the transferor company” means the company from which the transfer of business mentioned in subsection (3) above is effected.
- (11) A transfer of business falling within section 83(6)(c) above shall be treated for the purposes of this section as a transfer of business from the company which is the reinsured under the contract of reinsurance.]

#### Textual Amendments

- F4** Ss. 83AA, 83AB inserted (29.4.1996 with effect as mentioned in Sch. 31 paras. 9(1), 10(2) of the amending Act) by 1996 c. 8, s. 163, **Sch. 31 para. 5**

#### Modifications etc. (not altering text)

- C10** S. 83AA modified (29.4.1996) by 1996 c. 8, s. 163, **Sch. 31 para. 9(1)**
- C11** S. 83AA restricted (29.4.1996) by 1996 c. 8, s. 163, **Sch. 31 para. 9(3)**



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VALID FROM 29/04/1996

**[<sup>F5</sup>83AB Treatment of surplus where there is a subsequent transfer of business from the company etc.**

- (1) If an amount is added to the long term business fund of a company as part of or in connection with a transfer of business to the company, or a demutualisation of the company not involving a transfer of business, and—
  - (a) there is a surplus for the period of account of the company for which that amount is brought into account,
  - (b) at any time after the transfer of business or demutualisation, there is a transfer of business from the company (the “subsequent transfer”), and
  - (c) at the end of the relevant period of account there remains at least some of the surplus mentioned in paragraph (a) above which cannot be applied—
    - (i) under subsection (3) of section 83AA above,
    - (ii) under subsection (6) of that section, in the reduction of a loss arising to the company in an earlier period of account, or
    - (iii) under this section, in relation to an earlier subsequent transfer,
 so much of the surplus falling within paragraph (c) above as, on a just and reasonable apportionment, is referable to business which is the subject of the subsequent transfer shall be applied under this section.
- (2) An amount of surplus which is to be applied under this section shall be so applied by being treated as an amount of surplus (additional to any other amounts of surplus) for the period of account of the transferee company which last precedes the period of account of that company in which the subsequent transfer is effected, whether or not there is in fact any such preceding period of account.
- (3) If, in a case where an amount is treated under subsection (2) above as an amount of surplus for a period of account of a company, the period is not one for which there is brought into account an amount added to the company’s long term business fund in connection with the subsequent transfer, subsection (1) above shall have effect in relation to any transfer of business from the company subsequent to that transfer as if an amount had been so added and had been brought into account for that period.
- (4) Any question as to what is a just and reasonable apportionment in any case for the purposes of subsection (1) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but any person affected by the apportionment shall be entitled to appear and be heard or make representations in writing.
- (5) A surplus in respect of an earlier period of account shall be applied under this section before a surplus in respect of a later period of account.
- (6) All such adjustments to the liability to tax of any person shall be made, whether by assessment or otherwise, as may be required to give effect to this section.
- (7) In this section—
  - “add” has the same meaning as in section 83 above;
  - “demutualisation” has the same meaning as in section 83 above;



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“the relevant period of account” means the period of account of the company from which the subsequent transfer is effected which consists of or includes the accounting period of that company which—

- (a) ends with the day on which the subsequent transfer is effected; or
- (b) if the subsequent transfer is a transfer of business falling within section 83(6)(c) above and no accounting period of the company ends on that day, ends next after that day;

“surplus” has the same meaning as in section 83AA above;

“transfer of business” has the same meaning as in section 83(3) above;

“transferee company” means the company to which the subsequent transfer of business is effected.

- (8) Where it is necessary for any purpose of this section to identify the time at which a demutualisation of a company takes place, that time shall be taken to be the time when the company first issues shares.

- (9) A transfer of business falling within section 83(6)(c) above shall be treated for the purposes of this section as a transfer of business from the company which is the reinsured under the contract of reinsurance to the company which is the reinsurer under that contract.]

#### Textual Amendments

- F5** SS. 83AA, 83AB inserted (29.4.1996 with effect as mentioned in Sch. 31 paras. 9(1), 10(2) of the amending Act) by 1996 c. 8, s. 163, **Sch. 31 para. 5**

#### Modifications etc. (not altering text)

- C12** S. 83AB modified (29.4.1996) by 1996 c. 8, s. 163, **Sch. 31 para. 9(1)**

## 84 Interpretation of sections 85 to 89 and further provisions about insurance companies.

[<sup>F6</sup>(1) In sections 85 to 89 below “basic life assurance and general annuity business” has the same meaning as in Chapter I of Part XII of the Taxes Act 1988.]

- (2) Any reference in the sections referred to in subsection (1) above or the following provisions of this section to a straddling period is a reference to an accounting period which begins before 1st January 1990 and ends on or after that date.

- (3) For the purposes of the sections referred to in subsection (1) above and for the purposes of subsection (5)(b) below it shall be assumed that a straddling period consists of two separate accounting periods—

- (a) the first beginning at the beginning of the straddling period and ending on 31st December 1989; and
- (b) the second beginning on 1st January 1990 and ending at the end of the straddling period;

and in those sections and subsection (5)(b) below the first of those two notional accounting periods is referred to as “the 1989 component period” and the second is referred to as “the 1990 component period”.

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- (4) Chapter I of Part XII of the Taxes Act 1988 (insurance companies) shall have effect subject to the amendments in Schedule 8 to this Act, being—
- (a) amendments relating to franked investment income, loss relief and group relief; and
  - (b) amendments consequential on or supplemental to sections 82 and 83 above and sections 85 to 89 below.
- (5) Subject to subsection (6) below, in Schedule 8 to this Act,—
- (a) paragraphs 2 and 6 shall be deemed to have come into force on 14th March 1989; and
  - (b) the remainder shall have effect with respect to accounting periods beginning on or after 1st January 1990 (including the 1990 component period).
- (6) Nothing in subsection (5) above affects the operation, by virtue of any provision of sections 82 and 83 above and sections 85 to 89 below, of any enactment repealed or amended by Schedule 8 to this Act and, so long as the provisions of that Schedule do not have effect in relation to sections 434 and 435 of the Taxes Act 1988, nothing in subsection (5)(a) above affects the continuing operation of section 433 of that Act for the purpose only of determining the fraction of the profits referred to in subsection (6) of section 434 and subsection (1)(b) of section 435.

#### Textual Amendments

- F6** S. 84(1) substituted (*for accounting periods beginning on or after 01.01.1992*) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 48, Sch. 7 paras. 11, 18

### 85 Charge of certain receipts of basic life assurance business.

- (1) Subject to subsection (2) below, where the profits of an insurance company in respect of its life assurance business are not charged under Case I of Schedule D, there shall be chargeable under Case VI of that Schedule any receipts referable to the company's [<sup>F7</sup>basic life assurance and general annuity business]—
- (a) which, if those profits were charged under Case I of Schedule D, would be taken into account in computing those profits; and
  - (b) which would not be within the charge to tax (except under Case I of Schedule D) apart from this section;
- and for the purposes of paragraph (a) above, the provisions of section 83 above as to the manner in which any item is to be taken into account shall be disregarded.
- (2) The receipts referred to in subsection (1) above do not include—
- (a) any premium; or
  - (b) any sum received by virtue of a claim under an insurance contract (including a re-insurance contract); or
  - (c) any repayment or refund (in whole or in part) of a sum disbursed by the company as acquisition expenses falling within paragraphs (a) to (c) of subsection (1) of section 86 below; or
- [<sup>F8</sup>(ca) any reinsurance commission; or]
- (d) any sum which is taken into account under section 76(1)(a) of the Taxes Act 1988 as a deduction from the amount treated as expenses of management of the company; or

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- (e) any sum which is not within the charge to tax (except under Case I of Schedule D) because of an exemption from tax.
- (3) This section has effect with respect to the receipts of accounting periods beginning on or after 1st January 1990 (including the 1990 component period).

#### Textual Amendments

**F7** Words in s. 85(1) substituted (for accounting periods beginning on or after 01.01.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras.12, 18.

**F8** Finance Act 1990 (c. 29), s. 44(1)(4)—deemed always to have had effect

#### Modifications etc. (not altering text)

**C13** S. 85(1) modified (retrospective to 1.1.1995) by S.I. 1997/473, regs. 1(2), 38

## 86 Spreading of relief for acquisition expenses.

- (1) For the purposes of this section, the acquisition expenses for any period of an insurance company carrying on life assurance business are such of the following expenses of management as are for that period attributable to the company's [F<sup>9</sup>basic life assurance and general annuity business],—
- (a) commissions (however described), other than commissions in respect of industrial life assurance business carried on by the company,
  - (b) any other expenses of management which are disbursed solely for the purpose of the acquisition of business, and
  - (c) so much of any other expenses of management which are disbursed partly for the purpose of the acquisition of business and partly for other purposes as are properly attributable to the acquisition of business,
- less any such repayments or refunds falling within section 76(1)(c) of the Taxes Act 1988 as are received in the period [F<sup>10</sup>and less any reinsurance commission falling within section 76(1)(ca) of that Act].
- (2) The exclusion from paragraph (a) of subsection (1) above of commissions in respect of industrial life assurance business shall not prevent such commissions constituting expenses of management for the purposes of paragraph (b) or paragraph (c) of that subsection.
- (3) Nothing in subsections (1) and (2) above applies to commissions (however described) in respect of insurances made before 14th March 1989, but without prejudice to the application of those subsections to any commission attributable to a variation on or after that date in a policy issued in respect of an insurance made before that date; and, for this purpose, the exercise of any rights conferred by a policy shall be regarded as a variation of it.
- [F<sup>11</sup>(3A) Nothing in subsection (1), (2) or (3) above applies to commissions (however described) in respect of annuity contracts made in accounting periods beginning before 1st January 1992, but without prejudice to the application of subsections (1) and (2) above to any commission attributable to a variation, in an accounting period beginning on or after that date, of an annuity contract so made; and for this purpose the exercise of any rights conferred by an annuity contract shall be regarded as a variation of it.]
- (4) In subsection (1) above “the acquisition of business” includes

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- [<sup>F12</sup>(a)] the securing on or after 14th March 1989 of the payment of increased or additional premiums in respect of a policy of insurance issued in respect of an insurance already made (whether before, on or after that date) [<sup>F13</sup>and
- (b) the securing, in an accounting period beginning on or after 1st January 1992, of the payment of increased or additional consideration in respect of an annuity contract already made (whether in an accounting period beginning before, or on or after, that date)].
- (5) In relation to any period, the expenses of management attributable to a company's [<sup>F9</sup>basic life assurance and general annuity business] are expenses—
- (a) which are disbursed for that period (disregarding any treated as so disbursed by section 75(3) of the Taxes Act 1988); and
- (b) which, disregarding subsection (6) below, are deductible as expenses of management in accordance with sections 75 and 76 of the Taxes Act 1988.
- (6) Notwithstanding anything in sections 75 and 76 of the Taxes Act 1988 but subject to subsection (7) below, only one-seventh of the acquisition expenses for any accounting period (in this section referred to as “the base period”) shall be treated as deductible under those sections for the base period, and in subsections (8) and (9) below any reference to the full amount of the acquisition expenses for the base period is a reference to the amount of those expenses which would be deductible for that period apart from this subsection.
- (7) In the case of the acquisition expenses for an accounting period or part of an accounting period falling wholly within 1990, subsection (6) above shall have effect as if for “one-seventh” there were substituted “five-sevenths”; and, in the case of the acquisition expenses for an accounting period or part of an accounting period falling wholly within 1991, 1992 or 1993, the corresponding substitution shall be “four-sevenths”, “three-sevenths” or “two-sevenths” respectively.
- (8) Where, by virtue of subsection (6) (and, where appropriate, subsection (7)) above, only a fraction of the full amount of the acquisition expenses for the base period is deductible under sections 75 and 76 of the Taxes Act 1988 for that period, then, subject to subsection (9) below, a further one-seventh of the full amount shall be so deductible for each succeeding accounting period after the base period until the whole of the full amount has become so deductible, except that, for any accounting period of less than a year, the fraction of one-seventh shall be proportionately reduced.
- (9) For any accounting period for which the fraction of the full amount of the acquisition expenses for the base period which would otherwise be deductible in accordance with subsection (8) above exceeds the balance of those expenses which has not become deductible for earlier accounting periods, only that balance shall be deductible.
- (10) This section has effect for accounting periods beginning on or after 1st January 1990 (including the 1990 component period).

#### Textual Amendments

- F9** Words in s. 86(1) and (5) substituted (for accounting periods beginning on or after 01.01.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 13(1), 18.
- F10** Finance Act 1990 (c. 29), s. 44(2)(4)(5)—deemed always to have had effect but not to apply to commissions in respect of reinsurance liabilities in respect of insurances made before 14 March 1989: the amendment may apply to any reinsurance commission attributable to any variation, or exercise of rights, made on or after 14 March 1989

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- F11** S. 86(3A) inserted (for accounting periods beginning on or after 01.01.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 13(2), **18**.
- F12** S. 86(4)(a) inserted (for accounting periods beginning on or after 01.01.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 13(3), **18**.
- F13** S. 86(4)(b) and word preceding it inserted (for accounting periods beginning on or after 01.01.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 paras. 13(3), **18**.

**Modifications etc. (not altering text)**

- C14** S. 86 modified (retrospective to 1.1.1995) by S.I. 1997/473, regs. 1(2), 39

**87 Management expenses.**

- (1) Section 76 of the Taxes Act 1988 shall be amended in accordance with subsections (2) and (3) below.
- (2) In subsection (1), after paragraph (b) there shall be inserted “and
  - (c) there shall be deducted from the amount treated as the expenses of management for any accounting period any repayment or refund (in whole or in part) of a sum disbursed by the company (for that or any earlier period) as acquisition expenses; and
  - (d) the amount treated as expenses of management shall not include any amount in respect of expenses referable to general annuity business or pension business; and
  - (e) the amount of profits from which expenses of management may be deducted for any accounting period shall not exceed the net income and gains of that accounting period referable to basic life assurance business;

and for this purpose “net income and gains” means income and gains after deducting any reliefs or exemptions which fall to be applied before taking account of this section.”

<sup>F14</sup>(3) .....

- (4) In consequence of the amendment made by subsection (2) above, section 436(3)(b) of the Taxes Act 1988 (no deduction of expenses of management in certain cases) shall cease to have effect.
- (5) This section has effect with respect to accounting periods beginning on or after 1st January 1990; and, in relation to a straddling period, sections 75, 76 and 436 of the Taxes Act 1988—
  - (a) shall have effect in relation to the 1989 component period without regard to the amendments made by subsections (2) to (4) above; and
  - (b) shall have effect in relation to the 1990 component period as amended by those subsections.
- (6) If, for the 1989 component period, there is an amount of expenses of management available to be carried forward to the 1990 component period under section 75(3)(a) of the Taxes Act 1988 (as applied by section 76 thereof),—
  - (a) that amount shall form a pool to which the following provisions of this section shall apply and to which section 75(3)(b) of that Act (in this subsection referred to as “the carry-forward provision”) shall apply only to the extent specified in paragraph (c) below;

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- (b) if, for the 1990 component period or any subsequent accounting period, the amount which (disregarding the pool) may be deducted in respect of expenses of management is less than the amount of the profits from which, disregarding section 76(1)(e) of that Act (as set out in subsection (2) above), the expenses of management are deductible, paragraph (c) below shall apply for that period; and in that paragraph the difference between the amount which maybe so deducted and that amount of profits is referred to as “the potential deficiency” for the period;
  - (c) where this paragraph applies for an accounting period (including the 1990 component period) the carry-forward provision shall be taken to have had effect to carry forward to the accounting period (as if disbursed as expenses for that period) so much of the pool as does not exceed the potential deficiency for the period and is permitted under section 76(2) of the Taxes Act 1988; and the amount of the pool shall be reduced accordingly.
- (7) In the case of a company which has an accounting period beginning on 1st January 1990, subsection (6) above shall apply as if—
- (a) any reference therein to the 1989 component period were a reference to the accounting period ending on 31st December 1989; and
  - (b) any reference therein to the 1990 component period were a reference to the accounting period beginning on 1st January 1990.

#### Textual Amendments

**F14** S. 87(3) repealed by Finance Act 1991 (c. 31, SIF 63:1), s. 123, Sch. 19 Pt.V.

### 88 Corporation tax: policy holders’ fraction of profits.

- (1) Subject to subsection (2) below, in the case of a company carrying on life assurance business, the rate of corporation tax chargeable for any financial year on
  - [<sup>F15</sup>(a) the policy holders’ share of the relevant profits for any accounting period, or
  - (b) where the business is mutual business, the whole of those profits,
 shall] be deemed to be the rate at which income tax at the basic rate is charged for the year of assessment which begins on 6th April in the financial year concerned.
- (2) Subsection (1) above does not apply in relation to profits charged under Case I of Schedule D.
- (3) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the total profits of its life assurance business, less any deduction due under section 76 of the Taxes Act 1988, but before allowing any relief under Chapter II or Chapter IV of Part X of that Act.
- (4) In determining for the purposes of section 13 of the Taxes Act 1988 (small companies’ relief) the profits and basic profits (within the meaning of that section) of an accounting period of a company carrying on life assurance business, the policy holders’ [<sup>F16</sup>share] of the company’s relevant profits for that period [<sup>F17</sup>, or where the business is mutual business the whole of those profits,] shall be left out of account.
- (5) This section has effect with respect to the profits of a company for accounting periods beginning on or after 1st January 1990 (including the 1990 component period); and, for this purpose, the profits of the 1990 component period shall be taken to be that



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portion of the profits of the straddling period which the length of the 1990 component period bears to the length of the straddling period.

#### Textual Amendments

- F15** Finance Act 1990 (c. 29), s. 45(1)(10)—*deemed always to have had effect. Previously “the policy holders’ fraction of its relevant profits for any accounting period shall”*
- F16** Finance Act 1990 (c. 29), s. 45(2)(10)—*deemed always to have had effect. Previously “fraction”*
- F17** Finance Act 1990 (c. 29), s. 45(2)(10)—*deemed always to have had effect*

VALID FROM 29/04/1996

#### **[<sup>F18</sup>88A Lower corporation tax rate on certain insurance company profits.**

- (1) Subject to subsection (2) below, in the case of a company carrying on basic life assurance and general annuity business, the rate of corporation tax chargeable for any financial year on so much of the company’s BLAGAB profits for any accounting period as represents the company’s lower rate income for the period shall be deemed to be the rate at which income tax at the lower rate is charged for the year of assessment which begins on 6th April in the financial year concerned.
- (2) Subsection (1) above does not apply in relation to profits charged under Case I of Schedule D.
- (3) In this section, references to a company’s lower rate income for any accounting period are references to so much of the income and gains of its basic life assurance and general annuity business for the period as consists in income of any of the following descriptions—
  - (a) income falling within paragraph (a) of Case III of Schedule D, as that Case applies for the purposes of corporation tax;
  - (b) purchased life annuities to which section 656 of the Taxes Act 1988 applies or to which that section would apply but for section 657(2)(a) of that Act;
  - (c) any such dividends or other distributions of a company not resident in the United Kingdom as would be chargeable under Schedule F if the company were resident in the United Kingdom;
  - (d) so much of—
    - (i) any dividend distribution (within the meaning of section 468J of the Taxes Act 1988), or
    - (ii) any foreign income distribution (within the meaning of section 468K of that Act),as is deemed by subsection (2) of section 468Q of that Act (or by that subsection as applied by section 468R(2) of that Act) to be an annual payment.
- (4) Where for any period—
  - (a) an insurance company’s basic life assurance and general annuity business is mutual business,
  - (b) the policy holders’ share of the company’s relevant profits is equal to all those profits, or



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- (c) the policy holders' share of the company's relevant profits is more than the company's BLAGAB profits,
- the amount to be taken for the purposes of this section as the amount of the company's BLAGAB profits for that period representing its lower rate income for that period shall be the amount equal to the applicable proportion of its BLAGAB profits.
- (5) Where subsection (4) above does not apply in the case of an insurance company for any period, the amount to be taken for the purposes of this section as the amount of the company's BLAGAB profits for the period representing its lower rate income for that period shall be the amount produced by multiplying the following, that is to say—
- (a) the applicable proportion of those profits; and
  - (b) the fraction given by dividing the policy holders' share of the relevant profits of the company for the period by its BLAGAB profits for that period.
- (6) For the purposes of this section the applicable proportion of a company's BLAGAB profits for any period is the amount which bears the same proportion to those profits as the aggregate amount of the company's lower rate income for that period bears to the total income and gains for that period of the company's basic life assurance and general annuity business.
- (7) For the purposes of this section, the BLAGAB profits of a company for an accounting period are the income and gains of the company's basic life assurance and general annuity business reduced by the aggregate amount of—
- (a) any non-trading deficit on the company's loan relationships,
  - (b) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and
  - (c) charges on income,
- so far as referable to the company's basic life assurance and general annuity business.
- (8) Section 88(3) above applies for the purposes of this section as it applies for the purposes of section 88(1) above.]

#### Textual Amendments

**F18** S. 88A inserted (29.4.1996 with effect for the financial year 1996 and subsequent financial years) by 1996 c. 8, s. 73, **Sch. 6 paras. 26(2)(4)**

#### Modifications etc. (not altering text)

**C15** S. 88A modified (*retrospective* to 1.1.1996) by S.I. 1997/473, **regs. 1(2), 40**

### [<sup>F19</sup>89] Policy holders' share of profits.

- (1) The references in section 88 above to the policy holders' share of the relevant profits for an accounting period of a company carrying on life assurance business are references to the amount arrived at by deducting from those profits the Case I profits of the company for the period in respect of the business, reduced in accordance with subsection (2) below.
- (2) For the purposes of subsection (1) above, the Case I profits for a period shall be reduced by—

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- (a) the amount, so far as unrelieved, of any franked investment income arising in the period as respects which the company has made an election under section 438(6) of the Taxes Act 1988, and
  - (b) the shareholders' share of any other unrelieved franked investment income arising in the period from investments held in connection with the business.
- (3) For the purposes of those section "the shareholders' share" in relation to any income is so much of the income as is represented by the fraction

$$\frac{A}{B}$$

where—

A is an amount equal to the Case I profits of the company for the period in question in respect of its life assurance business, and

B is an amount equal to the excess of the company's relevant non-premium income and relevant gains over its relevant expenses and relevant interest for the period.

- (4) Where there is no such excess as is mentioned in subsection (3) above, or where the Case I profits are greater than any excess, the whole of the income shall be the shareholders' share; and (subject to that) where there are no Case I profits, none of the income shall be the shareholders' share.
- (5) In subsection (3) above the references to the relevant non-premium income, relevant gains, relevant expenses and relevant interest of a company for an accounting period are references respectively to the following items as brought into account for the period, so far as referable to the company's life assurance business,—
  - (a) the company's investment income from the assets of its long-term business fund together with its other income, apart from premiums;
  - (b) any increase in the value (whether realised or not) of those assets;
  - (c) expenses payable by the company;
  - (d) interest payable by the company;and if for any period there is a reduction in the value referred to in paragraph (b) above (as brought into account for the period), that reduction shall be taken into account as an expense of the period.
- (6) Except in so far as regulations made by the Treasury otherwise provide, in this section "brought into account" means brought into account in the revenue account prepared for the purposes of the Insurance Companies Act 1982; and where the company's period of account does not coincide with the accounting period, any reference to an amount brought into account for the accounting period is a reference to the corresponding amount brought into account for the period of account in which the accounting period is comprised, proportionately reduced to reflect the length of the accounting period as compared with the length of the period of account.
- (7) In this section "Case I profits" means profits computed in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D.
- (8) For the purposes of this section franked investment income is unrelieved if—
  - (a) it has not been excluded from charge to tax by virtue of any provision,

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- (b) no tax credit comprised in it has been paid, and
- (c) no relief has been allowed against it by deduction of set-off].

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**Textual Amendments**

**F19** S. 89 substituted retrospectively by Finance Act 1990 (c. 29) {s. 45(3)}

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**Modifications etc. (not altering text)**

- C16** S. 89 amended (27.7.1993 with application as mentioned in s. 78(11) of the amending Act) by 1993 c. 34, s. 78(6)(11)
- C17** S. 89(8) amended (27.7.1993) by 1993 c. 34, s. 78(7)

VALID FROM 27/07/1993

**[<sup>F20</sup>89A Modification of sections 83 and 89 in relation to overseas life insurance companies.**

Schedule 8A to this Act (which makes modifications of sections 83 and 89 in relation to overseas life insurance companies) shall have effect.]

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**Textual Amendments**

**F20** S. 89A inserted (27.7.1993) by 1993 c. 34, s. 101(1)

**90 Life policies etc. held by companies.**

Schedule 9 to this Act (which imposes tax on certain benefits relating to life policies, life annuities and capital redemption policies held by companies, and makes related provision) shall have effect.

**Status:**

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**Changes to legislation:**

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