



# Finance Act 1989

## 1989 CHAPTER 26

### PART II

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

### CHAPTER I

#### GENERAL

#### *Life assurance*

#### [<sup>F1</sup>82 Calculation of profits: bonuses etc

- (1) This section and sections 82A [<sup>F2</sup>to 82C] below have effect 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.
- (2) Any amounts which are allocated to policy holders or annuitants in respect of a period of account are allowed as a deduction in calculating the profits for the period of account.
- (3) For the purposes of subsection (2) above, an amount is allocated to policy holders or annuitants if (but only if)—
  - (a) bonus payments are made to them,
  - (b) reversionary bonuses are declared in their favour, or
  - (c) a reduction is made in the premiums payable by them.
- (4) Where an amount is allocated to policy holders or annuitants for the purposes of subsection (2) above, the amount of the allocation is—
  - (a) in the case of bonus payments, the amount of the payments,
  - (b) in the case of declared reversionary bonuses, the amount of the liabilities assumed by the company in consequence of the declaration, and

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- (c) in the case of a reduction in premiums, the amount of the liabilities assumed by the company in consequence of the reduction.

#### Textual Amendments

- F1** Ss. 82-82B substituted for s. 82 (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 1\(1\)](#)
- F2** Words in s. 82(1) substituted (with effect in accordance with Sch. 7 para. 5(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 5\(1\)](#)

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

- C1** S. 82 modified by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (SI 1997/473), reg. 32 (as substituted (8.4.2004) by [S.I. 2004/822](#), regs. 1, 27)

### 82A Calculation of profits: policy holders' tax

- (1) Tax expended on behalf of policy holders or annuitants is allowed as a deduction in calculating the profits to the extent (but only to the extent) that regulations made by the Treasury so provide.
- (2) The regulations may include provision for tax so expended to be so allowed even if it is not brought into account.
- (3) The regulations—
- (a) may make different provision for different cases, and
  - (b) may include provision having effect in relation to periods of account during which they are made.

#### Textual Amendments

- F1** Ss. 82-82B substituted for s. 82 (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 1\(1\)](#)

### 82B Unappropriated surplus on valuation

- (1) This section applies in relation to a period of account of the insurance company (“ the period of account in question ”) where—
- (a) at the end of the period of account in question the company has an unappropriated surplus on valuation as shown in the return deposited with the Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers) (an “ unappropriated surplus ”), and
  - (b) the company has not made an election in accordance with Rule 4.1(6) of the Prudential Sourcebook (Insurers) covering the period of account in question.
- (2) Where the company did not have an unappropriated surplus at the end of the period of account immediately preceding the period of account in question, so much of the unappropriated surplus at the end of the period of account in question as is required to meet the duty of fairness is allowed as a deduction in calculating the profits for the period of account in question.

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- (3) Where the company did have an unappropriated surplus at the end of that immediately preceding period of account—
- (a) if so much of the unappropriated surplus at the end of the period of account in question as is required to meet the duty of fairness exceeds so much of the unappropriated surplus at the end of that immediately preceding period of account as was required to meet that duty, the excess is allowed as a deduction in calculating the profits for the period of account in question, but
  - (b) if so much of the unappropriated surplus at the end of that immediately preceding period of account as was required to meet the duty of fairness exceeds so much of the unappropriated surplus at the end of the period of account in question as is required to meet that duty, the excess is to be taken into account as a receipt of the period of account in question.
- (4) In arriving for the purposes of this section at the amount of the unappropriated surplus which is or was required to meet the duty of fairness there is to be deducted the aggregate of amounts which—
- (a) for periods of account ending before 14th March 1989 (and the first notional period of account, within the meaning of section 82 above as originally enacted) have been excluded, by virtue of section 433 of the Taxes Act 1988, as being reserved for policy holders 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.
- (5) References in this section to the company’s duty of fairness are to the company’s duty to treat its policy holders and annuitants fairly with regard to terminal bonuses.]

#### Textual Amendments

- F1** Ss. 82-82B substituted for s. 82 (with effect in accordance with Sch. 33 para. 1(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 1\(1\)](#)

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

- C2** S. 82B applied (with modifications) (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 1\(6\)](#)
- C3** S. 82B modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/437\)](#), [reg. 32A](#) (as inserted (8.4.2004) by [S.I. 2004/822](#), [regs. 1, 28](#))

### [<sup>F3</sup>82C Relevant financial reinsurance contracts

- (1) This section applies where—
- (a) an insurance company (“the company”) enters into a contract of reinsurance which is a relevant financial reinsurance contract, and
  - (b) either condition A or condition B is met.
- (2) A contract of reinsurance is a relevant financial reinsurance contract if, under the contract—
- (a) some or all of the liabilities reinsured may cease to be reinsured (without the cedant having any right of recovery against the reinsurer), or
  - (b) the cedant may become liable to pay premiums wholly or partly determined (directly or indirectly) by reference to any amount which the reinsurer becomes liable to pay to the cedant under the contract.

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- (3) Condition A is that the reduction in the company's liabilities resulting from the reinsurance under the relevant financial reinsurance contract is not taken into account in calculating the profits of the company.
- (4) Condition B is that—
- (a) an insurance business transfer scheme has effect to transfer long-term business to the company,
  - (b) there is a deficiency of assets on the transfer,
  - (c) the liabilities reinsured under the relevant financial reinsurance contract are some or all of the liabilities to policy holders and annuitants transferred,
  - (d) the reduction of the company's liabilities resulting from the reinsurance of those liabilities under the relevant financial reinsurance contract occurs during the period of account in which the transfer takes place, and
  - (e) the whole amount of the liabilities to policy holders and annuitants transferred is not taken into account as opening liabilities in calculating the profits of the company for that period of account.
- (5) For the purposes of subsection (4)(b) above there is a deficiency of assets on the transfer if—
- (a) the aggregate amount of the liabilities to policy holders and annuitants, and of any debts, which are transferred, exceeds
  - (b) the value of the assets transferred and brought into account in the long-term insurance fund of the company.
- (6) The reinsurance offset amount for each period of account of the company beginning before the termination of the relevant financial reinsurance contract is to be taken into account as a receipt of the period of account.
- (7) The reinsurance offset amount for a period of account is the amount of any decrease in the period of account in the difference between the full liabilities and the reduced liabilities where—
- (a) “the full liabilities” is the amount which would be brought into account for the period as liabilities but for the relevant financial reinsurance contract, and
  - (b) “the reduced liabilities” is the amount of the liabilities actually so brought into account.
- (8) But, in a case in which condition B is met, the total amount taken into account by virtue of subsection (6) above must not exceed the amount by which—
- (a) the aggregate amount mentioned in paragraph (a) of subsection (5) above, exceeds
  - (b) the value referred to in paragraph (b) of that subsection.
- (9) For the purposes of this section “insurance business transfer scheme” includes a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State).]

#### Textual Amendments

**F3** S. 82C inserted (with effect in accordance with Sch. 7 para. 5(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 5\(2\)](#)

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**[<sup>F4</sup> 83 Receipts to be [<sup>F5</sup> taken] into account.**

(1) The following provisions of this section have effect 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.

[<sup>F6</sup>(2) There shall be taken into account as receipts of a period of account amounts (so far as referable to that business) brought into account for the period of account as—

- (a) investment income receivable before deduction of tax,
- (b) an increase in the value of non-linked assets,
- (c) an increase in the value of linked assets, <sup>F7</sup>...
- (d) other income; [<sup>F8</sup>or
- (e) business transfers-in.]

and if amounts (so far as so referable) are brought into account for a period of account as a decrease in the value of non-linked assets or a decrease in the value of linked assets they shall be taken into account as an expense of the period of account.

(2A) But subsection (2) above does not require to be taken into account as receipts of a period of account so much of the amounts brought into account as mentioned in [<sup>F9</sup>paragraphs (a) to (e)] of that subsection for the period of account as—

- (a) is entirely notional because an amount corresponding to it would fall to be brought into account as an expense (for that or any other period of account),
- (b) is exempted by section 444AC(2) of the Taxes Act 1988 (transfers of business), or
- (c) consists of interest paid under section 826 of the Taxes Act 1988 (interest on tax overpaid) in respect of a repayment or payment relating to an accounting period of the company ending before 1st July 1999;

but, subject to that, the whole of the amounts so brought into account for a period of account shall be taken into account as receipts of the period of account.

(2B) If any assets of the company's long-term insurance fund are transferred by the company so that they cease to be assets of that fund, but the transfer is not brought into account as part of total expenditure [<sup>F10</sup>, or as a business transfer-out,] for the period of account in which the transfer takes place or any earlier period of account, the fair value of the assets at the time of the transfer shall be deemed to be brought into account for the period of account in which the transfer takes place as an increase in the value of the assets of that fund unless the assets are excluded from this subsection by—

- (a) subsection (2C) or (2D) below, or
- (b) section 444AD of the Taxes Act 1988 (transfers of business).

(2C) Assets transferred to discharge liabilities in respect of deposits received from reinsurers or arising out of insurance operations, debenture loans or amounts borrowed from credit institutions are included in subsection (2B) above only if the deposits, loans or amounts borrowed—

- (a) were brought into account for any period of account, but
- (b) were not taken into account as receipts of the period of account under subsection (2) above.

(2D) Assets are excluded from subsection (2B) above if they are transferred for at least their fair value and the consideration for their transfer, when received, forms part of the company's long-term insurance fund.

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(2E) If subsection (2B) above applies in relation to the transfer of all the assets of the company’s long term insurance fund in accordance with—

- (a) an insurance business transfer scheme, or
- (b) a scheme which would be such a scheme but for section 105(1)(b) of the Financial Services and Markets Act 2000 (which requires the business transferred to be carried on in an EEA State),

the reference in that subsection to an amount being deemed to be brought into account for the period of account in which the transfer takes place is to its being so deemed for the period of account ending immediately before the transfer takes place.]

[ In ascertaining whether or to what extent a company has incurred a loss in respect <sup>F11</sup>(3) of [<sup>F12</sup>its life assurance business in a case where assets are] added to the company’s [<sup>F13</sup>long-term insurance] fund as part of or in connection with—

- (a) a transfer of business to the company, or
  - (b) a demutualisation of the company not involving a transfer of business,
- that amount shall (subject to subsection (4) below) be taken into account [<sup>F14</sup>under subsection (2) above], for the period for which it is brought into account, as an increase in value of the assets of [<sup>F15</sup>the long-term insurance fund].

(4) Subsection (3) above does not apply where, or to the extent that, the amount concerned—

- (a) would fall to be taken into account as a receipt apart from this section,
- (b) is taken into account under subsection (2) above otherwise than by virtue of subsection (3) above, or

<sup>F16</sup>(c) represents so much of the proceeds of the disposal of an asset of the long-term insurance fund as does not exceed its fair value or an asset acquired for at least its fair value which is added to that fund.]

(5) Any amount which is to be taken into account pursuant to subsection (3) above for a period of account shall be so taken into account—

- (a) after the making of any reduction under subsection (6) of section 83AA below in relation to that period, <sup>F17</sup>...

<sup>F17</sup>(b) .....

(6) In subsection (3) above “ transfer of business ” means—

- <sup>F18</sup>(a) [ a transfer, under an insurance business transfer scheme, of business which consists of the effecting or carrying out of contracts of long-term insurance;]
- (b) a qualifying overseas transfer, within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act 1988; or
- (c) the making of a contract of reinsurance which, in whole or in part, constitutes or forms part of a total reinsurance by the reinsured, unless the reinsurer under the contract falls within section 439A of the Taxes Act 1988 (pure reinsurance).

<sup>F19</sup>(6A) .....

[ A contract which reinsures risk in respect of insurances to be made only after the <sup>F20</sup>(6B) making of the contract of reinsurance can constitute a transfer of business by virtue of subsection (6)(c) above only if a potential advantage is conferred on the reinsurer by the contract.

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- (6C) For the purposes of subsection (6B) above a potential advantage is conferred on the reinsurer by the contract if, taking the contract as “the actual provision” for the purposes of Schedule 28AA to the Taxes Act 1988, the effect of making the actual provision instead of the arm’s length provision (within the meaning of that Schedule) would have in relation to the reinsurer the effect specified in paragraph 5(1)(b) of that Schedule.]
- (7) For the purposes of subsection (3)(a) above, a transfer of business falling within subsection (6)(c) above shall be treated as a transfer of business to the company which is the reinsurer under the contract of reinsurance.
- (8) In this section—
- “ add ”, in relation to an amount and a company’s [<sup>F21</sup>long-term insurance] fund, includes transfer (whether from other assets of the company or otherwise);
  - “ demutualisation ” means the conversion, under the law of any territory, of a company which has been carrying on insurance business without having a share capital into a company with a share capital, without any change of legal personality;
  - [<sup>F22</sup>“fair value”, in relation to assets, means the amount which would be obtained from an independent person purchasing them or, if the assets are money, its amount;]
  - “ total reinsurance ” means the reinsurance (whether effected by a single contract of reinsurance or by two or more such contracts, taken together, whether or not made with the same reinsurer) of the whole, or substantially the whole, of the reinsured’s risk—
    - (a) under policies of a particular description issued in respect of insurances made in the course of carrying on life assurance business <sup>F23</sup> ...; or
    - (b) under contracts of a particular description so made.

This subsection does not apply where, or to the extent that, the amount concerned—

- (a) would fall to be taken into account as a receipt apart from this section,
- (b) is otherwise taken into account under subsection (2) above, or
- (c) is specifically exempted from tax.]]

#### Textual Amendments

- F4** 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)**)
- F5** Word in s. 83 heading substituted (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 2(10)**
- F6** S. 83(2)-(2E) substituted for s. 83(2) (with effect in accordance with Sch. 33 para. 2(12) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 2(2)**
- F7** Word in s. 83(2)(c) omitted (with effect in accordance with art. 1 of the amending S.I.) by virtue of **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(2)(a)**
- F8** S. 83(2)(e) and preceding word added (with effect in accordance with art. 1 of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(2)(b)**
- F9** Words in s. 83(2A) substituted (with effect in accordance with art. 1 of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(3)**
- F10** Words in s. 83(2B) inserted (with effect in accordance with art. 1 of the amending S.I.) by **The Insurance Companies (Corporation Tax Acts) Order 2004 (S.I. 2004/3266), arts. 1, 8(4)**

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- F11** S. 83(3)-(8) substituted for s. 83(3) (29.4.1996 with effect as mentioned in [Sch. 31 para. 10\(2\)](#) of the amending Act) by [1996 c. 8, s. 163, Sch. 31 para. 4](#)
- F12** Words in s. 83(3) substituted (with effect in accordance with [Sch. 33 para. 2\(12\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 2\(3\)\(a\)](#)
- F13** Words in s. 83(2)(a)(3) substituted (1.12.2001) by [S.I. 2001/329, art. 60\(1\)\(a\)](#)
- F14** Words in s. 83(3) inserted (with effect in accordance with [Sch. 33 para. 2\(12\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 2\(3\)\(b\)](#)
- F15** Words in s. 83(3) substituted (with effect in accordance with [Sch. 33 para. 2\(12\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 2\(3\)\(c\)](#)
- F16** S. 83(4)(c) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 2\(4\)](#)
- F17** S. 83(5)(b) and preceding word repealed (with effect in accordance with [Sch. 33 para. 2\(12\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 2\(5\), Sch. 43 Pt. 3\(12\)](#)
- F18** S. 83(6)(a) substituted (1.12.2001 with effect as mentioned in [art. 56\(4\)](#) of the amending S.I.) by [S.I. 2001/3629, art. 56\(2\)](#)
- F19** S. 83(6A) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\), Sch. 43 Pt. 3\(12\)](#)
- F20** S. 83(6B)(6C) inserted (with effect in accordance with [Sch. 33 para. 2\(11\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 2\(6\)](#)
- F21** Words in the definition of “add” in s. 83(8) substituted (1.12.2001) by [S.I. 2001/3629, art. 60\(1\)\(a\)](#)
- F22** Words in s. 83(8) inserted (with effect in accordance with [Sch. 33 para. 2\(12\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 2\(8\)](#)
- F23** Words in s. 83(8) repealed (with effect in accordance with [Sch. 33 para. 2\(11\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 2\(9\), Sch. 43 Pt. 3\(12\)](#)

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

- C4** S. 83 applied (1.5.1995) by [1988 c. 1, s. 439B\(3\)\(a\)](#) (as inserted (1.5.1995) by [1995 c. 4, s. 51, Sch. 8 Pt. I para. 27\(1\)](#) (with [Sch. 8 paras. 55\(2\), 57\(1\)](#)))  
 S. 83 modified (*retrospective* to 1.1.1995) by [S.I. 1997/473, regs. 1\(2\), 33, 34](#)
- C5** S. 83 modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\), reg. 33](#) (as amended (8.4.2004) by [S.I. 2004/822, regs. 1, 29](#))
- C6** S. 83 amendment to earlier affecting provision [SI 1997/473 \(8.4.2004\)](#) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\), regs. 1, 30](#)
- C7** S. 83(6) modified (*retrospective* to 1.1.1996) by [S.I. 1997/743, regs. 1\(2\), 35](#) (as amended (1.12.2001) by [S.I. 2001/3629, arts. 160, 165\(1\)\(b\)](#))
- C8** S. 83(6) amendment to earlier affecting provision [SI 1997/473 \(8.4.2004\)](#) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\), regs. 1, 30](#)

#### [<sup>F24</sup>83ZA] Contingent loans

- (1) For the purposes of this section a contingent loan is made to an insurance company if—
  - (a) a deposit is received by the company from a reinsurer or arises out of insurance operations of the company,
  - (b) a debenture loan is made to the company, or
  - (c) an amount is borrowed by the company from a credit institution,
 and the deposit, debenture loan or amount borrowed is taken into account as a receipt of the company under section 83(2) above.
- (2) For the purposes of this section the time when a contingent loan is made to an insurance company is the time when the assets constituting the deposit, debenture loan or amount borrowed are received by the company.



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- (3) For the purposes of this section an insurance company has unrepaid contingent loan liabilities at any time if—
  - (a) one or more contingent loans have been made to the company at or before that time, and
  - (b) amounts will or may at some later time become repayable by the company in respect of the contingent loan or contingent loans.
- (4) Where, at the end of the period of account of an insurance company (“the period of account in question”), the company has unrepaid contingent loan liabilities—
  - (a) subsection (5) below applies if the company did not have unrepaid contingent loan liabilities at the end of the period of account immediately preceding the period of account in question, and
  - (b) subsection (6) below applies if it did.
- (5) Where this subsection applies, the appropriate amount for the period of account in question is allowed as a deduction in calculating the profits of the company for the period of account in question.
- (6) Where this subsection applies—
  - (a) if the appropriate amount for the period of account in question exceeds the appropriate amount for the immediately preceding period of account, the excess is allowed as a deduction in calculating the profits for the period of account in question, but
  - (b) if the appropriate amount for the immediately preceding period of account exceeds the appropriate amount for the period of account in question, the excess is to be taken into account as a receipt of the period of account in question.
- (7) For the purposes of subsections (5) and (6) above the appropriate amount for a period of account is the amount of the unrepaid contingent loan liabilities at the end of the period of account reduced (but not below nil) by the aggregate of—
  - (a) any relevant net transfers to shareholders, and
  - (b) any deficiencies of assets over liabilities received on relevant transferred business.
- (8) In subsection (7)(a) above “relevant net transfers to shareholders” means the aggregate of the positive amounts brought into account as transfers to non-technical account for—
  - (a) the period of account,
  - (b) the period of account in which the relevant contingent loan was made to the company, and
  - (c) any period of account falling between the periods of account mentioned in paragraphs (a) and (b) above,as reduced in accordance with subsection (9) below.
- (9) The reduction to be made from the positive amount brought into account as a transfer to non-technical account for any of the periods of account mentioned in subsection (8) above is so much of the positive amount as does not exceed 12% of the amount allocated to policy holders as bonuses in relation to the period of account.
- (10) In subsection (7)(b) above “deficiencies of assets over liabilities received on relevant transferred business” means any amount by which, on an insurance business transfer

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scheme having effect to transfer long-term business from a person (“the transferor”) to the company which has taken place since the time when the relevant contingent loan was made to the company—

- (a) the amount of the liabilities to policy holders and annuitants transferred to the company, exceeded
- (b) the element of the company’s [<sup>F25</sup>line 31 figure] representing the transferor’s long-term insurance fund.

(11) In subsections (8) and (10) above “the relevant contingent loan” means—

- (a) if amounts will or may at some later time become repayable by the company in respect of only one contingent loan, that contingent loan, and
- (b) if amounts will or may at some later time become repayable by the company in respect of more than one contingent loan, whichever of those contingent loans was made to the company first.

(12) In subsection (10)(b) above “the element of the company’s [<sup>F26</sup>line 31 figure] representing the transferor’s long-term insurance fund” means so much of the amount brought into account by the company [<sup>F27</sup>as business transfers-in] in the period of account in which the transfer took place as represents the assets transferred to the company.

(13) Where in a period of account of an insurance company—

- (a) an amount becomes repayable under a contingent loan made to the company, and
- (b) the amount repayable is brought into account as other expenses for the period of account,

so much of the amount repayable as does not exceed the amount specified in subsection (14) below is allowed as a deduction in calculating the profits of the company for the period of account.

(14) The amount referred to in subsection (13) above is the amount arrived at by deducting from the amount taken into account as a receipt of the company under section 83(2) above in relation to the contingent loan the aggregate of any amounts which—

- (a) have become repayable in respect of the contingent loan in any earlier period of account, and
- (b) have been allowed as a deduction in calculating the profits of the company for any such period.

(15) The references in subsections (8), (12) and (13) above to an amount being brought into account—

- (a) in a case where the amount taken into account as a receipt of the company under section 83(2) above in relation to the contingent loan or loans in question is an amount brought into account in an account concerned wholly with non-participating business, are to its being brought into account in that account or in any other account concerned wholly with non-participating business, and
- (b) in a case where the amount so taken into account is an amount brought into account in an account concerned wholly or partly with participating business, are to its being brought into account in that account or in any other account concerned wholly or partly with participating business.

(16) Where—

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- (a) a transfer to another fund brought into account for a period of account as other expenditure in any account concerned wholly with non-participating business is brought into account as other income in an account concerned wholly or partly with participating business, or
- (b) a transfer to another fund brought into account for a period of account as other expenditure in any account concerned wholly or partly with participating business is brought into account as other income in an account concerned wholly with non-participating business,

subsection (8) above has effect as if it were a positive amount brought into account as transfers to non-technical account for that period of account in the account in which it is brought into account as other expenditure.

- (17) For the purposes of subsections (15) and (16) above—
  - (a) an account is concerned wholly with non-participating business if it relates exclusively to policies or contracts under which the policy holders or annuitants are not eligible to participate in surplus, and
  - (b) an account is concerned wholly or partly with participating business if it relates wholly or partly to other policies or contracts.]

#### Textual Amendments

- F24** S. 83ZA inserted (with effect in accordance with Sch. 33 para. 3(3) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 3\(1\)](#)
- F25** Words in s. 83ZA(10)(b) substituted (with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) Order 2004 \(S.I. 2004/3266\)](#), arts. 1, [9\(2\)](#)
- F26** Words in s. 83ZA(12) substituted (with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) Order 2004 \(S.I. 2004/3266\)](#), arts. 1, [9\(2\)](#)
- F27** Words in s. 83ZA(12) substituted (with effect in accordance with art. 1 of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) Order 2004 \(S.I. 2004/3266\)](#), arts. 1, [9\(3\)](#)

#### [<sup>F28</sup> 83A Meaning of “brought into account”.

- (1) [<sup>F29</sup> In sections [<sup>F30</sup>82A] to 83AB] “brought into account” means brought into account in an account which is recognised for the purposes of [<sup>F31</sup>those sections].
- (2) Subject to the following provisions of this section and to any regulations made by the Treasury, the accounts recognised for the purposes of [<sup>F32</sup>those sections] are—
  - (a) a revenue account prepared for the purposes of [<sup>F33</sup>Chapter 9 of the Prudential Sourcebook (Insurers)] in respect of the whole of the company’s [<sup>F34</sup>long-term] business;
  - (b) any separate revenue account required to be prepared [<sup>F35</sup>under that Chapter] in respect of a part of that business.

<sup>F36</sup> .....

- (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

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whole business, there shall be treated as having been required and prepared a further separate revenue account covering the balance.

<sup>F37</sup>( 5 ) . . . . . ]

**Textual Amendments**

- F28** 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)**)
- F29** Words in s. 83A(1) substituted (29.4.1996 with effect as mentioned in **Sch. 31 para. 10(2)** of the amending Act) by 1996 c. 8, s. 163, **Sch. 31 para. 6(1)(a)**
- F30** Word in s. 83A(1) substituted (with effect in accordance with **Sch. 33 para. 1(5)** of the amending Act) by **Finance Act 2003 (c. 14), Sch. 33 para. 1(2)**
- F31** Words in s. 83A(1) substituted (29.4.1996 with effect as mentioned in **Sch. 31 para. 10(2)** of the amending Act) by 1996 c. 8, s. 163, **Sch. 31 para. 6(1)(b)**
- F32** Words in s. 83A(2) substituted (29.4.1996 with effect as mentioned in **Sch. 31 para. 10(2)** of the amending Act) by 1996 c. 8, s. 163, **Sch. 31 para. 6(2)**
- F33** Words in s. 83A(2)(a) substituted (1.12.2001 with effect as mentioned in **art. 57(2)** of the amending Act) by **S.I. 2001/3629, art. 57(1)(a)**
- F34** Words in s. 83A(2)(a) substituted (1.12.2001) by **S.I. 2001/3629, art. 60(2)(a)**
- F35** Words in s. 83A(2)(b) substituted (1.12.2001 with effect as mentioned in **art. 57(2)** of the amending Act) by **S.I. 2001/3629, art. 57(1)(b)**
- F36** Words in s. 83A(2) repealed (10.7.2003) by **Finance Act 2003 (c. 14), Sch. 43 Pt. 3(12)**
- F37** S. 83A(5) repealed (1.1.1996) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(26)**, note

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

- C9** S. 83A modified by **The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473)**, regs. 1(2), 36, 37 (as amended (30.1.2003) by **S.I. 2003/23**, regs. 1, 8; (8.4.2004) by **S.I. 2004/822, regs. 1, 31, 32**)

<sup>F38</sup>**83AA** **Amounts added to [<sup>F39</sup>long term insurance] 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
  - (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 [<sup>F40</sup>long-term insurance ] 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)—

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- (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.

<sup>F41</sup>(3) .....

<sup>F41</sup>(4) .....

<sup>F41</sup>(5) .....

- (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—

<sup>F42</sup>(a) .....

- (b) under this subsection, in the reduction of a loss arising to the company in an earlier period of account; or

- (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, <sup>F43</sup>...

<sup>F43</sup>(b) .....

- (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;

<sup>F44</sup> .....

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

<sup>F44</sup> .....

- (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

**F38** 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](#)

**F39** Words in s. 83AA(3)(4) and the sidenote substituted (1.12.2001) by [S.I. 2001/3629](#), [art. 60\(1\)\(b\)](#)

**F40** Words in the definition of “relevant amount” in s. 83AA(2) substituted (1.12.2001) by [S.I. 2001/3629](#), [art. 60\(1\)\(b\)](#)

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- F41** Ss. 83AA(3)-(5) repealed (with effect in accordance with Sch. 33 para. 4(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 4(1)(a), **Sch. 43 Pt. 3(12)**
- F42** S. 83AA(6)(a) repealed (with effect in accordance with Sch. 33 para. 4(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 4(1)(b), **Sch. 43 Pt. 3(12)**
- F43** S. 83AA(7)(b) and preceding word repealed (with effect in accordance with Sch. 33 para. 4(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 4(1)(c), **Sch. 43 Pt. 3(12)**
- F44** Words in s. 83AA(10) repealed (with effect in accordance with Sch. 33 para. 4(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 4(1)(d), **Sch. 43 Pt. 3(12)**

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

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

**[<sup>F45</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 [<sup>F46</sup>long-term insurance] 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—
    - <sup>F47</sup>(i) . . . . .
    - (ii) under subsection (6) of [<sup>F48</sup>section 83AA above] , 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 [<sup>F46</sup>long-term insurance] 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.

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- (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;
  - “ 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

- F45** 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](#)
- F46** Words in s. 83AB(1)(3) substituted (1.12.2001) by [S.I. 2001/3629, art. 60\(1\)\(c\)](#)
- F47** S. 83AB(1)(c)(i) repealed (with effect in accordance with Sch. 33 para. 5(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 5\(1\)\(a\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F48** Words in s. 83AB(1)(c)(ii) substituted (with effect in accordance with Sch. 33 para. 5(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 5\(1\)\(b\)](#)

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

- C11** 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>F49</sup>(1) . . . . .

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- (2) Any reference in [<sup>F50</sup>sections 85 to 89 below] 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 [<sup>F51</sup>sections 85 to 89 below] 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”.
- (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

**F49** S. 84(1) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)

**F50** Words in s. 84(2) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 30](#)

**F51** Words in s. 84(3) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 30](#)

## 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>F52</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



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- (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; <sup>F53</sup>...
  - (b) any sum received by virtue of a claim under an insurance contract (including a re-insurance contract); or
  - <sup>F54</sup>(c) .....
  - <sup>F54</sup>(ca) .....
  - <sup>F54</sup>(d) .....
  - (e) any sum which is not within the charge to tax (except under Case I of Schedule D) because of an exemption from tax.

<sup>F55</sup>(2A) Receipts falling within subsection (1) above are to be taken into account for the purposes of corporation tax when they are brought into account.

Subsection (6) of section 89 (meaning of “brought into account”) shall also apply for the purposes of this section.

- (2B) Expenses fall to be deducted from receipts falling within subsection (1) above in accordance with the provisions of the Corporation Tax Acts applicable to Case VI of Schedule D.
- (2C) For the purposes of subsection (1) above, a receipt is referable to basic life assurance and general annuity business if—
  - (a) in the case of a repayment or refund of acquisition expenses, the acquisition expenses fell within section 86 below,
  - (b) in the case of a reinsurance commission, the policy or contract reinsured under the arrangement in respect of which the commission is paid constitutes basic life assurance and general annuity business, and
  - (c) in any other case, it is income which, if it were income from an asset, would by virtue of section 432A of the Taxes Act 1988 (apportionment of insurance companies' income) be referable to basic life assurance and general annuity business.]

- (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

- F52** 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](#).
- F53** Word in s. 85(2)(a) repealed (with effect in accordance with s. 42 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F54** S. 85(2)(c)-(d) repealed (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 7\(2\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F55** S. 85(2A)-(2C) inserted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 7\(3\)](#)

*Status: Point in time view as at 01/01/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Life assurance. (See end of Document for details)*

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

C12 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.**

[<sup>F56</sup>(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 as for that period fall to be included at Step 1 in section 76(7) of the Taxes Act 1988 (expenses of insurance companies)—

- (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,
- (c) so much of any other expenses payable partly for the purpose of the acquisition of business and partly for other purposes as are properly attributable to the acquisition of business,

reduced by the appropriate portion of the adjusted loss deduction (if any) for the purposes of Step 5 for the period.

The appropriate portion of the adjusted loss deduction is the amount which bears to the whole of that deduction the proportion which UAE bears to S1, where—

UAE is the amount of the acquisition expenses, before making the reduction required by this subsection; and

S1 is the sum of the amounts described in paragraphs (a) and (b) in Step 4.]

(2) The exclusion from paragraph (a) of subsection (1) above of commissions [<sup>F57</sup>for persons who collect premiums from house to house] shall not prevent such commissions constituting [<sup>F58</sup>expenses payable] 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.

<sup>F59</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

- <sup>F60</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>F61</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)].

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F<sup>62</sup>(5) .....

F<sup>63</sup>(5A) .....

[F<sup>64</sup>(6) Only a portion of the acquisition expenses for any accounting period (in this section referred to as “the base period”) is to be relieved under section 76 of the Taxes Act 1988 for that period.

That portion is one-seventh of the adjusted amount of the acquisition expenses for the period.

For the purposes of this section the adjusted amount of the acquisition expenses for the period is so much of those expenses as remains after—

- (a) including the whole of those expenses at Step 1,
- (b) making any reduction in those expenses which is required at Step 2, and
- (c) deducting any amount of reinsurance commission or any repayment or refund (in whole or in part) that falls for the period to be charged to tax under section 85 above,

Effect is given to this subsection at Step 6 (which requires the deduction of six-sevenths of the adjusted amount of the acquisition expenses for the period.)]

F<sup>65</sup>(7) .....

[F<sup>66</sup>(8) This subsection applies in any case where, in accordance with subsection (6) above, only a fraction of the adjusted amount of the acquisition expenses for the base period is to be relieved under section 76 of the Taxes Act 1988 for that period.

In any such case—

- (a) a further fraction of the adjusted amount of those expenses is to be relieved under that section for each succeeding accounting period after the base period, until the whole of the adjusted amount has been relieved,
- (b) the fraction is one-seventh, except that for any accounting period of less than a year the fraction is to be proportionately reduced, and
- (c) the relief is given by including that fraction of the adjusted amount at paragraph (b) of Step 8,

but this is subject to subsection (9) below.

(9) For any accounting period for which—

- (a) the fraction of the adjusted amount of the acquisition expenses for the base period which would otherwise fall to be relieved in accordance with subsection (8) above, exceeds
- (b) the balance of that adjusted amount which has not been so relieved for earlier accounting periods,

only that balance shall be so relieved.]

[F<sup>67</sup>(9A) In this section “expenses payable” has the same meaning as in Step 1.

(9B) Any reference in this section to a numbered Step is a reference to the Step so numbered in section 76(7) of the Taxes Act 1988.]

(10) This section has effect for accounting periods beginning on or after 1st January 1990 (including the 1990 component period).

*Status: Point in time view as at 01/01/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Life assurance. (See end of Document for details)*

### Textual Amendments

- F56** S. 86(1) substituted for s. 86(1)-(1B) (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(2\)](#)
- F57** Words in s. 86(2) substituted (29.4.1996 with effect in relation to accounting periods beginning on or after 1.1.1996) by [1996 c. 8](#), [s. 167\(3\)\(b\)\(10\)](#)
- F58** Words in s. 86(2) substituted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(3\)](#)
- F59** 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](#).
- F60** 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](#).
- F61** 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](#).
- F62** S. 86(5) repealed (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(4\)\(a\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F63** S. 86(5A) repealed (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(4\)\(b\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F64** S. 86(6) substituted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(5\)](#)
- F65** S. 86(7) repealed (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(6\)](#), [Sch. 42 Pt. 2\(3\)](#)
- F66** S. 86(8)(9) substituted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(7\)](#)
- F67** S. 86(9A)(9B) inserted (with effect in accordance with ss. 42-44 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 6 para. 8\(8\)](#)

### Modifications etc. (not altering text)

- C13** 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.”

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<sup>F68</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.

<sup>F69</sup>(6) .....

<sup>F70</sup>(7) .....

#### Textual Amendments

**F68** S. 87(3) repealed by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 123, [Sch. 19 Pt.V](#).

**F69** S. 87(6) repealed (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), [Sch. para. 44\(2\)](#)

**F70** S. 87(7) repealed (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), [Sch. para. 44\(2\)](#)

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

(1) Subject to subsection (2) <sup>F71</sup>... below, in the case of a company carrying on life assurance business, the rate of corporation tax chargeable for any financial year on <sup>F72</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 <sup>F73</sup>[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.

<sup>F74</sup>(3) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the income and gains of the company's life assurance business reduced by the aggregate amount of—

[ amounts falling in respect of any non-trading deficits on the company's loan <sup>F75</sup>(aa) relationships to be brought into account in that period in accordance with paragraph 4 of Schedule 11 to the Finance Act 1996,]<sup>F76</sup>and

(a) the basic deduction given by Step 8 in section 76(5) of the Taxes Act 1988.]]

<sup>F77</sup>(3A) In subsection (3) above “income and gains of the company's life assurance business” means the aggregate of—

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- (a) income and chargeable gains referable [<sup>F78</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business, and
  - (b) profits of the company chargeable under Case VI of Schedule D under sections 436, 439B and 441 of the Taxes Act 1988 (pension business, life reinsurance business and overseas life assurance business).
- (3B) In subsection (3A)(a) above (and section 89(1B) below) “chargeable gains referable [<sup>F79</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business”, in relation to an accounting period, means the chargeable gains so far as [<sup>F80</sup>so referable] accruing to the company in the accounting period after deducting—
- (a) any allowable losses so referable accruing to the company in the accounting period, and
  - (b) so far as they have not been allowed as a deduction from chargeable gains in any previous accounting period, any allowable losses so referable previously accruing to the company.]
- (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>F81</sup>share] of the company's relevant profits for that period [<sup>F82</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 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

- F71** Words in s. 88(1) repealed (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(2\)\(a\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F72** Words in s. 88(1) substituted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\)](#), [s. 45\(1\)\(10\)](#)
- F73** Word in s. 88(1) substituted (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(2\)\(b\)](#)
- F74** S. 88(3) substituted (1.5.1995) by [1995 c. 4, s. 51](#), [Sch. 8 Pt. I para. 21\(2\)](#) (with [Sch. 8 paras. 55\(2\), 57\(1\)](#))
- F75** S. 88(3)(aa) inserted (29.4.1996) by [1996 c. 8, s. 104](#), [Sch. 14 para. 56](#) (with savings in [Ch. II, ss. 80-105 of Pt. IV](#))
- F76** Words in s. 88(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), [Sch. para. 45\(2\)](#)
- F77** S. 88(3A)(3B) inserted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 6\(1\)](#)
- F78** Words in s. 88(3A)(a) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(2\)\(a\)](#)
- F79** Words in s. 88(3B) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(2\)\(b\)](#)
- F80** Words in s. 88(3B) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(2\)](#)
- F81** Word in s. 88(4) substituted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\)](#), [s. 45\(2\)\(10\)](#)

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**F82** Words in s. 88(4) inserted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\), s. 45\(2\)\(10\)](#)

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

**C14** S. 88(3A)(a) modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/437\)](#), [reg. 39A](#) (as inserted (8.4.2004) by [S.I. 2004/822, regs. 1, 33](#))

**<sup>F83</sup>88A Lower corporation tax rate on certain insurance company profits.**

**Textual Amendments**

**F83** S. 88A repealed (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 33 para. 13\(3\), Sch. 43 Pt. 3\(12\)](#)

**[<sup>F84</sup>89 Policy holders' share of profits.**

(1) The references in [<sup>F85</sup>section 88] above to the policy holders' share of the relevant profits for an accounting period of a company carrying on life assurance business <sup>F86</sup>... are references to —

- [<sup>F87</sup>(a) in a case where there are no Case I profits of the company for the period in respect of its life assurance business, the amount of the relevant profits, and
- (b) in any other case, the amount arrived at in accordance with subsection (1A) below.]

[ An amount is arrived at in accordance with this subsection by—

- <sup>F88</sup>(1A) (a) deducting from any profits of the company for the period chargeable under Case VI of Schedule D under sections 436, 439B and 441 of the Taxes Act 1988 (as reduced by any losses under those sections and any charges on income referable to any category of business other than basic life assurance and general annuity business) so much of the Case I profits of the company for the period in respect of its life assurance business as does not exceed the amount of any profits of the company for the period so chargeable, and
- (b) deducting any remaining Case I profits of the company for the period in respect of its life assurance business from any BLAGAB profits of the company for the period.

(1B) For the purposes of this section, the BLAGAB profits of a company for an accounting period are the income and chargeable gains referable [<sup>F89</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business reduced by the aggregate amount of—

- [<sup>F90</sup>(a) amounts falling in respect of any non-trading deficits on the company's loan relationships to be brought into account in that period in accordance with paragraph 4 of Schedule 11 to the Finance Act 1996, and
- (b) the basic deduction given by Step 8 in section 76(7) of the Taxes Act 1988.]]

(2) For the purposes of [<sup>F91</sup>subsections (1) and (1A)] above, the Case I profits for a period shall be reduced by—

- <sup>F92</sup>(a) .....

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- (b) the shareholders' share of any <sup>F93</sup>... [<sup>F94</sup>distributions received from companies resident in the United Kingdom in the period which are][<sup>F95</sup>referable [<sup>F96</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business][<sup>F97</sup>, and
- (c) the shareholders' share of any foreign income dividends arising to the company in the period [<sup>F98</sup>which are referable to the company's basic life assurance and general annuity business].]

[ For the purposes of subsection (2) above—

- <sup>F99</sup>(2A) (a) “ foreign income dividends ” shall be construed in accordance with Chapter VA of Part VI;
- (b) the shareholders' share of any foreign income dividends is so much of the income they represent as is the shareholders' share.]

- (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 [<sup>F100</sup>insurance] 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 [<sup>F101</sup>Chapter 9 of the Prudential Sourcebook (Insurers)]; 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



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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.

[ In this section—  
F102(7)

“Case I profits” means profits computed in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D [F103 and adjusted in respect of losses in accordance with [F104 the second sentence of section 76(10)] of the Taxes Act 1988;]

F105 ..... ]

F106(8) ..... ]

### Textual Amendments

- F84 S. 89 substituted retrospectively by [Finance Act 1990 \(c. 29\)](#) {s. 45(3)}
- F85 Words in s. 89(1) substituted (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(4\)\(a\)](#)
- F86 Words in s. 89(1) repealed (with effect in accordance with Sch. 33 para. 13(11) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 13\(4\)\(b\)](#), [Sch. 43 Pt. 3\(12\)](#)
- F87 S. 89(1)(a)(b) substituted (with effect in accordance with Sch. 33 para. 6(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 6\(3\)](#)
- F88 S. 89(1A)(1B) inserted (with effect in accordance with Sch. 33 para. 6(11)(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 6\(4\)](#)
- F89 Words in s. 89(1B) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(2\)\(c\)](#)
- F90 Words in s. 89(1B) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), [Sch. para. 46\(2\)](#)
- F91 Words in s. 89(2) substituted (with effect in accordance with Sch. 33 para. 13(12) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 6\(5\)](#)
- F92 S. 89(2)(a) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, ss. 23, 52](#), [Sch. 3 para. 14\(2\)\(a\)\(4\)](#), [Sch. 8 Pt. II\(6\)](#), note
- F93 Words in s. 89(2)(b) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, ss. 23, 52](#), [Sch. 3 para. 14\(2\)\(b\)\(i\)\(4\)](#), [Sch. 8 Pt. II\(6\)](#), note
- F94 Words in s. 89(2)(b) substituted (with effect in accordance with Sch. 33 para. 12(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 12\(4\)](#)
- F95 Words in s. 89(2)(b) substituted (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, s. 23](#), [Sch. 3 para. 14\(2\)\(b\)\(ii\)\(4\)](#)
- F96 Words in s. 89(2)(b) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 7 para. 9\(2\)\(d\)](#)
- F97 S. 89(2)(c) and word immediately preceding it repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by [1997 c. 58, ss. 36, 52](#), [Sch. 6 para. 19\(2\)\(4\)](#), [Sch. 8 Pt. II\(11\)](#), note
- F98 Words in s. 89(2)(c) substituted (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, s. 23](#), [Sch. 3 para. 14\(2\)\(c\)\(4\)](#)
- F99 S. 89(2A) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, ss. 36, 52](#), [Sch. 6 para. 19\(3\)\(4\)](#), [Sch. 8 Pt. II\(11\)](#), note
- F100 Word in s. 89(5)(a) substituted (1.12.2001) by [S.I. 2001/3629](#), [art. 60\(3\)](#)
- F101 Words in s. 89(6) substituted (1.12.2001) by [S.I. 2001/3629](#), [art. 58\(2\)](#)
- F102 S. 89(7) substituted (1.12.2001) by [S.I. 2001/3629](#), [art. 58\(3\)](#)
- F103 Words in s. 89(7) inserted (with effect in accordance with Sch. 33 para. 7(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 7\(1\)](#)

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- F104** Words in s. 89(7) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004 \(S.I. 2004/2310\)](#), art. 1(2), **Sch. para. 46(3)**
- F105** Words in s. 89(7) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 43 Pt. 3(12)**
- F106** S. 89(8) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by [1997 c. 58, ss. 23, 52, Sch. 3 para. 14\(3\)\(4\)](#), **Sch. 8 Pt. 2(6)** Note

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

- C15** S. 89 amended (27.7.1993 with application as mentioned in [s. 78\(11\)](#) of the amending Act) by [1993 c. 34, s. 78\(6\)\(11\)](#)
- C16** S. 89(1B) applied (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 6(11)**
- C17** S. 89(1B) modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/437\)](#), **reg. 40A(1)** (as inserted (8.4.2004) by [S.I. 2004/822](#), **regs. 1, 35**)

**[<sup>F107</sup>89A Modification of sections [<sup>F108</sup>82 to 83A, 88] and 89 in relation to overseas life insurance companies.**

Schedule 8A to this Act (which makes modifications of sections [<sup>F109</sup>82 to 83A, 88] and 89 in relation to overseas life insurance companies) shall have effect.]

**Textual Amendments**

- F107** S. 89A inserted (27.7.1993) by [1993 c. 34, s. 101\(1\)](#)
- F108** Words in [s. 89A heading](#) substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2004 \(S.I. 2004/2200\)](#), **regs. 1(1), 5(1)**
- F109** Words in s. 89A substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2004 \(S.I. 2004/2200\)](#), **regs. 1(1), 5(2)**

**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.

**[<sup>F110</sup>90A Interpretation**

Expressions used in any of sections 82 to 90 above (or Schedule 8A to this Act) and in Chapter 1 of Part 12 of the Taxes Act 1988 have the same meaning in those sections (or that Schedule) as in that Chapter.]

**Textual Amendments**

- F110** S. 90A inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 31**

**Status:**

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**Changes to legislation:**

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