



# 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 [<sup>F3</sup>82F]] 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\(1\)](#)
- F3** Word in s. 82(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **11**

#### 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)
- C2** S. 82(1)(b) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), regs. 1(1), 26

### 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 [<sup>F4</sup>Rule 9.10(c)] 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

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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.

- (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)**
- F4** Words in s. 82B(1)(b) substituted (with effect in accordance with Sch. 9 para. 10(3) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 9 para. 10(2)**

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

- C3** S. 82B applied (with modifications) (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), **Sch. 33 para. 1(6)**
- C4** S. 82B modified by SI 1997/473 reg. 32A (as inserted (8.4.2004) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), regs. 1, **28** (as amended (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2005\)](#), regs. 1(1), 7)
- C5** S. 82B modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), regs. 1(1), **27**

## <sup>F5</sup>82C Relevant financial reinsurance contracts

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*Status: Point in time view as at 12/08/2008.*

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### Textual Amendments

- F5** S. 82C repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 9](#), [Sch. 27 Pt. 2\(9\)](#); [S.I. 2008/379](#), [art. 2](#)

## **[<sup>F6</sup>82D. Treatment of profits: life assurance — adjustment consequent on change in Insurance Prudential Sourcebook**

- (1) This section applies in the case of—
- (a) a company which is a non-profit company, or
  - (b) the non-profit fund of a company which is not a non-profit company,
- if an amount [<sup>F7</sup>(“the relevant amount”)] is shown in paragraph 4(12) of Appendix 9.4 to the periodical return for the company for [<sup>F8</sup>a] period of account which ends on or after 31st December 2006 [<sup>F9</sup>but before 1st January 2009 (a “relevant period of account”)] .

[<sup>F10</sup>(2) In computing profits for the purposes of the Taxes Act 1988 in accordance with the provisions applicable to Case I of Schedule D—

- (a) X shall be added to the closing liabilities of the company for the relevant period of account; and
- (b) XA shall be brought into account as a trading receipt of the company for each subsequent period of account until the total sum of the amounts so brought into account is equal to X (and if that total sum would otherwise exceed X, the excess shall be ignored).

[<sup>F11</sup>(2A) .....

(2B) X is—

- (a) where the relevant period of account ends before 1st April 2007, the whole of the relevant amount;
- (b) where the relevant period of account ends on or after 1st April 2007 but before 1st January 2008, two-thirds of the relevant amount;
- (c) where the relevant period of account ends on or after 1st January 2008, one-third of the relevant amount.

(2C) XA is the amount found by the applying the following formula—

$$(Y/12) \times Z$$

Here—

Y is the number of months in the period of account in question (part of a month being counted as a month); and

Z is—

- (a) where X is the whole of the relevant amount, one-third of X;
- (b) where X is two thirds of the relevant amount, one-half of X;
- (c) where X is one third of the relevant amount, the whole of X.]

[<sup>F12</sup>(3) .....

[<sup>F13</sup>(4) In a case falling within subsection (1)(b) above, the relevant amount shall be reduced (but not below nil) by so much (if any) of the amount shown in paragraph 4(12) of

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Appendix 9.4 to the periodical return as is reflected in column 1 of line 51 of the Form 14 for that period of account relating to the non-profit fund in question.]

<sup>F14</sup>(5) .....

[ This section is subject to sections 82E and 82F below.]]  
<sup>F15</sup>(6)

#### Textual Amendments

- F6** S. 82D inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment No. 2\) Order 2006 \(S.I. 2006/3387\)](#), arts. 1(1), **5**
- F7** Words in s. 82D(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(2)(a)**
- F8** Word in s. 82D(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(2)(b)**
- F9** Words in s. 82D(1) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(2)(c)**
- F10** Ss. 82D(2)-(2C) substituted for s. 82D(2) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(3)**
- F11** S. 82D(2A) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), **25**
- F12** S. 82D(3) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(4)**
- F13** S. 82D(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(5)**
- F14** S. 82D(5) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 8(2)(b), **Sch. 27 Pt. 2(10)**
- F15** S. 82D(6) added (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **12(6)**

#### [<sup>F16</sup>**82E. Section 82D: treatment of transferors under insurance business transfer schemes**

- (1) This section applies where an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).
- (2) Where the last period of account of the transferor ending before the transfer ends otherwise than immediately before the transfer, there is to be deemed for the purposes of this section and section 82D above to be—
  - (a) a period of account of the transferor beginning immediately after the last period of account ending before the transfer and ending immediately before the transfer;
  - (b) a period of account of the transferor beginning immediately after the transfer.
- (3) In applying section 82D above and this section, where subsection (2) above applies, no account shall be taken of a period of account of the transferor which includes the time of the transfer.

*Status: Point in time view as at 12/08/2008.*

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- (4) Where the transfer is of the whole, or substantially the whole, of the long-term business of the transferor, the transferor may make an election under this subsection.
- (5) An election under subsection (4) above—
- (a) is irrevocable; and
  - (b) is to be made by notice to an officer of Revenue and Customs no later than the end of the period of 28 days beginning with the day following that on which the transfer takes place.
- (6) Where the transferor makes an election under subsection (4) above then in computing profits for the purposes of the Taxes Act 1988 in accordance with the provisions applicable to Case I of Schedule D—
- (a) the aggregate of all the amounts that would have been brought into account under section 82D(2)(b) above for periods of account of the transferor subsequent to the transfer if the transfer had not taken place shall be brought into account as a trading receipt of the transferor for the period of account ending immediately before the transfer; and
  - (b) section 82D(2)(b) above shall have no effect in relation to subsequent periods of account of the transferor.
- (7) Where the transferor does not make an election under subsection (4) above then for any period of account of the transferor ending on or after the transfer—
- (a) in the case of a transfer of the whole of the long-term business, no amount shall be brought into account under section 82D(2)(b) above;
  - (b) in the case of a transfer of part of the long-term business, the amount to be so brought into account shall be reduced by the appropriate amount mentioned in section 82F(4) below.

#### **Textual Amendments**

**F16** Ss. 82E, 82F inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **13**

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

**C6** S. 82E applied (with modifications) by 1988 c. 1, s. 432YA(6) (as added) (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **3(5)**

### **82F. Section 82D: treatment of transferees under insurance business transfer schemes**

- (1) This section applies where—
- (a) an insurance business transfer scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”); and
  - (b) the transferor does not make an election under section 82E(4) above.
- (2) For the purposes of this section and section 82D above, where the first period of account of the transferee ending after the transfer began before the transfer, it shall be treated as beginning immediately after the transfer.
- (3) Section 82D above shall apply as if—

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- (a) the reference in subsection (2)(b) of that section to subsequent periods of account included a reference to periods of account of the transferee ending on or after the transfer; and
  - (b) the reference in that subsection to the company included a reference to the transferee.
- (4) The amount to be brought into account as a trading receipt of a transferee (or, if there is more than one transferee, all the transferees) for a period of account by virtue of this section shall not exceed the appropriate amount.
- (5) Where there is more than one transferee, the amount to be brought into account as a trading receipt of each transferee for a period of account by virtue of this section shall be the relevant fraction of the appropriate amount.
- [ But where the numerator of the relevant fraction, in relation to any of the transferees,  
F17(5A) is negative, the amount to be brought into account as mentioned in subsection (5) in the case of each of the transferees is such proportion of the appropriate amount as is just and reasonable to attribute to each transferee.]
- (6) The appropriate amount is the amount which bears to XA for the period of account in question “the relevant proportion”.
- Here—
- XA has the meaning given by section 82D(2C) above; and
- “the relevant proportion”, in relation to a transferee, is the proportion that the liabilities of the transferor to policy holders and annuitants transferred to the transferee bear to such liabilities of the transferor immediately before the transfer.
- (7) The relevant fraction, in relation to a transferee, is the fraction of which—
- (a) the numerator is the liabilities of the transferor to policy holders and annuitants transferred to the transferee; and
  - (b) the denominator is the liabilities of the transferor to policy holders and annuitants transferred to all the transferees.]

#### Textual Amendments

- F16** Ss. 82E, 82F inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **13**
- F17** S. 82F(5A) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2008 \(S.I. 2008/1905\)](#), arts. 1(1), **2(2)**

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

- C7** S. 82F applied (with modifications) by 1988 c. 1, s. 432YA(6) (as added (with effect in accordance with art. 1(2) of the amending S.I.) by [The Insurance Companies \(Corporation Tax Acts\) \(Amendment\) Order 2007 \(S.I. 2007/1031\)](#), arts. 1(1), **3(5)**)

### [<sup>F18</sup> 83 Receipts to be [<sup>F19</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.

*Status: Point in time view as at 12/08/2008.*

*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)*

[<sup>F20</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>F21</sup>...
- (d) other income; [<sup>F22</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.

[<sup>F23</sup>(2ZA) Amounts brought into account as mentioned in subsection (2) above are not to be taken into account in any other way; and this subsection applies in spite of—

- (a) section 80(5) of the Finance Act 1996 (taxation of loan relationships),
- (b) paragraph 1(2) of Schedule 26 to the Finance Act 2002 (taxation of profits from derivative contracts), and
- (c) paragraph 1(3) of Schedule 29 to that Act (gains and losses in respect of intangible fixed assets).]

(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>F24</sup>paragraphs (a) to (e)] of that subsection for the period of account as—

- [<sup>F25</sup>(a) comprises notional income for the period of account (see subsections (2AA) and (2AB)),
- (aa) represents an inter-fund transfer (see subsections (2AC) and (2AD)),]
- [<sup>F26</sup>(ab) comprises a business transfer-in that is not brought into account in a revenue account prepared for the purposes of Chapter 9 of the Prudential Sourcebook (Insurers) in respect of the whole of the company's long-term business,]
- [<sup>F27</sup>(ac) consists of amounts brought into account as mentioned in section 83YC(5) below;]
- <sup>F28</sup>(b) .....
- (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.

[<sup>F29</sup>(2AA) For the purposes of subsection (2A)(a) above, an amount brought into account as mentioned in paragraphs (a) to (d) of subsection (2) above for a period of account is to be regarded as notional income for the period of account if—

- (a) it represents income which has not been received, and is not receivable, from another person, and
- (b) a corresponding notional expense of the same amount is brought into account in the period of account;

and where particular income falls to be regarded as notional income under this subsection, the notional expense by virtue of which that income falls to be so regarded may not be taken into account for determining whether any other income is to be so regarded.



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(2AB) In subsection (2AA) above “notional expense” means an expense which has not been paid, and is not payable, to another person and which—

- (a) is not deductible in computing the profits of the company in respect of its life assurance business in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D, but
- (b) had it represented an amount paid or payable to another person, would have been so deductible.

(2AC) For the purposes of subsection (2A)(aa) above, where—

- (a) one or more inter-fund transfers (“transfers-in”) are made into a fund and one or more inter-fund transfers (“transfers-out”) are made out of the fund, and
- (b) the amount brought into account for the period of account as other income in respect of the transfers-in represents the amount by which—
  - (i) the amount or aggregate amount of the transfers-in, exceeds
  - (ii) the amount or aggregate amount of the transfers-out,

only the amount of that excess shall be taken to represent the transfers-in.

(2AD) In this section “inter-fund transfer” means a transfer between two funds which in the company’s periodical return is shown in, or included in amounts shown in, line 14 or 33 of the Forms 58 for the funds.]

(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, [<sup>F30</sup>the fair value of the assets at the time of the transfer, reduced by any amount brought into account in respect of them (for the period of account in which the transfer takes place or any earlier period of account) as part of total expenditure or [<sup>F31</sup>by being netted off against incomings in lines 11 to 15 of a revenue account] ,] shall be deemed to be brought into account for the period of account in which the transfer takes place as an increase in the the value of the assets of that fund [<sup>F32</sup>except to the extent that any of the exclusions in subsections (2C) to (2E) below apply.]

<sup>F33</sup> .....

(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.

[<sup>F34</sup>(2DA) If—

- (a) assets of the company’s long-term insurance fund are transferred by the company to another person (“the transferee”),
- (b) the transferee assumes, as a result of the transfer, a liability representing a debenture loan which, immediately before the transfer, was a liability of that fund, and
- (c) the liability does not, as a result of the transfer, become a liability of any long-term insurance fund of the transferee,

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so much of the fair value of the assets as does not exceed the fair value of the liability is excluded from subsection (2B) above.]

[<sup>F35</sup>(2E) Assets transferred by an insurance business transfer scheme are excluded from subsection (2B) above.]]

- <sup>F36</sup>(3) .....
- <sup>F36</sup>(4) .....
- <sup>F36</sup>(5) .....
- <sup>F36</sup>(6) .....
- <sup>F37</sup><sup>F36</sup>(6A) .....
- <sup>F36</sup>(6B) .....
- <sup>F36</sup>(6C) .....
- <sup>F36</sup>(7) .....
- <sup>F38</sup>(8) In this section—
  - <sup>F39</sup> .....
  - <sup>F39</sup> .....
  - [<sup>F40</sup>“fair value” <sup>F41</sup>—
  - (a) <sup>F42</sup> .....
  - (b) in relation to liabilities, means the amount which would be paid to an independent person assuming them;]]
  - <sup>F39</sup> .....

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

- F18** 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)**)
- F19** 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)**
- F20** 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)**
- F21** 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)**
- F22** 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)**
- F23** S. 83(2ZA) inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 4(2)**
- F24** 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)**
- F25** S. 83(2A)(a)(aa) substituted for s. 83(2A)(a) (with effect in accordance with Sch. 9 para. 12(5) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 12(2)**

*Status: Point in time view as at 12/08/2008.*

*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)*

- F26** S. 83(2A)(ab) inserted (with effect in accordance with Sch. 10 para. 17(5) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 10 para. 4(3)**
- F27** S. 83(2A)(ac) inserted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 1(2)**
- F28** S. 83(2A)(b) repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 6(2), **Sch. 27 Pt. 2(9)**; S.I. 2008/379, art. 2
- F29** S. 83(2AA)-(2AD) inserted (with effect in accordance with Sch. 9 para. 12(5) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 9 para. 12(3)**
- F30** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(5) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 10(2)**
- F31** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 10(3)(a)**; S.I. 2008/379, art. 2
- F32** Words in s. 83(2B) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 10(3)(b)**; S.I. 2008/379, art. 2
- F33** Words in s. 83(2B) repealed (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 10(4), **Sch. 27 Pt. 2(9)**; S.I. 2008/379, art. 2
- F34** S. 83(2DA) inserted (with effect in accordance with Sch. 11 para. 6(5) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 11 para. 6(3)**
- F35** S. 83(2E) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), **Sch. 9 para. 10(5)**; S.I. 2008/379, art. 2
- F36** S. 83(3)-(7) repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 11(2)(a), **Sch. 27 Pt. 2(9)**; S.I. 2008/379, art. 2
- F37** S. 83(6A) repealed (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 3(12)**
- F38** 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**
- F39** Words in s. 83(8) repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by Finance Act 2007 (c. 11), Sch. 9 para. 11(2)(a), **Sch. 27 Pt. 2(9)**; S.I. 2008/379, art. 2
- F40** 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)**
- F41** Words in s. 83(8) substituted (with effect in accordance with Sch. 11 para. 6(5) of the amending Act) by Finance Act 2006 (c. 25), **Sch. 11 para. 6(4)**
- F42** Words in s. 83(8) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 10(3)(d), **Sch. 27 Pt. 2(10)**

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

- C8** 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
- C9** 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)
- C10** 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
- C11** S. 83 modified (with effect in accordance with reg. 1(2) of the amending S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014), **regs. 1(1)**, 28
- C12** 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

*Status: Point in time view as at 12/08/2008.*

*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)*

### **[<sup>F43</sup>83XA] Structural assets**

- (1) Section 83(2) does not require to be taken into account as receipts or expenses of a period of account income from, or an increase or a decrease in the value of, structural assets held by an insurance company in a non-profit fund.
- (2) For the purposes of subsection (1) above—
  - (a) an increase in the value of structural assets includes any amount by which their fair value when they cease to be structural assets, or come to be held otherwise than in any of the company's non-profit funds, exceeds their admissible value at the end of the preceding period of account, and
  - (b) a decrease in the value of structural assets includes any amount by which the admissible value of the assets at the end of the period of account in which they become structural assets, or come to be held in any of the company's non-profit funds, is less than their historic cost.
- (3) In this section “structural assets” means—
  - (a) shares, debts and loans the value of which is required to be entered in lines 21 to 24 of Form 13 in the periodical return (UK insurance dependants and other insurance dependants), and
  - (b) assets of such other descriptions as are specified by regulations made by the Treasury.
- (4) Where a structural asset held by an insurance company in a non-profit fund ceases to be a structural asset or comes to be held otherwise than in any of the company's non-profit funds and, immediately before it came to be a structural asset held in any of the company's non-profit funds it (or any part of it) was an asset of the company's long-term insurance fund, the relevant value difference is to be taken into account under section 83(2)—
  - (a) as a receipt (if it is a positive amount), or
  - (b) as an expense (if it is a negative amount),
 of the relevant period of account.
- (5) For the purposes of subsection (4) above “the relevant value difference”, in relation to an asset, is—
 

HC - AV

where—

HC is its historic cost, and

AV is its admissible value at the relevant time.
- (6) In subsection (4) above “the relevant period of account” means—
  - (a) in a case within paragraph (a) of that subsection, the period of account in which the asset ceases to be a structural asset or comes to be held otherwise than in any of the company's non-profit funds, and
  - (b) in a case within paragraph (b) of that subsection, the period of account in which the asset first comes to be held otherwise than by the company or (where the company is a member of a group) otherwise than by a company which is a member of the group;

*Status: Point in time view as at 12/08/2008.*

*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)*

and section 170 of the Taxation of Chargeable Gains Act 1992 (meaning of “group” etc) has effect for the interpretation of this subsection.

- (7) In subsection (5) above “the relevant time” means—
- (a) in a case where assets become structural assets held in any of the company's non-profit funds by virtue of the commencement of this section, the end of the last period of account of the company beginning before 1st January 2007, and
  - (b) otherwise, the time when the assets become structural assets held in any of the company's non-profit funds.
- (8) In this section “historic cost”, in relation to an asset which is or has been held in any of the company's non-profit funds, means—
- (a) where the asset came to be held in any of the company's non-profit funds on acquisition from another person, the consideration given by the company for the acquisition of the asset, and
  - (b) otherwise, its fair value when it came to be held in any of the company's non-profit funds.
- (9) In this section “admissible value”, in relation to an asset and a time, means the value of the asset as shown in column 1 of Form 13 of the periodical return for the period ending with that time (or as would be so shown if there were a periodical return covering a period ending with that time).
- <sup>F44</sup>(10) .....
- <sup>F45</sup>(11) .....
- (12) Structural assets held by an insurance company in a non-profit fund are to be treated as being within paragraph (f) of subsection (4) of section 440 of the Taxes Act 1988; but no disposal or re-acquisition is to be deemed to occur by virtue of an asset ceasing to be within any other paragraph of that subsection and coming within that paragraph on becoming such a structural asset.
- (13) Structural assets held by an insurance company in a non-profit fund are to be treated as being “remaining” securities within section 440A(2)(e) of the Taxes Act 1988.
- (14) Section 432A of the Taxes Act 1988 does not have effect in relation to income arising from, or gains and losses accruing on the disposal of, structural assets held by an insurance company in a non-profit fund.
- (15) Regulations under subsection (3) <sup>F46</sup>... above may be made so as to have effect in relation to periods of account current when they are made (as well as periods of account beginning later).]

#### Textual Amendments

- F43** S. 83XA inserted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 2](#)
- F44** S. 83XA(10) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 7\(a\)](#)
- F45** S. 83XA(11) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 7\(a\)](#)
- F46** Words in s. 83XA(15) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 7\(b\)](#)

*Status: Point in time view as at 12/08/2008.*

*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)*

### **[<sup>F47</sup>83YA] Changes in value of assets brought into account: non-profit companies**

- (1) This section applies if, in the case of any non-profit company,—
  - (a) the amount shown in line 51 of Form 14 of its periodical return in respect of the whole of its long-term business for any period of account (“the current period of account”), exceeds
  - (b) the aggregate amount of the amounts shown in line 51 of Form 14 of its periodical return in respect of its with-profits funds (if any) for that period.
- (2) A comparison shall be made between—
  - (a) the appropriate line 51 amount of the company for the current period of account (“the current line 51 amount”), and
  - (b) the aggregate amount of the appropriate line 51 amount of the company for the previous period of account (if any) and the amount of any transfer-in amount of the company for that period.
- (3) If the current line 51 amount is greater than that aggregate amount, an amount equal to the difference shall be deemed for the purposes of section 83(2) to be brought into account for the current period of account as an increase in the value of non-linked assets.
- (4) If the current line 51 amount is less than that aggregate amount, an amount equal to the difference shall be deemed for the purposes of section 83(2) to be brought into account for the current period of account as a decrease in the value of non-linked assets.
- (5) The amount brought into account by virtue of this section shall be deemed for the purposes of section 83(2) to be brought into account—
  - (a) in the revenue account mentioned in section 83A(2)(a), or
  - (b) if section 83A(4) is applicable, in the separate revenue account treated as prepared by virtue of that provision.
- (6) Any amount brought into account by virtue of this section is in addition to any amount brought into account for the purposes of section 83(2) for the current period of account as an increase or decrease in the value of non-linked assets apart from this section.
- (7) For the purposes of this section a company has a transfer-in amount for any period of account (“the previous period of account”) if [<sup>F48</sup>a transfer takes place in the following period of account; and the amount of the transfer-in amount for the previous period of account is any amount by which—
  - (a) the [<sup>F49</sup>admissible] value of such of the assets of the long-term insurance fund of the company immediately after the transfer as were assets of [<sup>F50</sup>a non-profit fund of the transferor] immediately before the transfer, exceeds
  - (b) the amount of any business transfer-in brought into account in accordance with section 83(2)(e) in relation to the transfer.]

<sup>F51</sup>(8) .....

- (9) But if a company considers that, in relation to a period of account, it is no longer such a company, it may elect to be treated for the purposes of this section and section 83YB as if, in relation to that period of account and every subsequent period of account, it were a non-profit company.

- (10) Any such election—
  - (a) is irrevocable, and

*Status: Point in time view as at 12/08/2008.*

*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)*

(b) must be made by notice to an officer of the Board on or before the end of the period of 6 months beginning with the day on which that period of account ends.

(11) For the purposes of this section and section 83YB—

[<sup>F52</sup>“admissible value” has the meaning given by section 83XA(9);]  
“amount”, in relation to line 51 of Form 14 of the company's periodical return, includes a nil amount;

F53  
.....

#### Textual Amendments

- F47** Ss. 83YA, S. 83YB inserted (with effect in accordance with Sch. 11 para. 7(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 7\(1\)](#)
- F48** Words in s. 83YA(7) substituted (with effect in accordance with Sch. 9 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 7\(2\)](#); S.I. 2008/379, art. 2
- F49** Word in s. 83YA(7)(a) substituted (with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), [26\(2\)\(a\)](#)
- F50** Words in s. 83YA(7)(a) substituted (with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), [26\(2\)\(b\)](#)
- F51** S. 83YA(8) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 8\(2\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F52** Words in s. 83YA(11) inserted (with effect in accordance with art. 1(4) of the amending S.I.) by [The Insurance Business Transfer Schemes \(Amendment of the Corporation Tax Acts\) Order 2008 \(S.I. 2008/381\)](#), arts. 1(1), [26\(3\)](#)
- F53** Words in s. 83YA(11) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 8\(2\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

- C13** S. 83YA modified (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 7\(3\)-\(6\)](#)

### 83YB Meaning of “appropriate line 51 amount” for purposes of s.83YA

(1) For the purposes of section 83YA, the appropriate line 51 amount of a non-profit company for any period of account is determined as follows.

#### Step 1

Find the company's basic line 51 amount for the period of account.

#### Step 2

Reduce that amount (but not below nil) by the amount of any unrecognised capital amount of the company for the period of account.

But this step applies only if the period of account for which the appropriate line 51 amount of the company is being determined is the current period of account for the purposes of section 83YA.

#### Step 3

*Status: Point in time view as at 12/08/2008.*

*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)*

Increase the resulting amount by the amount of any relevant loan repayment made by the company in the period of account.

- (2) For the purposes of step 1, the company's basic line 51 amount for any period of account is—
- (a) in the case where no with-profits funds form part of its long-term business for that period, the amount shown in line 51 of Form 14 of its periodical return in respect of the whole of its long-term business for that period, and
  - (b) in any other case, so much of that amount as exceeds the aggregate amount of the amounts shown in line 51 of Form 14 of its periodical return in respect of its with-profits funds for that period.
- (3) For the purposes of step 2, the company has an unrecognised capital amount for any period of account if—
- (a) any assets (“the added assets”) become assets of its long-term insurance fund but do not become assets of any of its with-profits funds,
  - (b) the consideration for the acquisition of the added assets does not comprise any assets which, immediately before the acquisition, were assets of its long-term insurance fund,
  - (c) no amount is shown in respect of the added assets in any of lines 17 to 41 of Form 14 of its periodical return in respect of the whole of its long-term business for the period of account, and
  - (d) no amount is brought into account for the period of account in consequence of the acquisition of the added assets.
- (4) For the purposes of step 2, the amount of the unrecognised capital amount for the period of account is the amount equal to the fair value of the added assets.
- <sup>F54</sup>(5) .....
- (6) For the purposes of step 3, a relevant loan repayment is made by the company in any period of account if—
- (a) a repayment in respect of a loan is made by the company in the period of account, and
  - (b) the loan is one in relation to which the company has, for the purposes of step 2, an unrecognised capital amount for that or any other period of account.]

#### Textual Amendments

**F47** Ss. 83YA, S. 83YB inserted (with effect in accordance with Sch. 11 para. 7(2) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 7\(1\)](#)

**F54** S. 83YB(5) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 10\(3\)\(e\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

**C14** S. 83YB modified (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), [Sch. 11 para. 7\(3\)-\(6\)](#)

#### <sup>F55</sup>83YCAFTS: charge in relevant period of account

- (1) This section applies where an insurance company makes a financing-arrangement-funded transfer to shareholders (a “FAFTS”) in relation to a non-profit fund.



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*Status: Point in time view as at 12/08/2008.*

*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)*

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- (2) A company makes a FAFTS in relation to a non-profit fund if—
  - (a) the company enters into a relevant financing arrangement in relation to a non-profit fund in a period of account (see subsection (4) below),
  - (b) a positive amount is brought into account by the company as a transfer to non-technical account from the non-profit fund for that or any subsequent period of account (“the relevant period of account”), and
  - (c) the positive amount so brought into account for the relevant period of account exceeds the non-FAFTS surplus (see subsection (8) below).
- (3) The amount of that excess is to be treated for the purposes of section 83(2) as brought into account by the company for the relevant period of account as an increase in the value of assets.
- (4) For the purposes of this section and section 83YD a company enters into a relevant financing arrangement in relation to a non-profit fund in a period of account if—
  - (a) the loan condition (see subsection (5) below), or
  - (b) the reinsurance condition (see subsection (6) below),is met.
- (5) The loan condition is met if credits in respect of a money debt which is to any extent referable to the company's life assurance business (a “relevant money debt”) are brought into account in relation to a non-profit fund as part of total income for the period of account.
- (6) The reinsurance condition is met if—
  - (a) in the period of account the company enters into a financial reinsurance arrangement relating to any liabilities (see subsection (7) below), and
  - (b) the reinsurance of the liabilities would (but for section 83YF(2)) be taken into account in calculating profits of the company's life assurance business in accordance with the provisions of Case I of Schedule D for the period of account;and such liabilities are referred to in this section and section 83YD as “relevant liabilities”.
- (7) For the purposes of this section the company enters into a financial reinsurance arrangement if—
  - (a) it enters into a contract of insurance under which liabilities of the company to policy holders or annuitants (or both) in respect of a non-profit fund are reinsured,
  - (b) the reinsured liabilities are to reduce over time,
  - (c) the contract is a financing arrangement within the meaning of paragraph 9(3) of Appendix 9.4 to the Prudential Sourcebook (Insurers), and
  - (d) the premiums which, immediately after entering into the contract, the company is liable to pay under the contract are an insubstantial proportion of the amount of the reinsured liabilities at that time.
- (8) For the purposes of this section the “non-FAFTS surplus” is—
  - (a) the amount shown in line 39 of Form 58 in relation to the non-profit fund in the periodical return for the relevant period of account, reduced (but not to below nil) by

*Status: Point in time view as at 12/08/2008.*

*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)*

- (b) so much of the aggregate of the relevant outstanding debt amount (see subsection (9) below) and the relevant outstanding reinsurance amount (see subsection (10) below) as is untaxed (see subsection (11) below).
- (9) The “relevant outstanding debt amount” is the total amount of the credits brought into account by the company in relation to the non-profit fund as part of total income—
- (a) for the relevant period of account, or
  - (b) for any earlier period of account,
- in respect of relevant money debts to the extent that they have not been repaid before the end of the relevant period of account.
- (10) The “relevant outstanding reinsurance amount” is the total of the amounts which would (but for section 83YF(2)) be taken into account in calculating profits of the company's life assurance business in accordance with the provisions of Case I of Schedule D—
- (a) for the relevant period of account, or
  - (b) for any earlier period of account,
- in respect of the reinsurance of relevant liabilities to the extent that they have not ceased to be reinsured before the end of the relevant period of account.
- (11) The aggregate of the relevant outstanding debt amount and the relevant outstanding reinsurance amount is “untaxed” to the extent that it exceeds the difference between—
- (a) the aggregate of the amounts treated as brought into account in the case of the company by the operation of subsection (3) above for periods of account of the company earlier than the relevant period of account, and
  - (b) the aggregate of the amounts which are the relevant amount for the relevant period of account or earlier periods of account of the company under section 83YD.

#### Textual Amendments

**F55** Ss. 83YC-83YF inserted (with effect in accordance with Sch. 17 para. 4 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 1\(3\)](#)

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

**C15** [S. 83YC](#) modified by 1988 c. 1, s. 444AE (as substituted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 2](#))

### **83YD FAFTS: deduction in subsequent periods of account**

- (1) This section applies where section 83YC(3) has operated in the case of the company for one or more periods of account.
- (2) The relevant amount (see subsection (4) below) is to be treated for the purposes of section 83(2) as brought into account by the company as a decrease in the value of assets for any subsequent period of account in relation to which the condition in subsection (3) below is met.
- (3) That condition is that—
  - (a) a payment made by the company in respect of a relevant money debt is brought into account for the period of account as part of total expenditure in

*Status: Point in time view as at 12/08/2008.*

*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)*

- the revenue account for the non-profit fund without being deductible under section 82(2)(b) of the Finance Act 1996, or
- (b) relevant liabilities are recaptured (that is, cease to be reinsured under a financial reinsurance arrangement) during the period of account.
- (4) For the purposes of subsection (2) above “the relevant amount” is an amount equal to so much of the aggregate of—
- (a) the payments made and brought into account as mentioned in paragraph (a) of subsection (3) above, and
- (b) the liabilities recaptured as mentioned in paragraph (b) of that subsection,
- as, when added to the aggregate of the amounts which are the relevant amount for each earlier period of account of the company in relation to which this section has applied, does not exceed the taxed amount (see subsection (6) below).
- (5) But the making of payments or recapture of liabilities is to be left out of account under paragraph (a) or (b) of subsection (4) above to the extent that it relates to refinancing; and for this purpose a payment or recapture of liabilities relates to refinancing if—
- (a) the company enters into a relevant financing arrangement in relation to the non-profit fund (in any period of account), and
- (b) it is reasonable to assume that the making of the payments or the recapture of the liabilities is connected with its doing so.
- (6) For the purposes of subsection (4) above “the taxed amount” is the aggregate of the amounts treated as brought into account in the case of the company by the operation of section 83YC(3) above for earlier periods of account.

#### Textual Amendments

**F55** Ss. 83YC-83YF inserted (with effect in accordance with Sch. 17 para. 4 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 1\(3\)](#)

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

**C16** [S. 83YD](#) modified by 1988 c. 1, s. 444AE (as substituted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 2](#))

### **83YE Regulations: apportionment and redefining “financial reinsurance arrangement”**

- (1) The Treasury may by regulations make provision for determining what parts of amounts within sections 83YC(3) and 83YD(2)—
- (a) are referable to life assurance business, or
- (b) are referable to gross roll-up business.
- (2) The Treasury may by regulations make provision amending section 83YC(7).
- (3) Regulations under subsection (2) above may include incidental, supplementary, consequential, transitional and savings provisions and may amend or repeal any enactment.
- (4) Regulations under this section—
- (a) may make provision in relation to periods of account current when they are made, and

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*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)*

- (b) if made before 1 January 2009, may make provision in relation to periods of account beginning on or after 1 January 2008 which have ended before they are made.

**Textual Amendments**

**F55** Ss. 83YC-83YF inserted (with effect in accordance with Sch. 17 para. 4 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 1(3)**

**83YF Financial reinsurance arrangements: further provision**

- (1) This section applies where the company has entered into a financial reinsurance arrangement for the purposes of section 83YC.
- (2) Any reduction in the company's liabilities as a result of it doing so is not to be taken into account in calculating profits of the company's life assurance business in accordance with the provisions of Case I of Schedule D.
- (3) Any increase in the company's liabilities as a result of the reduction over time of the liabilities reinsured under the contract of reinsurance is not to be taken into account in calculating profits of the company's life assurance business in accordance with the provisions of Case I of Schedule D otherwise than in accordance with section 83YD.]

**Textual Amendments**

**F55** Ss. 83YC-83YF inserted (with effect in accordance with Sch. 17 para. 4 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 1(3)**

<sup>F56</sup>**83ZA Contingent loans**

.....

**Textual Amendments**

**F56** S. 83ZA omitted (with effect in accordance with Sch. 17 para. 4(1) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 1(4)** (with Sch. 17 para. 4(4))

[<sup>F57</sup>**83A Meaning of “brought into account”.**

- (1) <sup>F58</sup>... “brought into account” means brought into account in an account which is recognised for the purposes of [<sup>F59</sup>sections 82A to 83ZA] .
- (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>F60</sup>those sections] are—
  - (a) a revenue account prepared for the purposes of [<sup>F61</sup>Chapter 9 of the Prudential Sourcebook (Insurers)] in respect of the whole of the company's [<sup>F62</sup>long-term] business;
  - (b) any separate revenue account required to be prepared [<sup>F63</sup>under that Chapter] in respect of a [<sup>F64</sup>with-profits fund <sup>F65</sup>...] .

<sup>F66</sup> ...

*Status: Point in time view as at 12/08/2008.*

*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)*

- (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.

[ Where, in the case of any with-profits fund in respect of which there is prepared such <sup>F67</sup>(3A) a separate account (“the sub-fund”),—

- (a) the sub-fund forms part of another with-profits fund (“the wider fund”) in respect of which such a separate account is also prepared,
- (b) in the case of a company whose life assurance business is mutual business, the sub-fund and each other with-profits fund which forms part of the wider fund are 100:0 funds, and
- (c) the wider fund—
  - (i) does not form part of another with-profits fund in respect of which such a separate account is also prepared, or
  - (ii) forms part of another with-profits fund in respect of which such a separate account is also prepared and that separate account is treated by this subsection as not being a recognised account for the purposes of those sections,

the account in respect of the wider fund shall not be a recognised account for the purposes of those sections.

(3B) Where, in the case of such a separate account prepared in respect of a with-profits fund,—

- (a) the account is not prevented from being a recognised account for the purposes of those sections by virtue of subsection (3A) above, but
- (b) if paragraph (b) of that subsection were to be omitted, the account would be prevented from being such a recognised account by virtue of that subsection,

no such separate account prepared in respect of a with-profits fund forming part of that fund shall be such a recognised account.

(3C) In subsection (3A) above “100:0 fund” means a fund in the case of which—

- (a) the policy holders of the fund are entitled to participate in all the profits of the fund, and
- (b) no other persons are entitled to participate in any of the profits of the fund.

(3D) Subsection (3E) below applies where there is prepared such a separate account (“the with-profits account”) in respect of a with-profits fund—

- (a) of which no other with-profits fund forms part, but
- (b) of which a non-profit fund <sup>F68</sup>... forms part.

(3E) Where this subsection applies—

- (a) the with-profits account shall not be a recognised account for the purposes of those sections, but
- (b) there shall be treated as having been required and prepared a further separate revenue account covering so much of the items brought into account in the with-profits account as remains after excluding the items brought into account in that account in respect of the non-profit fund.]

[<sup>F69</sup>(4) If—

- (a) a company prepares a revenue account in respect of the whole of its long-term business (“the main account”),

*Status: Point in time view as at 12/08/2008.*

*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)*

- (b) it prepares one or more such separate accounts as are mentioned in subsection (2)(b) above, and
- (c) the total of the items brought into account in the separate accounts—
- (i) excluding any such accounts which by virtue of subsection (3A), (3B) or (3E)(a) above are not recognised accounts for the purposes of those sections, but
  - (ii) including any such accounts which by virtue of subsection (3E)(b) above are treated as having been required and prepared,
- is not equal to the total amount brought into account in the main account, there shall be treated as having been required and prepared a further separate revenue account covering the balance.]

<sup>F70</sup>(5) .....

<sup>F71</sup>(6) .....]

#### Textual Amendments

- F57** 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)**)
- F58** Words in s. 83A(1) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 13(a), Sch. 27 Pt. 2(10)**
- F59** Words in s. 83A(1) substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 13(b)**
- F60** 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)**
- F61** 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)**
- F62** Words in s. 83A(2)(a) substituted (1.12.2001) by **S.I. 2001/3629, art. 60(2)(a)**
- F63** 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)**
- F64** Words in s. 83A(2)(b) substituted (with effect in accordance with Sch. 9 para. 13(6) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 13(2)(a)**
- F65** Words in s. 83A(2)(b) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 8(2)(d), Sch. 27 Pt. 2(10)**
- F66** Words in s. 83A(2) repealed (10.7.2003) by **Finance Act 2003 (c. 14), Sch. 43 Pt. 3(12)**
- F67** Ss. 83A(3A)-(3E) inserted (with effect in accordance with Sch. 9 para. 13(6) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 13(3)**
- F68** Words in s. 83A(3D)(b) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 8(2)(d), Sch. 27 Pt. 2(10)**
- F69** S. 83A(4) substituted (with effect in accordance with Sch. 9 para. 13(6) of the amending Act) by **Finance (No. 2) Act 2005 (c. 22), Sch. 9 para. 13(4)**
- F70** S. 83A(5) repealed (1.1.1996) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(26)**, note
- F71** S. 83A(6) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 8(2)(d), Sch. 27 Pt. 2(10)**

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

- C17** S. 83A modified (retrospective to 1.1.1995) 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, 32**; **S.I. 2005/2005, regs. 1(1), 8**)

*Status: Point in time view as at 12/08/2008.*

*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)*

- C18** S. 83A 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, **32**
- C19** S. 83A modified (*retrospective* to 1.1.1995) by S.I. 1997/473, **regs. 1(2)**, 36, 37 (as amended (8.6.2004) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), regs. 1, **31**, as amended (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2005\)](#), regs. 1(1), **8**)
- C20** S. 83A modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), regs. 1(1), **29**
- C21** S. 83A modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), **regs. 1(1)**, 30 (as amended by S.I. 2007/2134, **regs. 1(1)**, 24)
- C22** S. 83A modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Group Relief for Overseas Losses \(Modification of the Corporation Tax Acts for Non-resident Insurance Companies\) Regulations 2006 \(S.I. 2006/3218\)](#), regs. 1(1), **10**

**[<sup>F72</sup>83B Changes in recognised accounts: attribution of amounts carried forward under s.432F of Taxes Act 1988**

- (1) This section applies to a company where any revenue account that is recognised for a period of account (the “new period of account”) relates to funds or business which is different from the funds or business to which a revenue account that was recognised for the preceding period of account relates.
- (2) Any subsection (2) excess (within the meaning of section 432F(2) of the Taxes Act 1988) which would have been available under section 432F(3) or (4) of that Act to reduce a subsection (3) figure (within the meaning of section 432F(1) of that Act) of the company in the new period of account shall be attributed between the revenue accounts that are recognised for that period of account in such manner as is appropriate.
- (3) In this section “recognised” means recognised, by virtue of section 83A, for the purposes of sections 82A to [<sup>F73</sup>83ZA] .]

**Textual Amendments**

- F72** S. 83B inserted (with effect in accordance with Sch. 9 para. 14(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **Sch. 9 para. 14(1)**
- F73** Word in s. 83B(3) substituted (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 9 para. 11(3)**; S.I. 2008/379, art. 2

**[<sup>F74</sup>83AA amounts added to long term insurance fund of a company in excess of that company’s loss.**

**Textual Amendments**

- F74** S. 83AA repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 9 para. 11(2)(b)**, **Sch. 27 Pt. 2(9)**; S.I. 2008/379, art. 2

*Status: Point in time view as at 12/08/2008.*

*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)*

**F75 83AB Treatment of surplus where there is a subsequent transfer of business from the company etc.**

.....

**Textual Amendments**  
**F75** S. 83AB repealed (with effect in accordance with Sch. 9 para. 17(2)(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 9 para. 11\(2\)\(c\)](#), [Sch. 27 Pt. 2\(9\)](#); S.I. 2008/379, art. 2

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

**F76**(1) .....

**F77**(2) .....

**F78**(3) .....

(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.

**F79**(5) .....

**F80**(6) .....

**Textual Amendments**  
**F76** S. 84(1) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)  
**F77** S. 84(2) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)  
**F78** S. 84(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)  
**F79** S. 84(5) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)  
**F80** S. 84(6) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

(1) Subject to subsection (2) below, where [<sup>F81</sup>an insurance company is charged to tax under the I minus E basis in respect of its life assurance business], there shall be chargeable under Case VI of that Schedule any receipts referable to the company's [<sup>F82</sup>basic life assurance and general annuity business]—

- (a) which, if [<sup>F83</sup>the profits of the life assurance business] 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.



*Status: Point in time view as at 12/08/2008.*

*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)*

- (2) The receipts referred to in subsection (1) above do not include—
- (a) any premium; <sup>F84</sup> ...
  - [<sup>F85</sup>(b) any sum received under a reinsurance contract, except for reinsurance commissions, however described, (but subject to subsection (2ZA) below) and any sum calculated to any extent by reference to expenses of the company brought into account at Step 1 in section 76(7) of the Taxes Act 1988; or]
  - <sup>F86</sup>(c) .....
  - <sup>F86</sup>(ca) .....
  - <sup>F86</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>F87</sup>; or
  - (f) any payment received under the Financial Services Compensation Scheme [<sup>F88</sup>, or from another insurance company,] to enable the company to meet its obligations to policy holders.]

[<sup>F89</sup>(2ZA) The reference in subsection (2)(b) above to reinsurance commissions does not include so much of the relevant reinsurance fraction (see subsection (9D) of section 76 of the Taxes Act 1988) of any reinsurance commissions received from the reinsurer under a fronting reinsurance contract (within the meaning of subsection (9B) of that section) as does not exceed the amount arrived at under subsection (9C) of that section in relation to the contract.]

[<sup>F90</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.

<sup>F91</sup> .....

(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,
- [<sup>F92</sup>(aa) expenses, the expenses—
  - (i) were attributable to basic life assurance and general annuity business for the purposes of Step 1 in subsection (7) of the new section 76 (see subsection (8) of that section), or
  - (ii) fell to be deducted by virtue of subsection (1) of the old section 76; and for this purpose, “the new section 76” and “the old section 76” have the same meaning as in section 44 of the Finance Act 2004 (see subsection (8) of that section),]
- (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.]

*Status: Point in time view as at 12/08/2008.*

*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)*

- (3) This section has effect with respect to the receipts of accounting periods beginning on or after 1st January 1990 <sup>F93</sup>....

#### Textual Amendments

- F81** Words in s. 85(1) substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 13\(a\)](#) (with [Sch. 8 Pt. 2](#))
- F82** 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](#).
- F83** Words in s. 85(1) substituted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 13\(b\)](#) (with [Sch. 8 Pt. 2](#))
- F84** 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\(3\)](#)
- F85** S. 85(2)(b) substituted (with effect in accordance with [Sch. 17 para. 6\(5\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 6\(2\)](#)
- F86** 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\(3\)](#)
- F87** S. 85(2)(f) and preceding word inserted (with effect in accordance with [Sch. 9 para. 15\(4\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 15\(2\)](#)
- F88** Words in s. 85(2)(f) inserted (with effect in accordance with [Sch. 17 para. 6\(5\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 6\(3\)](#)
- F89** S. 85(2ZA) inserted (with effect in accordance with [Sch. 17 para. 6\(5\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 6\(4\)](#)
- F90** 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\(3\)](#)
- F91** Words in s. 85(2A) repealed (with effect in accordance with [Sch. 10 para. 17\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 14\(3\)\(a\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F92** S. 85(2C)(aa) inserted (with effect in accordance with [Sch. 9 para. 15\(4\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 9 para. 15\(3\)](#)
- F93** Words in s. 85(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(b\)](#), [Sch. 27 Pt. 2\(10\)](#)

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

- C23** S. 85(1) modified (retrospective to 1.1.1995) by [S.I. 1997/473](#), [regs. 1\(2\)](#), 38
- C24** S. 85(1)(2C) modified (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [regs. 1\(1\)](#), 31

#### <sup>F94</sup> 85A Excess adjusted Case I profits

- (1) Where for any accounting period an insurance company is charged to tax under the I minus E basis in respect of its life assurance business, the company shall be chargeable on any excess adjusted Case I profits under Case VI of that Schedule.
- (2) “Excess adjusted Case I profits” means any amount by which—
  - (a) the adjusted Case I profits (see subsection (3)), exceeds
  - (b) the relevant amount (see subsection (5)).
- (3) “The adjusted Case I profits” means the amount that would be the profits of the company’s life assurance business for the accounting period if—
  - (a) computed in accordance with the provisions applicable to Case I of Schedule D, and

*Status: Point in time view as at 12/08/2008.*

*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)*

- (b) adjusted in respect of losses (see subsection (4)).
- (4) The adjustment in respect of losses is a deduction of the amount which, disregarding section 434A(2)(a) of the Taxes Act 1988, would fall to be set off under section 393 of that Act against the company's income for the accounting period if the company had always been charged to tax under Case I of Schedule D.
- (5) The relevant amount (which may be a negative amount) is found by—
- (a) taking the relevant income (see subsection (6)), and
  - (b) deducting from it the relevant aggregate (see subsection (8)).
- [<sup>F95</sup>(6) “The relevant income” means—
- (a) the company's BLAGAB income and gains for the accounting period and distributions received by the company in the accounting period from companies resident in the United Kingdom so far as referable (in accordance with section 432A of the Taxes Act 1988) to the company's basic life assurance and general annuity business (but excluding any amount within this section), and
  - (b) profits of the company chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 (gross roll-up business) for the accounting period.]
- (8) “The relevant aggregate” means the sum of—
- (a) the expenses deduction (see Step 8 in section 76(7) of the Taxes Act 1988) in the case of the company for the accounting period,
  - (b) any non-trading deficit on the company's loan relationships which is produced for the accounting period in relation to the company's basic life assurance and general annuity business by a separate computation under paragraph 2(1) of Schedule 11 to the Finance Act 1996, and
  - (c) any amount which in pursuance of a claim under paragraph 4(3) of that Schedule is carried back to the accounting period and (in accordance with paragraph 4(5) of that Schedule) applied in reducing profits of the company for the accounting period.
- (9) The Treasury may by regulations provide—
- (a) that, in circumstances prescribed by the regulations, the charge imposed by this section for an accounting period may be reduced or eliminated, and
  - (b) that the amount by which the charge is reduced, or (where the charge is eliminated) the amount of the charge, is instead imposed for a subsequent accounting period (or part of the amount is instead imposed for more than one subsequent accounting period).
- (10) Regulations under subsection (9) may include provision having effect in relation to times before they are made.]

#### Textual Amendments

- F94** S. 85A inserted (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 14](#) (with [Sch. 8 Pt. 2](#))
- F95** S. 85A(6) substituted for s. 85A(6)(7) (with effect in accordance with Sch. 17 para. 18(6) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 18\(3\)](#)

*Status: Point in time view as at 12/08/2008.*

*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)*

## 86 Spreading of relief for acquisition expenses.

[<sup>F96</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>F97</sup>for persons who collect premiums from house to house] shall not prevent such commissions constituting [<sup>F98</sup>expenses payable] for the purposes of paragraph(b) or paragraph (c) of that subsection.

<sup>F99</sup>(3) .....

<sup>F100</sup>(3A) .....

(4) In subsection (1) above “the acquisition of business” includes

- <sup>F101</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>F102</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)].

<sup>F103</sup>(5) .....

<sup>F104</sup>(5A) .....

[<sup>F105</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

*Status: Point in time view as at 12/08/2008.*

*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)*

- (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.)]

<sup>F106</sup>(7) .....

- [<sup>F107</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.]

[<sup>F108</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  
<sup>F109</sup> .....

#### Textual Amendments

- F96** 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\(2\)](#)
- F97** 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\(3\)\(b\)\(10\)](#)
- F98** 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\(3\)](#)
- F99** S. 86(3) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F100** S. 86(3A) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 16\(4\)\(c\)](#), [Sch. 27 Pt. 2\(10\)](#)
- F101** 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](#).
- F102** 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](#).

*Status: Point in time view as at 12/08/2008.*

*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)*

- F103** 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\(3\)](#)
- F104** 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\(3\)](#)
- F105** 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\(5\)](#)
- F106** 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\(3\)](#)
- F107** 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\(7\)](#)
- F108** 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\(8\)](#)
- F109** Words in s. 86(10) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 16\(4\)\(c\), Sch. 27 Pt. 2\(10\)](#)

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

- C25** S. 86 modified (*retrospective* to 1.1.1995) by [S.I. 1997/473, regs. 1\(2\), 39](#)

**<sup>F110</sup>87 Management expenses.**

.....

**Textual Amendments**

- F110** S. 87 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 16\(4\)\(d\), Sch. 27 Pt. 2\(10\)](#)

**88 Corporation tax: policy holders' [<sup>F111</sup>share] of profits.**

- (1) Subject to subsection (2) <sup>F112</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>F113</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>F114</sup>basic rate] is charged for the year of assessment which begins on 6th April in the financial year concerned.
 

<sup>F115</sup>(2) .....
- [<sup>F116</sup>(3) For the purposes of subsection (1) above the relevant profits of a company for an accounting period consist of the aggregate of—
  - (a) the company's BLAGAB profits for the period, and
  - (b) profits of the company chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 (gross roll-up business) for the period.]
- (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>F117</sup>share] of the company's relevant profits for that period[<sup>F118</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 <sup>F119</sup>...

*Status: Point in time view as at 12/08/2008.*

*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

- F111** Word in s. 88 heading substituted (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 10 para. 15\(3\)](#)
- F112** 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\(12\)](#)
- F113** Words in s. 88(1) substituted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\)](#), [s. 45\(1\)\(10\)](#)
- F114** Words in s. 88(1) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 47](#)
- F115** S. 88(2) repealed (with effect in accordance with s. 39(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 8 para. 15\(2\)](#), [Sch. 27 Pt. 2\(8\)](#) (with [Sch. 8 Pt. 2](#))
- F116** S. 88(3) substituted for s. 88(3)-(3B) (with effect in accordance with Sch. 17 para. 18(6) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 18\(4\)](#)
- F117** Word in s. 88(4) substituted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\)](#), [s. 45\(2\)\(10\)](#)
- F118** Words in s. 88(4) inserted (and deemed always to have had effect) by [Finance Act 1990 \(c. 29\)](#), [s. 45\(2\)\(10\)](#)
- F119** Words in s. 88(5) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 17 para. 41](#)

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

- C26** S. 88(3)(a) modified by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 2005 \(S.I. 2005/2014\)](#), [reg. 32](#) (as amended by [S.I. 2008/1937](#), [reg. 11](#))

### <sup>F120</sup>**88A Lower corporation tax rate on certain insurance company profits.**

.....

#### Textual Amendments

- F120** 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>F121</sup>**89 Policy holders' share of profits.**

- (1) The references in [<sup>F122</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>F123</sup>... are references to —

- [<sup>F124</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>F125</sup>(1A)<sup>F126</sup>(a) deducting from any profits of the company for the period chargeable under Case VI of Schedule D under section 436A of the Taxes Act 1988 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]

*Status: Point in time view as at 12/08/2008.*

*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)*

- (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.]

<sup>F127</sup>(1B) .....

- (2) For the purposes of [<sup>F128</sup>subsections (1) and (1A)] above, the Case I profits for a period shall be reduced by—

- <sup>F129</sup>(a) .....
- (b) the shareholders' share of any <sup>F130</sup>... [<sup>F131</sup>distributions received from companies resident in the United Kingdom in the period which are]<sup>F132</sup>referable [<sup>F133</sup>(in accordance with section 432A of the Taxes Act 1988)] to the company's basic life assurance and general annuity business]<sup>F134</sup>, and
- (c) the shareholders' share of any foreign income dividends arising to the company in the period [<sup>F135</sup>which are referable to the company's basic life assurance and general annuity business].]

[ For the purposes of subsection (2) above—

- <sup>F136</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>F137</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;



*Status: Point in time view as at 12/08/2008.*

*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)*

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) <sup>F138</sup> ... 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.

<sup>F139</sup> (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 [<sup>F140</sup>; but for the purposes of subsections (1), (1A) and (2) they are to be adjusted [<sup>F141</sup> in accordance with section 85A(4) in respect of losses incurred in an accounting period in which 31 December 2002 is included or any later accounting period].]

<sup>F142</sup> ..... ]

<sup>F143</sup> (7A) [ In a case where—

- (a) the company becomes an insurance special purpose vehicle, and  
(b) regulations made under section 84 of the Finance Act 2005 do not apply to it, subsection (7B) applies in the first period of account in which the company is an insurance special purpose vehicle (“the first period”).

(7B) Where this subsection applies, in computing a company’s Case I profits there shall be brought into account as a trading receipt of the company the amount, if any, by which the amount shown in line 51 of Form 14 of the periodical return for the period preceding the first period exceeds—

- (a) the fund for future appropriations shown in the company’s IAD accounts, or  
(b) the unallocated divisible surplus shown in the company’s IAS accounts, as the case may be, for that preceding period.

(7C) In subsection (7B)—

“IAD accounts” means accounts drawn up in accordance with the Council Directive of 19th December 1991 on the annual accounts of insurance undertakings (No.91/674/EEC);

“IAS accounts” means accounts prepared in accordance with international accounting standards.]

<sup>F144</sup> (8) ..... ]

#### Textual Amendments

**F121** S. 89 substituted retrospectively by [Finance Act 1990 \(c. 29\)](#) {s. 45(3)}

**F122** 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\(4\)\(a\)](#)

**F123** 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\(12\)](#)

**F124** 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\(3\)](#)

*Status: Point in time view as at 12/08/2008.*

*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)*

- F125** 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)**
- F126** S. 89(1A)(a) substituted (with effect in accordance with s. 38(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 7 para. 59** (with Sch. 7 Pt. 2)
- F127** S. 89(1B) omitted (with effect in accordance with Sch. 17 para. 18(6) of the amending Act) by virtue of **Finance Act 2008 (c. 9), Sch. 17 para. 18(5)(a)**
- F128** 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)**
- F129** 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
- F130** 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
- F131** 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)**
- F132** 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)**
- F133** Words in s. 89(2)(b) inserted (22.7.2004) by **Finance Act 2004 (c. 12), Sch. 7 para. 9(2)(d)**
- F134** 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
- F135** 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)**
- F136** 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
- F137** Word in s. 89(5)(a) substituted (1.12.2001) by **S.I. 2001/3629, art. 60(3)**
- F138** Words in s. 89(6) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 10 para. 14(3)(b), Sch. 27 Pt. 2(10)**
- F139** S. 89(7) substituted (1.12.2001) by **S.I. 2001/3629, art. 58(3)**
- F140** Words in s. 89(7) substituted (with effect in accordance with s. 39(2) of the amending Act) by **Finance Act 2007 (c. 11), Sch. 8 para. 16(3)** (with Sch. 8 Pt. 2)
- F141** Words in s. 89(7) substituted (with effect in accordance with Sch. 17 para. 37(2)-(4) of the amending Act) by **Finance Act 2008 (c. 9), Sch. 17 para. 37(1)**
- F142** Words in s. 89(7) repealed (10.7.2003) by **Finance Act 2003 (c. 14), Sch. 43 Pt. 3(12)**
- F143** S. 89(7A)-(7C) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by **The Insurance Companies (Taxation of Reinsurance Business) (Corporation Tax Acts) (Amendment) Order 2007 (S.I. 2007/3430), arts. 1(1), 2(2)**
- F144** 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)**

- C27** 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)**

**F145** **89A Modification of sections 82 to 83A, 88 and 89 in relation to overseas life insurance companies.**

.....

*Status: Point in time view as at 12/08/2008.*

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**Textual Amendments**

**F145** S. 89A repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

**<sup>F146</sup>90 Life policies etc. held by companies.**

.....

**Textual Amendments**

**F146** S. 90 omitted (with effect in accordance with Sch. 14 para. 18 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), **Sch. 14 para. 17(a)**

**<sup>F147</sup>90A Interpretation**

.....

**Textual Amendments**

**F147** S. 90A repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), Sch. 10 para. 14(3)(c), **Sch. 27 Pt. 2(10)**

**Status:**

Point in time view as at 12/08/2008.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1989, Cross Heading: Life assurance.