

Status: Point in time view as at 10/07/2003.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Cross Heading: Treatment of deficit. (See end of Document for details)

SCHEDULES

SCHEDULE 11

LOAN RELATIONSHIPS: SPECIAL PROVISIONS FOR INSURERS

Modifications etc. (not altering text)

- C1** Sch. 11 modified (*retrospective* to 1.1.1995) by S.I. 1997/473, **reg. 53**
Sch. 11 modified (13.10.1999) by S.I. 1997/473, **reg. 53ZA** (as inserted (13.10.1999) by S.I. 1999/2636, **reg. 6**)

PART I

INSURANCE COMPANIES

Modifications etc. (not altering text)

- C1** Sch. 11 Pt. I applied (with modifications) (29.4.1996) by 1994 c. 9, s.169, **Sch. 18 para. 1** (as substituted (29.4.1996) by 1996 c. 8, s.104, **Sch. 14 para. 79** (with saving in Pt. IV Ch. II))
Sch. 11 Pt. I applied (with modifications) (24.7.2002 with effect as mentioned in s. 83(3)(4) of the amending Act) by Finance Act 2002 (c. 23), s. 83(1), **Sch. 26 Pt. 8 para. 42**

Treatment of deficit

- 4 (1) Where, in the case of any insurance company, a non-trading deficit on its loan relationships is produced for any accounting period (“the deficit period”) by any separate computation made under paragraph 2 above for—
- basic life assurance and general annuity business, or
 - capital redemption business,
- the following provisions of this paragraph shall apply in relation to that deficit, instead of section 83 of, and Schedule 8 to, this Act.
- (2) On a claim made by the company in relation to the whole or any part of the deficit—
- the amount to which the claim relates shall be set off against any ^{F1}... income and gains of the deficit period referable to the relevant category of business and arising or accruing otherwise than in respect of loan relationships; and
 - the amount of the ^{F1}... income and gains against which it is set off shall be treated as reduced accordingly;
- and any such reductions shall be made before any deduction by virtue of section 76 of the Taxes Act 1988 of any expenses of management.
- (3) Subject to the following provisions of this paragraph, on a claim made by the company in relation to the whole or any part of so much (if any) of the deficit as

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- exceeds the amount of the net income and gains for the deficit period that are referred to in sub-paragraph (2)(a) above, the amount to which the claim relates shall be—
- [^{F2}(a) carried back to accounting periods falling wholly or partly within the period of twelve months immediately preceding the deficit period; and]
 - (b) in accordance with sub-paragraph (5) below, set against the eligible profits of the company for [^{F3}up to three such periods].
- (4) If the whole or any amount of the deficit is not set off under sub-paragraph (2) or (3) above, so much of it as is not set off shall be—
- (a) carried forward to the accounting period immediately following the deficit period; and
 - (b) treated for the purposes of the Corporation Tax Acts (including the following provisions of this paragraph) as an amount to be included in the company's expenses of management for the period following the deficit period.
- (5) Subject to sub-paragraph (6) below, where, in pursuance of a claim under sub-paragraph (3) above, any amount falls to be carried back to be set off against the eligible profits of the company for [^{F4}accounting periods falling wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above], that amount shall be set off against those profits as follows, that is to say—
- (a) the amount shall be applied, up to the limit for the first set-off period, in reducing the company's eligible profit for that period;
 - (b) any remainder of that amount after the limit for the first set-off period is reached shall be applied, up to the limit for the second set-off period, in reducing the company's eligible profit for the second set-off period; and
 - (c) any remainder of that amount after the limit for the second set-off period has been reached shall be applied, up to the limit for the third set-off period, in reducing the company's eligible profit for the third set-off period.
- (6) No reduction shall be made in pursuance of any such claim in a company's eligible profit for any accounting period ending before 1st April 1996.
- (7) For the purposes of this paragraph the eligible profit of the company for an accounting period is the amount (if any) which, in pursuance of any separate computation made for that period for the relevant category of business, is chargeable to tax for that period under Case III of Schedule D as profits and gains arising from the company's loan relationships.
- (8) For the purposes of this paragraph—
- (a) the first set-off period is the accounting period immediately preceding the deficit period,
 - (b) the second set-off period is the accounting period [^{F5}(if any) which falls wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above and immediately precedes] the first set-off period,
 - (c) the third set-off period is the accounting period [^{F5}(if any) which falls wholly or partly within the period of twelve months mentioned in sub-paragraph (3) (a) above and immediately precedes] the second set-off period, and
 - (d) the limit for a set-off period is the amount equal to the adjusted amount of the company's eligible profit for that period.
- (9) In sub-paragraph (8) above, the reference to the adjusted amount of a company's eligible profit for a set-off period is [^{F6}(subject to sub-paragraph (9A) below)] a

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reference to so much (if any) of the company's eligible profit for that period as remains after reducing it by an amount equal to the unused part of the relevant deductions for that period.

[^{F7}(9A) Where a set-off period falls only partly within the period of twelve months mentioned in sub-paragraph (3)(a) above, the adjusted amount of a company's eligible profit for that period shall be taken to be confined to the part of the amount computed under sub-paragraph (9) above which is proportionate to the part of the set-off period that falls within that period of twelve months.]

(10) For the purposes of sub-paragraph (9) above the unused part of the relevant deductions for any set-off period is the amount (if any) by which the aggregate of—

(a) so much of the amount of any deductions for the set-off period by virtue of section 76 of the Taxes Act 1988 as is referable to the relevant category of business, and

(b) so much of the aggregate of the deductions made in the case of the company in respect of charges on income for that period as is so referable,

exceeds the aggregate of the amounts referable to the relevant category of business that could for that period be applied in making deductions by virtue of that section, or in respect of charges on income, if the eligible profit of the company for that period were disregarded.

(11) In sub-paragraph (10) above, the references, in relation to a claim under sub-paragraph (3) above ("the relevant claim"), to deductions by virtue of section 76 of the Taxes Act 1988 for a set-off period are references to the deductions by way of management expenses that would have fallen to be made by virtue of that section for that period if—

(a) no account were taken of either—

(i) the relevant claim; or

(ii) any claim under sub-paragraph (3) above relating to a deficit for an accounting period after the deficit period;

but

(b) there were made all such adjustments required by virtue of any sum having been carried back to that set-off period—

(i) under the Corporation Tax Acts, but

(ii) otherwise than in pursuance of the relevant claim or of any other such claim as is mentioned in paragraph (a) above.

(12) Where—

(a) in pursuance of a claim under sub-paragraph (3) above any amount is set-off against the eligible profit of a company for any set-off period, and

(b) there is a section 76(5) amount for that period which is attributable to that claim,

that section 76(5) amount shall not be carried forward by virtue of section 75(3) of the Taxes Act 1988 but, if that set-off period is the first or second set-off period, sub-paragraph (13) below shall apply to that amount instead.

(13) Where this sub-paragraph applies to a section 76(5) amount for any set-off period, the amount available in accordance with sub-paragraph (5) above to be carried back from that set-off period to be set off against eligible profits of previous set-off periods (or, as the case may be, against the eligible profit of the previous set-off period) shall

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be treated as increased by an amount equal to the amount to which this sub-paragraph applies.

- (14) In relation to any claim under sub-paragraph (3) above, the amount which for any set-off period is, for the purposes of this paragraph, to be taken to be the section 76(5) amount attributable to that claim is the amount (if any) by which the amount specified in paragraph (a) below is exceeded by the amount specified in paragraph (b) below, that is to say—
- (a) the amount that would have fallen to be carried forward by virtue of section 75(3) of the Taxes Act 1988 if the claim had not been made; and
 - (b) the amount which, after the making of the claim, would have fallen to be carried forward to a subsequent period by virtue of section 75(3) of that Act if sub-paragraphs (12) and (13) above, so far as they relate to that claim, were to be disregarded.
- (15) A claim for the purposes of sub-paragraph (2) or (3) above must be made within the period of two years immediately following the end of the deficit period or within such further period as the Board may allow.
- (16) In this paragraph—

F8 ...

“the relevant category of business”, in relation to a deficit, means the category of business in relation to which the deficit was produced.

Textual Amendments

- F1** Word in Sch. 11 para. 4(2) repealed (with effect in accordance with Sch. 33 para.8(4) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 8(3)(a), Sch. 43 Pt. 3(12)
- F2** Sch. 11 para. 4(3)(a) substituted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(3)(a)
- F3** Words in Sch. 11 para. 4(3)(b) substituted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(3)(b)
- F4** Words in Sch. 11 para. 4(5) substituted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(4)
- F5** Words in Sch. 11 para. 4(8)(b)(c) substituted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(5)
- F6** Words in Sch. 11 para. 4(9) inserted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(6)
- F7** Sch. 11 para. 4(9A) inserted (31.7.1997 with effect as mentioned in s.40(7) of the amending Act) by 1997 c. 58, s. 40(6)
- F8** Words in Sch. 11 para. 4(16) repealed (with effect in accordance with Sch. 33 para.8(4) of the amending Act) by Finance Act 2003 (c. 14), Sch. 33 para. 8(3)(b), Sch. 43 Pt. 3(12)

Modifications etc. (not altering text)

- C1** Sch. 11 para. 4(1)(2)(a)(7)(10)(16) modified (23.3.1999) by S.I. 1999/498, reg. 15(4)(a)-(e)

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