



Corporation Tax Act 2009

2009 CHAPTER 4

PART 6

RELATIONSHIPS TREATED AS LOAN RELATIONSHIPS ETC

CHAPTER 11

INVESTMENT LIFE INSURANCE CONTRACTS

Investment life assurance contracts treated as creditor relationships

562 Contract to be loan relationship

- (1) If a relevant company is a party to an investment life insurance contract, for the purposes of Part 5 (loan relationships) the contract is, in relation to the company, a creditor relationship of the company.
- (2) Subsection (1) is subject to subsection (4).
- (3) Subsection (4) applies if—
 - (a) the amount or value of a lump sum payable under an investment life contract by reason of death or the onset of critical illness, exceeds
 - (b) the surrender value of the contract immediately before the time when the lump sum becomes payable.
- (4) If this subsection applies, that excess is not to be brought into account as a credit under Part 5 representing a profit from a related transaction arising as a result of the lump sum becoming payable.

563 Increased non-trading credits for BLAGAB and EEA taxed contracts

- (1) This section applies if—

Status: This is the original version (as it was originally enacted).

- (a) as a result of section 562 the relevant company is required to bring into account for an accounting period a non-trading credit representing a profit from a related transaction, and
- (b) the investment life insurance contract is—
 - (i) a BLAGAB contract, or
 - (ii) a contract which is subject to a relevant comparable EEA tax charge.
- (2) For the meaning of “BLAGAB contract” and of a contract being subject to a relevant comparable EEA tax charge, see section 564.
- (3) The non-trading credit is treated as increased by the relevant amount.
- (4) The relevant amount is set off against corporation tax assessable on the company for the accounting period.
- (5) Except where section 565 (relevant amount where the relevant company uses fair value accounting) applies, the relevant amount is—

$$\text{NTC} \times \frac{\text{AR}}{100 - \text{AR}}$$

where—

NTC is the non-trading credit, and
 AR is the appropriate rate for the accounting period.

- (6) The appropriate rate for an accounting period is—
 - (a) if a single rate of tax under section 88(1) of FA 1989 (lower corporation tax rate on certain insurance company profits) is applicable in relation to the accounting period, that rate, and
 - (b) if more than one such rate of tax is applicable in relation to the accounting period, the average of those rates over the accounting period.

564 Section 563: interpretation

- (1) In section 563 “BLAGAB contract” means a contract forming part of basic life assurance and general annuity business of an insurance company but not part of business which is exempt from corporation tax under section 460 of ICTA (friendly society business and former friendly society business).
- (2) For the purposes of section 563 a contract is subject to a relevant comparable EEA tax charge if the contract forms part of the business of a company (other than the relevant company) to which a relevant comparable EEA tax charge has applied.
- (3) For the purposes of subsection (2) a relevant comparable EEA tax charge has applied to a company if each of conditions A to D is met.
- (4) Condition A is that a charge to tax has applied to the company under the laws of a territory outside the United Kingdom that is within the European Economic Area.
- (5) Condition B is that the charge has applied to the company—
 - (a) as a body deriving its status as a company from those laws,
 - (b) as a company with its place of management there, or
 - (c) as a company falling under those laws to be regarded for any other reason as resident or domiciled there.

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- (6) Condition C is that the charge applies at a rate of at least 20% in relation to the amounts subject to tax in the company's hands, other than amounts arising or accruing in respect of investments of a description for which a special relief or exemption is generally available.
- (7) Condition D is that the charge is made otherwise than by reference to the company's profits.

565 Relevant amount where the relevant company uses fair value accounting

- (1) This section applies if the relevant company brings credits and debits in respect of the investment life insurance contract into account on the basis of fair value accounting.
- (2) If this section applies, the relevant amount for section 563 is—

$$PC \times \frac{AR}{100 - AR}$$

where—

PC is the profit from the contract (see subsections (3) and (4)), and

AR is the appropriate rate for the accounting period (as defined in section 563(6)).

- (3) For the purposes of this section, except where subsection (4) applies, the profit from the contract is any amount by which—
 - (a) the amount payable as a result of the related transaction, exceeds
 - (b) the fair value of the contract at the beginning time (see subsection (6)).
- (4) If the related transaction is an assignment or surrender of only part of the rights conferred by the contract, the profit from the contract is any amount by which—
 - (a) the amount payable as a result of the related transaction, exceeds
 - (b) the relevant fraction of the fair value of the contract at the beginning time.
- (5) In subsection (4) “the relevant fraction” means—

$$\frac{C}{FVC}$$

where—

C is the amount payable as a result of the related transaction, and

FVC is the fair value of the contract immediately before the related transaction.

- (6) In this section “the beginning time” means—
 - (a) if the contract was made before the beginning of the first accounting period of the company beginning on or after 1st April 2008, at the beginning of that period, and
 - (b) otherwise when the contract was made.