

SCHEDULES

SCHEDULE 17

PART 2: TRANSITIONAL PROVISION

PART 1

DEEMED RECEIPTS OR EXPENSES

General outline of the provision of this Part of this Schedule

- 1 (1) This Part of this Schedule makes provision, by reference to the 2012 balance sheet and the 2012 periodical return of an insurance company (see paragraphs 2 to 4), for deeming amounts to be receipts or expenses of basic life assurance and general annuity business, or non-BLAGAB long-term business, carried on by the company (see paragraphs 9(1) and (2) and 10(1) and (2)).
- (2) Those amounts are determined in accordance with provision made by or under paragraphs 5 to 8.
- (3) The deeming is to have effect for the purpose of calculating the BLAGAB trade profit or loss or (as the case may be) for the purpose of calculating for corporation tax purposes the profits of the non-BLAGAB long-term business (see paragraphs 9(3) and 10(3)).
- (4) The general rule is that, subject to exceptions, the receipts or expenses are treated as arising over a 10-year period (see paragraphs 11 to 15).
- (5) Special provision is made in relation to the operation of sections 83YC to 83YF of FA 1989 (see paragraph 16).
- (6) Anti-avoidance provision is made by paragraphs 17 to 19.
- (7) Provision in relation to overseas life insurance companies is made by paragraph 20.

Basic concepts

- 2 In this Part of this Schedule—
 - “the 2012 balance sheet”, in relation to an insurance company, means—
 - (a) an actual balance sheet of the company drawn up as at the end of 31 December 2012 in accordance with generally accepted accounting practice, or
 - (b) a deemed balance sheet of the company under paragraph 3, and
 - “the 2012 periodical return”, in relation to an insurance company, means—
 - (a) an actual periodical return of the company covering a period ending immediately before 1 January 2013, or

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- (b) a deemed periodical return of the company under paragraph 4.
- 3 (1) This paragraph applies if an insurance company does not have a balance sheet drawn up as at the end of 31 December 2012 in accordance with generally accepted accounting practice.
- (2) For the purposes of this Part of this Schedule the company is deemed to have drawn up a balance sheet as at the end of 31 December 2012 in accordance with generally accepted accounting practice.
- (3) For the purposes of this Part of this Schedule the entries shown in this deemed balance sheet are deemed to be those entries which would have been shown in an actual balance sheet of the company drawn up as mentioned in sub-paragraph (1).
- (4) The generally accepted accounting practice that is to be applicable for the purposes of sub-paragraphs (2) and (3) is the practice that is actually adopted for the accounts of the company drawn up for the period in which 31 December 2012 falls.
- 4 (1) This paragraph applies if an insurance company does not have a periodical return covering a period ending immediately before 1 January 2013.
- (2) For corporation tax purposes the company is deemed to have a periodical return covering the period—
- (a) beginning immediately after the last period ending before 1 January 2013 that is covered by a periodical return of the company, and
- (b) ending immediately before 1 January 2013.
- (3) This deemed periodical return is deemed to contain such entries as would be included in an actual periodical return of the company covering the period beginning and ending as mentioned in sub-paragraph (2)(a) and (b).
- (4) For corporation tax purposes the period beginning and ending as mentioned in sub-paragraph (2)(a) and (b) is deemed to be a period of account of the company.

The comparison etc

- 5 (1) In the case of an insurance company, a comparison must be made between—
- (a) the amount attributed to shareholders as at 31 December 2012 (see sub-paragraphs (2) to (4)), and
- (b) the cumulative taxed surplus as at 31 December 2012 (see sub-paragraph (5) and (6)).
- (2) The amount attributed to shareholders as at 31 December 2012 is—
- (a) the amount shown in line 75 of Form 14 of the 2012 periodical return in respect of the whole of the company’s long-term business, less
- (b) the amount (if any) shown in the 2012 balance sheet of the company in respect of the fund for future appropriations or unallocated divisible surplus.
- (3) In prescribed cases the amount attributed to shareholders as at 31 December 2012 is to be found by making prescribed adjustments to the amount found by sub-paragraph (2)(a) and (b).
- (4) In sub-paragraph (3) “prescribed” means prescribed, or of a description prescribed, by regulations made by the Treasury.

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The regulations may be made so as to have effect in relation to any period beginning before but ending on or after the day on which the regulations are made (as well as in relation to periods no part of which falls before that day).

- (5) The cumulative taxed surplus as at 31 December 2012 is found by adding together the amounts (if any) found by the following paragraphs—
- (a) the amount shown in line 13 of Form 14 of the 2012 periodical return in respect of the whole of the company’s long-term business but excluding the amount representing any undistributed demutualisation surplus of the company for the period of account ending immediately before 1 January 2013, and
 - (b) the total amount brought into account for any period of account of the company as a result of section 83YA(3) of FA 1989 less the total amount brought into account for any period of account as a result of section 83YA(4) of FA 1989 (changes in value of assets brought into account: non-profit companies).
- (6) In sub-paragraph (5)(a) “undistributed demutualisation surplus” means the undistributed demutualisation surplus of the company for the period of account in question for the purposes of section 444AF of ICTA.
- (7) The difference between the amount attributed to shareholders as at 31 December 2012 and the cumulative taxed surplus as at 31 December 2012 is referred to in this Part of this Schedule as “the total transitional difference”.
- (8) If the amount attributed to shareholders as at 31 December 2012 exceeds the cumulative taxed surplus as at 31 December 2012, the total transitional difference is a positive figure.
- (9) If the cumulative taxed surplus as at 31 December 2012 exceeds the amount attributed to shareholders as at 31 December 2012, the total transitional difference is a negative figure.
- 6 (1) The insurance company—
- (a) must, by comparing amounts shown in the 2012 periodical return with amounts shown in the 2012 balance sheet, determine the particular items that, when taken together, result in the total transitional difference, and
 - (b) must allocate a positive or negative amount to each of those items.
- (2) The positive or negative amounts allocated to those items in accordance with this paragraph must, when added together, equal the total transitional difference.
- (3) The Treasury may make regulations prescribing—
- (a) the way in which the comparison or determination under sub-paragraph (1)(a) must be done, and
 - (b) the method for making the allocation under sub-paragraph (1)(b).
- (4) The provision that may be made by regulations under sub-paragraph (3)(a) includes provision prescribing descriptions of amounts which are, or are not, to be compared with each other.
- 7 (1) Each of the items determined in accordance with paragraph 6(1)(a) is a “relevant computational item” for the purposes of this Part of this Schedule except in so far as it consists of an excluded item.

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- (2) An item is “an excluded item” in so far as it—
- (a) represents an amount forming part of the company’s deferred acquisition costs which is included in its 2012 balance sheet and which has been taken into account in calculating its life assurance trade profits,
 - (b) represents an amount which is included in the company’s 2012 balance sheet as an asset in respect of the value of future profits arising from a business (or part of a business) transferred to the company (but excluding an asset so far as it is regarded for accounting purposes as internally-generated),
 - (c) represents an outstanding contingent loan or an outstanding re-insurance amount,
 - (d) represents an asset to which Part 8 of CTA 2009 (intangible fixed assets) applies for an accounting period of the company beginning on or after 1 January 2013, or
 - (e) falls within a description of item excluded for the purposes of this paragraph by regulations made by the Treasury.
- (3) In sub-paragraph (2)(c) “outstanding contingent loan” means the total amount of the credits brought into account by the company as part of total income—
- (a) for the period of account ending immediately before 1 January 2013, or
 - (b) for any earlier period of account,
- in respect of money debts so far as those debts have not been repaid before that date.
- (4) In sub-paragraph (2)(c) “outstanding re-insurance amount” means the total of the amounts which would (but for section 83YF(2) of FA 1989) have been taken into account in calculating the company’s life assurance trade profits—
- (a) for the period of account ending immediately before 1 January 2013, or
 - (b) for any earlier period of account,
- in respect of the re-insurance of relevant liabilities (within the meaning of section 83YC of FA 1989) to the extent that they have not ceased to be re-insured before that date.
- (5) In this paragraph “life assurance trade profits” means profits arising from life assurance business calculated in accordance with the provisions applicable for the purposes of the taxation of such profits under section 35 of CTA 2009 (charge on trade profits).
- (6) For any accounting period beginning on or after 1 January 2013, an amount is not to be taken into account—
- (a) in calculating the BLAGAB trade profit or loss of any basic life assurance and general annuity business, or
 - (b) in calculating for corporation tax purposes the profits of non-BLAGAB long-term business,
- in so far as the amount consists of an excluded item as a result of falling within sub-paragraph (2)(a) to (d) or, in a case where the regulations provide for the application of this sub-paragraph, within sub-paragraph (2)(e).
- 8 (1) Each relevant computational item must be apportioned between—
- (a) any basic life assurance and general annuity business carried on by the company as at 31 December 2012,
 - (b) any gross roll-up business carried on by the company as at that date, and

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- (c) any PHI business carried on by the company as at that date.
- (2) The Treasury may make regulations for apportioning for the purposes of this Part of this Schedule relevant computational items between those businesses (including provision for the whole amount of a relevant computational item to be apportioned to one of those businesses).
- (3) A relevant computational item (or a part of a relevant computational item) allocated in accordance with this paragraph to the company's basic life assurance and general annuity business or gross roll-up business is dealt with in accordance with paragraph 9 or 10.
- (4) But a relevant computational item (or a part of a relevant computational item) allocated in accordance with this paragraph to the company's PHI business is ignored in the application of the remaining provisions of this Part of this Schedule.

Deemed receipts or expenses of BLAGAB or non-BLAGAB long-term business

- 9 (1) If a relevant computational item (or a part of a relevant computational item) allocated in accordance with paragraph 8 to the company's basic life assurance and general annuity business is a positive amount, the item (or part of the item) is to be treated as a receipt of that business.
- (2) If a relevant computational item (or a part of a relevant computational item) allocated in accordance with paragraph 8 to the company's basic life assurance and general annuity business is a negative amount, the item (or part of the item) is to be treated as an expense of that business.
- (3) Receipts and expenses within this paragraph are to be taken into account, in accordance with the provisions of this Part of this Schedule, in calculating the BLAGAB trade profit or loss of that business for accounting periods beginning on or after 1 January 2013.
- (4) Receipts within this paragraph are to count as excluded receipts for the purposes of section 92.
- 10 (1) If a relevant computational item (or a part of a relevant computational item) allocated in accordance with paragraph 8 to the company's gross roll-up business is a positive amount, the item (or part of the item) is to be treated as a receipt of the company's non-BLAGAB long-term business.
- (2) If a relevant computational item (or a part of a relevant computational item) allocated in accordance with paragraph 8 to the company's gross roll-up business is a negative amount, the item (or part of the item) is to be treated as an expense of the company's non-BLAGAB long-term business.
- (3) Receipts and expenses within this paragraph are to be taken into account, in accordance with the provisions of this Part of this Schedule, in calculating for corporation tax purposes the profits of the company's non-BLAGAB long-term business for accounting periods beginning on or after 1 January 2013.

Period over which deemed receipts or expenses arise

- 11 (1) A receipt or expense within paragraph 9 or 10 is to be treated as arising over the period of 10 years beginning with 1 January 2013.

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- (2) The amount of the receipt or expense apportioned to (and treated as arising in) any accounting period falling wholly or partly in that 10-year period is to be determined in proportion to the number of days of the accounting period falling within that 10-year period.
- (3) This paragraph does not apply to a receipt which consists of a relevant court-protected item within the meaning of paragraph 12.
- (4) This paragraph is subject to paragraphs 13 to 15 (transfers and cessation of business etc).
- 12 (1) For the purposes of this paragraph a “relevant court-protected item” means a relevant computational item that relates to an excess of assets over liabilities held in a non-profit fund in respect of which an order made by a court is in force preventing the distribution of the excess (in any circumstances whatever) before the end of a period specified in the order.
- (2) A receipt within paragraph 9 or 10 consisting of a relevant court-protected item is to be treated as arising over the period of 10 years beginning with the relevant day.
- (3) The relevant day is whichever of the following days occurs first—
- (a) the day on which the court order ceases to be in force, or
 - (b) 1 January 2015.
- (4) The amount of the receipt apportioned to (and treated as arising in) any accounting period falling wholly or partly in that 10-year period is to be determined in proportion to the number of days of the accounting period falling within that 10-year period.
- (5) This paragraph is subject to paragraphs 13 to 15 (transfers and cessation of business etc).
- 13 (1) This paragraph applies if—
- (a) under an insurance business transfer scheme, there is a transfer from one insurance company to another of basic life assurance and general annuity business (or any part of that business) or non-BLAGAB long-term business (or any part of that business),
 - (b) the transfer is a relevant intra-group transfer, and
 - (c) the transfer occurs at a time when the full amount of the receipts or expenses within paragraph 9 or 10 of the business the whole or part of which is transferred has not been treated as arising.
- (2) A transfer is a “relevant intra-group transfer” for the purposes of this paragraph if—
- (a) the transferor and the transferee are members of the same group of companies when the transfer occurs (as determined in accordance with section 170(2) to (11) of TCGA 1992), and
 - (b) the transferee is within the charge to corporation tax in relation to the transfer.
- (3) The receipts or expenses are to continue to be dealt with in accordance with the provisions of this Schedule, but are treated as arising to the transferee over so much of the 10-year period in question as falls on or after the date on which the transfer takes place.
- (4) If only part of a business is transferred—

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- (a) the appropriate proportion of the receipts or expenses is treated as arising to the transferee over so much of the 10-year period in question as falls on or after the date on which the transfer takes place, and
 - (b) the remainder of the receipts or expenses is treated as arising to the transferor over so much of that period.
- (5) The appropriate proportion of the receipts or expenses of a business is equal to the proportion which the value of the liabilities relating to the part of the business transferred bears to the total value of the liabilities of the whole of the business.
- (6) For the purposes of this paragraph and paragraphs 11 and 12 the accounting periods of the transferor and the transferee in which the transfer takes place are deemed to end immediately before the transfer takes place.
- 14 (1) This paragraph applies if—
 - (a) under an insurance business transfer scheme, there is a transfer from one insurance company to another of basic life assurance and general annuity business (or any part of that business) or non-BLAGAB long-term business (or any part of that business),
 - (b) the transfer is not a relevant intra-group transfer for the purposes of paragraph 13, and
 - (c) the transfer occurs at a time when the full amount of the deemed receipts or expenses of the relevant business has not been treated as arising to the transferor.
- (2) The remaining amount of the deemed receipts or expenses of the relevant business is to be treated as arising to the transferor in the accounting period in which the transfer takes place.
- (3) In this paragraph references to the deemed receipts or expenses of the relevant business—
 - (a) are references to the receipts or expenses within paragraph 9 or 10 of the business the whole or part of which is transferred, but
 - (b) do not include references to so much of those receipts or expenses as fall (or have fallen) to be treated as arising to a company other than the company which is the transferor for the purposes of this paragraph.
- 15 (1) This paragraph applies if—
 - (a) an insurance company ceases at any time to carry on basic life assurance and general annuity business or non-BLAGAB long-term business otherwise than as a result of a transfer under an insurance business transfer scheme, and
 - (b) at that time the full amount of the deemed receipts or expenses of the business concerned has not been treated as arising to the company.
- (2) The remaining amount of the deemed receipts or expenses of the business concerned is to be treated as arising to the company in the accounting period in which it ceases to carry on the business concerned.
- (3) For the purposes of this paragraph an insurance company is to be regarded as ceasing to carry on a business at any time if, at that time, it ceases to be within the charge to corporation tax in relation to the business.
- (4) In this paragraph references to the deemed receipts of the business concerned—

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- (a) are references to the receipts or expenses within paragraph 9 or 10 of the business concerned, but
- (b) do not include references to so much of those receipts or expenses as fall (or have fallen) to be treated as arising to a company other than the company concerned.

Financing-arrangement-funded transfers to shareholders in relation to non-profit funds

- 16 (1) This paragraph applies if, as at 1 January 2013, an insurance company has an unrelieved charge under subsection (3) of section 83YC of FA 1989 (FAFTS: charge in relevant period of account).
- (2) An insurance company has, as at that date, an unrelieved charge under that subsection if either—
- (a) that subsection has operated in the case of the company for the period of account ending immediately before that date (“the 2012 period of account”), or
 - (b) that subsection has operated in the case of the company for one or more earlier periods of account, and the total of the amounts which are the relevant amount for the 2012 period of account or those earlier periods under section 83YD of FA 1989 does not exceed the amount which is the taxed amount under that section.
- (3) The appropriate amount of the unrelieved charge is to be treated for the purposes of this Part of this Schedule as if it were a relevant computational item of a negative amount.
- (4) The appropriate amount of the unrelieved charge is whichever is the smaller of—
- (a) in a case within sub-paragraph (2)(a), the amount brought into account under section 83YC(3) of FA 1989, or, in a case within sub-paragraph (2)(b), the amount by which the taxed amount mentioned there exceeds the relevant amount mentioned there, and
 - (b) the sum of the outstanding debt amount and the outstanding re-insurance amount.
- (5) “The outstanding debt amount” means the total amount of the credits brought into account by the company in relation to a non-profit fund for the purposes of section 83YC of FA 1989 as part of total income—
- (a) for the 2012 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 that date.
- (6) “The outstanding re-insurance amount” means the total of the amounts which would (but for section 83YF(2) of FA 1989) have been taken into account in calculating the profits of the company’s life assurance business in accordance with the life assurance trade profits provisions—
- (a) for the 2012 period of account, or
 - (b) for any earlier period of account,
- in respect of the re-insurance of relevant liabilities to the extent that they have not ceased to be re-insured before that date.

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- (7) Any expression which is used in this paragraph and in section 83YC of FA 1989 has the same meaning in this paragraph as in that section.
- (8) In this paragraph references to sections 83YC and 83YD of FA 1989 include references to those sections as they have effect in accordance with paragraph 4(2) to (6) of Schedule 17 to FA 2008.

Anti-avoidance

- 17 (1) This paragraph applies if—
- (a) on or after 21 March 2012 an insurance company (“C”) enters into any arrangements or does any other thing directly or indirectly for the purposes of, or in connection with, the operation of the transitional rules, and
 - (b) the main purpose, or one of the main purposes, of C in entering into the arrangements or doing the other thing is an unallowable purpose.
- (2) A purpose is an “unallowable purpose” if—
- (a) it consists of securing a tax advantage for C or any other company which is connected to the operation of the transitional rules, or
 - (b) it is not amongst C’s business or other commercial purposes.
- (3) If a tax advantage connected to the operation of the transitional rules arises to C, an officer of Revenue and Customs may make such adjustments as are required to negate the tax advantage so far as referable to the unallowable purpose on a just and reasonable apportionment.
- (4) If a tax advantage connected to the operation of the transitional rules arises to a company other than C, an officer of Revenue and Customs may make such adjustments as are required to negate the tax advantage.
- (5) The power to make adjustments under this paragraph includes power to make adjustments by any of the following means—
- (a) an amendment of the company’s tax return under paragraph 34(2) or (2A) of Schedule 18 to FA 1998 (amendment after enquiry),
 - (b) an assessment,
 - (c) the nullifying of a right to repayment,
 - (d) the requiring of the return of a repayment already made, and
 - (e) the calculation or recalculation of profits or gains or liability to corporation tax.
- (6) Nothing in this paragraph authorises the making of an assessment later than 6 years after the accounting period to which the tax advantage relates.
- (7) For the purposes of this paragraph—
- (a) “arrangement” includes any agreement, scheme, transaction or understanding (whether or not legally enforceable),
 - (b) the reference to the operation of the transitional rules is a reference to the operation of any provision made by or under this Part of this Schedule,
 - (c) one example (among others) of entering into arrangements or otherwise doing something for the purposes of, or in connection with, the operation of those rules is entering into the arrangements or otherwise doing the thing to

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- secure that an item is, or is not, taken into account in calculating the total transitional difference, and
- (d) section 1139 of CTA 2010 (meaning of “tax advantage”) applies, but reading references to tax as references to corporation tax.
- (8) If C is not within the charge to corporation tax in respect of a part of its activities, C’s business or other commercial purposes for the purposes of this paragraph do not include the purposes of that part of its activities.
- (9) This paragraph does not apply in any case if section 132 applies in that case.
- 18 (1) Paragraph 17 does not apply if, on an application by C, HMRC Commissioners give a notice under this paragraph stating that they are satisfied that the doing of the relevant things is or will be such that no action ought to be taken by an officer of Revenue and Customs under that paragraph.
- (2) The reference here to the doing of the relevant things is a reference to the entering into of any arrangements, or the doing of any other thing, directly or indirectly for the purposes of, or in connection with, the operation of the transitional rules (within the meaning of paragraph 17).
- 19 (1) An application under paragraph 18 must—
- (a) be in writing, and
- (b) contain particulars of the arrangements or the thing done or proposed to be done.
- (2) HMRC Commissioners may by notice require C to provide further particulars in order to enable them to determine the application.
- (3) A requirement may be imposed under sub-paragraph (2) within 30 days of the receipt of the application or of any further particulars required under that sub-paragraph.
- (4) If a notice under that sub-paragraph is not complied with within 30 days or such longer period as HMRC Commissioners may allow, they need not proceed further on the application.
- (5) HMRC Commissioners must give notice to C of their decision on an application under paragraph 18—
- (a) within 30 days of receiving the application, or
- (b) if they give a notice under sub-paragraph (2), within 30 days of that notice being complied with or within such longer period as may be agreed with C.
- (6) If any particulars provided under this paragraph do not fully and accurately disclose all facts and considerations material for the decision of HMRC Commissioners, any resulting notice under paragraph 18 is void.

Overseas life insurance companies

- 20 Receipts or expenses are not to be treated as arising under this Part of this Schedule in a case where—
- (a) an overseas life insurance company has, in accordance with international accounting standards, prepared accounts for a period which includes 31 December 2012, and
- (b) parts of the income statements included in those accounts are recognised for the purposes of sections 82A to 83ZA of FA 1989 as a result of

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provision made by regulation 24 of the Overseas Life Insurance Companies
Regulations 2006.