

Profits of life business. CTA76 s35; FA91 s30; FA94 s60; FA97 s67 710.—(1) Where the profits of an assurance company in respect of its life business are for the purposes of the Corporation Tax Acts computed in accordance with the provisions applicable to Case I of Schedule D, the following provisions shall apply:

(a) such part of those profits as belongs or is allocated to, or is expended on behalf of, policyholders or annuitants shall be excluded in making the computation;

(b) such part of those profits as is reserved for policyholders or annuitants shall also be excluded in making the computation but, if any profits so excluded as being so reserved cease at any time to be so reserved and are not allocated to, or expended on behalf of, policyholders or annuitants, those profits shall be treated as profits of the company for the accounting period in which they ceased to be so reserved.

(2) (a) Subject to paragraph (b), where a company's trading operations consist solely of a foreign life assurance business (1)) the following provisions shall apply:

(i) subject to this subsection, the company shall be chargeable to corporation tax in respect of the profits of that business under Case I of Schedule D;

(ii) notwithstanding subsection (1)(b), where apart from this subparagraph any part of those profits would be excluded in computing the income chargeable under Case I of Schedule D solely by virtue of that part being reserved for policyholders or annuitants, that part shall not be excluded in computing the income so chargeable;

(iii) the charge to corporation tax under Schedule D of income from investments (in this subsection referred to as "shareholders' investments") which are not investments of any fund representing the amount of the liability of the company in respect of its business with policyholders and annuitants shall not be under Case I of that Schedule;

(iv) notwithstanding section 707, section 83 shall apply for computing the profits of the company as respects expenses of management, including commissions, to the extent that those expenses—

(I) are disbursed for the purposes of managing shareholders' investments, and

(II) would not apart from this subparagraph be deductible in computing the profits, or any description of profits, of the company for the purposes of corporation tax.

(b) In applying the definition of "foreign life assurance business" in section 451 (1) for the purposes of paragraph (a), section 446 shall apply as if there were deleted from subsection (2) of that section " , and any certificate so given shall, unless it is revoked under subsection (4), (5) or (6), remain in force until the 31st day of December, 2005".

(3) (a) In this subsection—

“policy of assurance” means—

(i) a policy of assurance issued by a company (to which subsection (2) applies) to an individual who on the date the policy is issued resides outside the State and who continuously so resides throughout a period of not less than 6 months commencing on that date, or

(ii) a policy issued or a contract made which is not a retirement benefits policy solely by virtue of the age condition not being complied with;

“relevant amount”—

(i) in relation to a policy of assurance, means the amount determined by the formula—

$$V - P$$

and

(ii) in relation to a retirement benefits policy, means the amount determined by the formula—

$$(V - P) \times \frac{75}{100}$$

where—

V is the amount or the aggregate of amounts by which the market value of all the entitlements under the policy of assurance or the retirement benefits policy, as the case may be, increased during any period or periods in which the policyholder was residing in the State, and

P is the amount of premiums or like sums paid in respect of the policy of assurance or the retirement benefits policy, as the case may be, during any period or periods in which the policyholder was residing in the State;

“retirement benefits policy” means a policy issued or a contract made by a company (to which subsection (2) applies)—

(i) to or with, as the case may be, an individual who, on the date the policy is issued or the contract is made, resides outside the State and who continuously so resides throughout a period of not less than 6 months commencing on that date, and

(ii) on terms which include the condition (in this subsection referred to as “the age condition”) that the main benefit secured by the policy or contract is the payment by the company (otherwise than on the death or disability of the individual) of a sum to the individual on or after the individual attains the age of 60 years and before the individual attains the age of 70 years and that condition is complied with.

(b) Where, in respect of a policy of assurance or a retirement benefits policy, a sum is payable by a company (otherwise than by reason of death or disability of the policyholder) to a policyholder who is

resident or ordinarily resident in the State ), then—

(i) the company shall be deemed for the purposes of the Corporation Tax Acts to have made, in the year of assessment in which the sum is payable, an annual payment of an amount equal to the relevant amount in relation to the policy of assurance or the retirement benefits policy, as the case may be, and section 239 shall apply for the purposes of the charge, assessment and recovery of such tax,

(ii) the company shall be entitled to deduct the tax out of the sum otherwise payable,

(iii) the recipient of the sum payable shall not be entitled to repayment of, or credit for, such tax so deducted, and

(iv) the sum paid, or any part of the sum paid, shall not be reckoned in computing total income of the recipient of the sum paid for the purposes of the Income Tax Acts.

(4) Where an assurance company carries on both life assurance business and industrial assurance business, the business of each such class shall for the purposes of the Corporation Tax Acts be treated as though it were a separate business, and section 707 shall apply separately to each such class of business.

(5) (a) Where under section 25 (1) of the Insurance Act, 1989 , an assurance company amalgamates its industrial assurance and life assurance funds, subsection (4) shall not apply to that company for any accounting period ending on or after the completion of the amalgamation and before the recommencement, if any, of a separate industrial assurance or life assurance fund.

(b) For the purposes of applying section 707, in so far as it is affected by—

(i) management expenses or charges on income which apart from section 83 (3) would be treated as respectively incurred for or paid in an accounting period ending before the day on which the amalgamation is completed, or

(ii) any loss incurred in such a period,

to a company which has amalgamated its industrial assurance and life assurance funds, subsection (4) shall apply as if the company had not amalgamated its funds.

(6) For the purposes of subsections (2) and (5), where an accounting period of an assurance company begins before the day (in this subsection referred to as “the day of amalgamation”) on which the company completes the amalgamation of its industrial assurance and life assurance funds and ends on or after the day of amalgamation, that period shall be divided into one part beginning on the day on which the accounting period begins and ending on the day before the day of amalgamation and another part beginning on the day of amalgamation and ending on the day on which the accounting period ends, and both parts of the accounting period shall be treated as if they were separate accounting periods.