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## **LIFE INSURANCE COMPANIES: CONSULTATION OUTCOMES AND SIMPLIFICATION**

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### **Who is likely to be affected?**

1. Companies and friendly societies carrying on life insurance business.

### **General description of the measure**

2. Legislation will be introduced in Finance Bill 2009 to:
  - clarify the law relating to the tax treatment of amounts introduced by shareholders into the long term insurance fund (LTIF) of a life insurance company;
  - restrict the Case I deduction for amounts allocated to policyholders in certain exceptional circumstances;
  - clarify the transitional rules governing relief for repayments of contingent loans taxed under section 83ZA of the Finance Act (FA) 1989;
  - amend the rules governing the calculation of the 'floor' for gross roll-up business investment return to ensure consistent treatment of foreign business assets; and
  - change the anti-avoidance rules relating to value shifting to ensure that they will not apply when a reduction in value arises as result of a transfer of long-term insurance business between companies in the same group.
3. These changes are further products of the consultation on the simplification and modernisation of certain aspects of the tax law relating to life insurance companies launched by HM Revenue & Customs (HMRC) in May 2006.

### **Operative date**

4. The changes to the tax treatment of amounts added to the LTIF will have effect for accounting periods ending on or after 22 April 2009 in respect of additions made on or after 22 April 2009.

5. Restrictions in relief for amounts allocated to policyholders will have effect for accounting periods ending on or after 22 April 2009 in respect of allocations made on or after 22 April 2009.
6. Changes to the floor calculation will have effect for accounting periods beginning on or after 1 January 2009 and ending on or after 22 April 2009.
7. The change to the value shifting rules will apply to disposals of assets taking place on or after 22 April 2009.

## **Current law and proposed revisions**

### Amounts added to the LTIF

8. Currently the tax treatment of an addition to the fund is governed by a combination of case law and an unpublished concession. Generally life insurance companies make additions to their LTIFs for commercial or regulatory reasons. But HMRC has seen cases where additions facilitate the creation of a Case I loss which does not reflect a commercial loss and that Case I loss is used to reduce the other (non-life assurance) taxable profits of the company or other group companies.
9. Legislation will be introduced in Finance Bill 2009 to make it clear that additions to funds are not taxable receipts. A Case I loss will not be available to reduce the company's other taxable profits or to surrender as group relief where it arises in the same period as, or following, an addition to a non profit fund, and there is either a book value election or arrangements whose purpose is to reduce the admissible value of the assets. The legislation will not affect the use of losses arising in with profit funds or non profit funds which support with profit funds.

### Restriction on relief for amounts allocated to policyholders

10. Current legislation allows a deduction for all amounts allocated to policyholders without restriction. There are circumstances in which amounts allocated to policyholders are not an allocation of profits but are instead made as a result of the policyholder giving up rights, or changes in the basis on which past or future profits of the fund are allocated between policyholders and shareholders. Legislation will be introduced in Finance Bill 2009 to restrict the deduction of amounts allocated to policyholders where those amounts are capital in nature or made to facilitate an attribution of inherited estate and the amounts allocated are not funded out of the fund's taxable income.

### Contingent Loans Transitional Provisions

11. Legislation introduced in Finance Act 2008 provided relief when contingent loans were repaid and all, or part, of the contingent loan had been taxed under section 83ZA of FA 1989. This legislation will be amended to ensure that the tax treatment on repayment of such a loan is effectively the

same as it would have been had section 83ZA of FA 1989 not been repealed.

#### Foreign Business Assets and the 'floor'

12. The FA 2008 amendments to section 432E of the Income and Corporation Taxes Act 1988 introduced an unintended distortion. The mean value of foreign business assets is included in the calculation required by section 432E(3)(a) and in the definition of amount A in subsection (4). But it is not included in subsection (3)(b) or in the definition of amount 'B' subsection (4). Legislation now to be introduced will correct this.

#### Value shifting and transfers of business

13. The anti-avoidance rules in section 30 of the Taxation of Chargeable Gains Act 1992 (TCGA) may apply when the reduction in value of shares of a company arises as result of a transfer of the company's life assurance business. Legislation will be introduced to ensure that section 30 of TCGA does not apply when the reduction in value arises from the transfer of life assurance business to a company within the same group provided that the transfer is not part of tax avoidance arrangements.

#### **Further advice**

14. If you have any questions about these changes, please contact Carol Johnson on 020 7147 0517 (email: [carol.johnson@hmrc.gsi.gov.uk](mailto:carol.johnson@hmrc.gsi.gov.uk)). Information about Budget measures is available on the HM Revenue & Customs website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)