EC (Insurance Undertakings: Accounts) Regulations 1996 & EU (Insurance and Reinsurance) Regulations 2015 – Tax Implications for Life Assurance Companies

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Most recent version of this manual. Does not reflect current Revenue position.

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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1 Introduction

The purpose of this manual is to outline the implications of the 1996 and 2015 Regulations on the taxation of life assurance companies.

2 EC (Insurance Undertakings: Accounts) Regulation 1996

The above regulation gave effect to the Insurance Accounts Directive adopted per Council Directive No. 91/674/EEC of 23 December 1991. The Directive applied to accounting periods commencing on or after 1 January 1995 and was fully implemented by companies for accounting periods commencing on or after 1 January 1996.

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2.1 Outline of Main Accounting Changes Introduced by the Directive in respect of Life Assurance Companies

The main accounting changes from a tax perspective were as follows:

The Profit & Loss ("P&L") account was effectively split into two parts - the technical account (formerly the Revenue account) and the non-technical account (formerly the P&L account).

The account formerly known as the Investment Reserve account was also reclassified into two non-distributable reserves- the Fund for Future Appropriations and the non- technical account P&L reserves.

There were accounting restrictions introduced on the use of the Fund for Future Appropriations account for non-profit offices. The effect of these is that the full investment return is brought through both the technical and non-technical parts of the P&L account. For accounting purposes, it was no longer acceptable for non-profit offices to transfer investment gains and losses from non linked business to the Investment reserves albeit that the allocation of such gains and losses had not yet been determined by the appointed actuary.

The Directive requires a proportion of annual acquisition expenses to be deferred commensurate with unearned income. Deferred acquisition costs carried forward are amortised over the period in which they are expected to be recoverable out of matching revenues.

Accounting profit in the non-technical account is to be split into the non-distributable portion and the distributable remainder.

2.2 Notional Case I (NCI) Computation

Historically the NCI computation was derived from the transfer made to shareholders from the Revenue account, re-grossed to take account of tax deducted in arriving at the Revenue account surplus. The transfer was increased by any investment income or profits on

disposals allocated directly to the shareholders in the P&L account. This figure was then adjusted having regard to capital allowances due and normal disallowable expenditure (e.g. entertainment expenses) to give the final NCI profit for the year. The changes in the Insurance Accounts Directive which impacted on the historical method of NCI calculations were:

- Deferral of Acquisitions costs;
- Inclusion of realised and unrealised gains/losses on non-linked investments;
- Allocation of part of the Life Fund Investment Return to shareholders.

The changes had the effect of recognising non-distributable amounts as profits. As with embedded value accounting the result can be very different to the statutory result on which the NCI computation was historically based.

Revenue confirmed at the time that having regard to the above and on the basis that the non-distributable part of the non-technical account is comprised of what are essentially unrealised profits that there was to be no change for tax purposes to the starting point in the NCI computation. This confirmation ensured:

- Case I principles continued to apply and therefore unrealised gains/losses continued to be excluded from the computation, and
- that there was continuity of the existing practice, at the time, that any surpluses carried forward unallocated are regarded as reserved for policyholders under **Section 710 TCA 1997** (formerly Section 35 CTA 1976).

It was also confirmed that companies who wished to publish embedded value accounting results would not suffer adversely for NCI purposes. Also the Deferred Acquisitions Cost adjustment would not impact on the profit attributable to shareholders for NCI purposes.

3 EU (Insurance and Reinsurance) Regulations 2015

The implementation of EU (Insurance and Reinsurance) Regulations 2015 (known as “Solvency II”) for reporting periods commencing on or after 1 January 2016 gave rise to a practical issue in relation to the NCI computation given that Form 28 will no longer be prepared by life assurance companies subject to Solvency II.

3.1 Identification of the surplus transfer to shareholders post Solvency II

The annual actuarial investigation of the long-term business fund to support the identification of the surplus transfer is still required post Solvency II in accordance with the Insurance Act 1989. It is expected that the head of Actuarial Function will make a recommendation to the Board of Directors in relation to the amount of the surplus to be transferred to shareholders and this will be considered by the Board for its approval. The Head of Actuarial Function will provide the Actuarial Report on Technical Provisions (ARTP) to the Board on an annual basis, which is a requirement for all insurance undertakings under

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Solvency II. The ARTP is the report on the year-end valuation and this will be available prior to the submission of the corporation tax return.

The following information should be submitted by life assurance companies as part of their corporation tax computations:

- a formal statement of amount of the surplus transferred to shareholders;
- the recommendation of the amount of the surplus transfer to shareholders by the Head of Actuarial Function, and
- full details of any alterations, amendment and departures (if any) from the surplus transfer figure as initially recommended by the Head of Actuarial function.

In addition, Revenue may request a copy of the ARTP.

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