# [26.00.01] Tax Implications for Life Assurance Companies

## EC (Insurance Undertakings: Accounts) Regulations 1996 & EU (Insurance and Reinsurance) Regulations 2015

Following the introduction of the Insurance Accounts Directive in 1996, Tax Briefing Issue 24 (refer to Appendix A) provided guidance on the preparation of Notional Case I (NCI) computations for life assurance companies. Specifically, Tax Briefing Issue 24 clarified that the starting point for the NCI computation would remain the surplus transfer to shareholders as evidenced on Form 28 of the regulatory return.

The implementation of EU (Insurance and Reinsurance) Regulations 2015 (known as "Solvency II") for reporting periods commencing on or after 1 January 2016 will give 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.

**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 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.

# Appendix A

## Extract from Tax Briefing, Issue 24 (December 1996):

### 1. Introduction

The above regulations give effect to the Insurance Accounts Directive adopted per Council Directive No. 91/674/EEC of 23 December 1991. While the Directive applies to accounting periods commencing on or after 1 January 1995 it is unlikely to be fully implemented by companies until accounting periods commencing on or after 1 January 1996.

### 2. Outline of Main Accounting Changes Introduced by the Directive in respect of Life Assurance Companies

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

The Profit & Loss account is 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 is also being reclassified into two non-distributable reserves- the Fund for Future Appropriations and the non- technical account P/L reserves

There are accounting restrictions 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 Profit & Loss account. For accounting purposes, it is 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 has 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 should be amortised over the period in which they are expected to be recoverable out of matching revenues.

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

### 3. Notional Case I (NCI) Computation

Historically the NCI computation is derived from the transfer made to shareholders from the Revenue account, regrossed to take account of tax deducted in arriving at the Revenue account surplus. The transfer is increased by any investment income or profits on disposals allocated directly to the shareholders in the Profit & Loss Account. This figure is 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 could impact on the existing method of NCI calculations are:

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.

These changes have the effect of recognising non-distributable amounts as profits. As with embedded value accounting the result can be very different to the statutory result (as shown on form 28 of the Department of Enterprise and Employment (DEE) return), on which the NCI computation is historically based.

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 it is confirmed that there will be no change for tax purposes to the starting point in the NCI computation. This confirmation ensures:

Case I principles will continue to apply and therefore unrealised gains/losses will continue to be excluded from the computation.

Continuity of the existing practice that any surpluses carried forward unallocated are regarded as reserved for policyholders under **Section 710 TCA 1997** (formerly Section 35 CTA 1976).

That companies wishing to publish embedded value accounting results will not suffer adversely for NCI purposes. This confirms the existing practice whereby the preparation of accounts on the embedded value basis is not prejudicial as regards the calculation of NCI.

The Deferred Acquisitions Cost adjustment will not impact on the profit attributable to shareholders for NCI purposes.

As the methodology of accounting for the shareholders profit in Life Assurance Companies is still being developed, the changes outlined in this article may be subject to review in light of accounting developments at some future date. Any changes as a result of any future review will be applied from a specified future date.