

Amendment	Page	Line
*SC 162	376	44

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Amendment 162

Schedule 33, page 376, line 44, leave out 'the' and insert 'any'.

EXPLANATORY NOTE

SUMMARY

1. This amendment ensures that there is a tax charge on repayments of certain loans which have been used to avoid tax.

DETAILS

2. Section 83(2B) Finance Act 1989 (inserted by Schedule 33 to the Bill) imposes a tax charge where life assurance companies have sought to reduce their profits or create a loss by not charging expenditure through their revenue account.
3. One type of expenditure that may be affected is the repayment of a type of loan used by life assurance companies known as a "contingent loan", and
 - where the loan on receipt was not recognised in the company's revenue account, any repayment of it is excluded from section 83(2B) by section 83(2C).
 - where the loan was recognised in that account on receipt in a period beginning on or after 1 January 2003, the rules in section 83(2C) and new section 83ZA FA 1989 (paragraph 3 of Schedule 33) will deal with it.
 - where the loan was recognised in the revenue account on receipt in a period beginning before 1 January 2003 but was not taken into account for tax purposes under the law then in force, section 83(2B) is intended to bite on the repayment

4. But as section 83(2C) is drafted in the Bill, it will exclude a loan repayment from the charge in section 83(2B) unless it was received in the same period as it was repaid.
5. The amendment removes this condition and means that section 83(2B) will apply to the repayment of a loan whenever it was received.

BACKGROUND NOTE

6. A life assurance company's trading profits (Case I profits) are calculated on a basis that follows the company's regulatory return to the FSA and in particular the revenue account in that return. It is a feature of some companies that they are able to determine exactly how much by way of taxable receipts they need to recognise - and the amount depends on how much expenditure is charge in the revenue account.
7. Thus if a company reduces the amount of expenditure that it would otherwise charge in the revenue account, especially if it is not deductible in calculating the tax profits, the effect is to reduce the amount of taxable receipts it needs to recognise.
8. Section 83(2B) FA 1989 is designed to redress this position. It charges to tax an amount treated as a taxable receipt equal to any expenditure met by the company and not charged to the revenue account.
9. Section 83(2C) FA 1989 is designed to exclude from this charge certain types of expenditure, including repayments of loans the receipt of which did not enable the company to reduce its tax liability.