STATUTORY INSTRUMENTS

2007 No. 2087

CORPORATION TAX

The Insurance Companies (Taxation of Reinsurance Business) (Amendment) Regulations 2007

Made - - - -	*20th July 2007*
Laid before the House of Commons - - -	*23rd July 2007*
Coming into force - -	*13th August 2007*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 431C(1), 431G(3)(a) and 442A(2) to (6) of the Income and Corporation Taxes Act 1988(**1**) and paragraph 58 of Schedule 8 to the Finance Act 1995(**2**), and now exercisable by them(**3**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Insurance Companies (Taxation of Reinsurance Business) (Amendment) Regulations 2007 and shall come into force on 13th August 2007.

(2) Regulations 3 and 5 to 8 have effect in relation to periods of account beginning on or after 1st January 2007 and ending on or after the date on which these Regulations come into force.

(3) Regulation 4 has effect in relation to periods of account ending on or after 31st January 2005.

Amendments to the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995

2. The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995(**4**) are amended as follows.

(**1**)   1988 c. 1. Section 431C was inserted by paragraph 2 of Schedule 8 to the Finance Act 1995 (c. 4). Section 431G was substituted for section 432 by paragraph 4 of Schedule 8 to the Finance Act 2007 (c. 11). Section 442A was inserted by paragraph 34 of Schedule 8 to the Finance Act 1995 and relevantly amended by paragraph 23(3) and (4) of Schedule 33, and Part 3(12) of Schedule 43, to the Finance Act 2003 (c. 14).

(**2**)   1995 c. 4.

(**3**)   The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that in so far as it is appropriate in consequence of section 5 a reference in an enactment, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**4**)   S.I. 1995/1730, relevantly amended by S.I. 1996/1621, 2003/1828 and 2573.

Amendment of regulation 2

3. In regulation 2 (interpretation)—

(a) for the definition of "EEA Agreement" and the definition of "EEA State" substitute—

""EEA Agreement" and "EEA State" have the meanings given in Schedule 1 to the Interpretation Act 1978(**5**);",

(b) for the definition of "internal linked fund" substitute—

""internal linked fund" has the meaning given by section 431(2) of the Taxes Act;", and

(c) in the definition of "section 439A", for "439A" (in both places) substitute "431G".

Amendment of regulations 4 and 5

4. In each of the following places, for "12(4)" substitute "9(3)"—

(a) regulation 4 (calculation of investment return in first accounting period), in the definition of C, and

(b) regulation 5(1) (calculation of investment return in second and subsequent accounting periods other than final accounting period), in the definition of C_n.

Amendment of regulation 7A

5. In regulation 7A (treatment of amounts of investment return which are less than zero)(**6**), at the end add—

"(5) Where section 442A of the Taxes Act applies to the life or endowment business carried on by friendly societies subject to the modification prescribed by regulation 19 of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005(**7**), this regulation shall have effect as if the reference in paragraph (2)(a)(ii) above to basic life assurance and general annuity business were a reference to taxable basic life assurance and general annuity business (within the meaning given by section 431(2) of the Taxes Act as modified by regulation 6 of those regulations)."

Amendment of regulation 11

6. In regulation 11(**8**) (exclusion of certain business from section 431C), in paragraph (c)(ii), after "1st November 1994" insert "and before the first accounting period of the company to begin on or after 1st January 2007".

Amendment of regulation 11A

7.—(1) Regulation 11A(**9**) (election for certain business to be excluded from section 431C) is amended as follows.

(2) In paragraph (2)(a) after "the Taxes Act" insert "(as it has effect before the substitution made by paragraph 9(2) of Schedule 7 to the Finance Act 2007)".

(3) Insert at the end—

(**5**) 1978 c. 30, relevantly amended by section 26 of the Legislative and Regulatory Reform Act 2006 (c. 51).
(**6**) Regulation 7A was inserted by S.I. 2003/2573.
(**7**) S.I. 2005/2014.
(**8**) Regulation 11 was amended by S.I. 1996/1621 and 2003/1828.
(**9**) Regulation 11A was inserted by S.I. 2003/2573.

"(11)   An election made by a company under this regulation ceases to have effect at the end of the accounting period immediately preceding the first accounting period of the company which begins on or after 1st January 2007."

Amendment of regulation 12

8.—(1)   In regulation 12 (exclusion of certain insurance business from section 439A), for "section 439A" substitute "subsection (3) of section 431G".

(2)   The heading accordingly becomes "Exclusion of certain reinsurance business from subsection (3) of section 431G".

Mike Eland
Dave Hartnett
Two of the Commissioners for Her Majesty's
Revenue and Customs

20th July 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (SI 1995/1730) ("the principal Regulations"). The principal Regulations make provision for the purposes of section 442A of the Income and Corporation Taxes Act 1988 ("the Taxes Act": c. 1) in relation to the calculation of the investment return on an insurance policy or annuity contract which is the subject of a reinsurance arrangement.

Regulation 1 provides for citation, commencement and effect. Authority for the retrospective effect of certain of the amendments is given by paragraph 58 of Schedule 8 to the Finance Act 1995 (c. 4).

Regulation 2 introduces the amendments to the principal Regulations. The amendments take account of changes made by the Finance Act 2007 ("FA 2007": c. xx) and update the principal Regulations in other respects.

Regulation 3 amends regulation 2 (interpretation) so as to take into account amendments made to the Interpretation Act 1978 (c.30) by the Legislative and Regulatory Reform Act 2006 (c. 51) as well as amendments made to the Taxes Act by FA 2007.

Regulation 4 amends regulations 4 (calculation of investment return in first accounting period) and 5 (calculation of investment return in second and subsequent accounting periods other than final accounting period) so as to take account of changes to rules made by the Financial Services Authority.

Regulation 5 amends regulation 7A (treatment of amounts of investment return which are less than zero) so as to take into account the modification of section 442A of the Taxes Act by the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005 (S.I. 2005/2014).

Regulations 6, 7 and 8 amend respectively regulation 11(**10**) (exclusion of certain business from section 431C), regulation 11A (election for certain business to be excluded from section 431C) and regulation 12 (exclusion of certain insurance business from section 439A) so as to take into account amendments made to the Taxes Act by FA 2007.

These Regulations, together with the relevant legislation in FA 2007 (c. 11), are part of the outcome of a continuing consultation process. A draft regulatory impact assessment was included as part of a consultation document, "Life Assurance Company Taxation – A Technical Consultative Document", which was published by Her Majesty's Revenue and Customs in May 2006. This is available at www.hmrc.gov.uk/consultations.

(**10**) Regulation 11 was amended by S.I. 1996/1621 and 2003/1828.