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STATUTORY INSTRUMENTS

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**2007 No. 2088**

**CORPORATION TAX**

**The Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 2007**

<i>Made</i>	- - - -	<i>20th July 2007</i>
<i>Laid before the House of Commons</i>	- - - -	<i>23rd July 2007</i>
<i>Coming into force</i>	- -	<i>13th August 2007</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 431E of the Income and Corporation Taxes Act 1988<sup>(1)</sup> and paragraph 58 of Schedule 8 to the Finance Act 1995<sup>(2)</sup>, and now exercisable by them<sup>(3)</sup>.

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 2007 and shall come into force on 13th August 2007.

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

**Amendments to the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995**

2. The Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995<sup>(4)</sup> are amended as follows.

**Amendment of regulation 2**

3.—(1) Regulation 2 (interpretation)<sup>(5)</sup> is amended as follows.

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(1) [1988 c. 1](#); section 431E was inserted by paragraph 2 of Schedule 8 to the Finance Act [1995 \(c. 4\)](#).

(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. 1995/3237](#), amended by [S.I. 1997/481](#), [1998/1872](#), [1999/2839](#), [2000/2104](#), [2001/3629](#), [2004/2200](#) and [2004/3273](#).

(5) Regulation 2 was relevantly amended by [S.I. 1998/1872](#), regulation 3(3) of [S.I. 1999/2839](#), regulation 3(3) of [S.I. 2000/2104](#) and regulation 12 of [S.I. 2004/2200](#).

(2) In paragraph (1)—

(a) insert the following definitions in the appropriate places—

““child trust fund business” has the meaning given by section 431BA(6);”, and

““excepted business” means pension business, individual savings account business, child trust fund business, life reinsurance business and long-term business which is not life assurance business;”;

(b) for the definition of “individual savings account business” substitute—

““individual savings account business” has the meaning given by section 431BB;”;

(c) for the definition of “relevant business” substitute—

““relevant business” means—

(a) in the case of an overseas life insurance company, life assurance business carried on through a permanent establishment in the United Kingdom which is not excepted business, and

(b) in any other case, life assurance business which is not excepted business;”;

(d) in the definition of “relevant policy”, omit “, or any underlying policy;”, and

(e) omit the definition of “underlying policy”.

(3) In paragraph (3), omit “9, 10”.

### Insertion of regulation 3B

4. After regulation 3A(7) (exclusion of business of friendly society which is exempt from tax) insert—

**“Exclusion of tax exempt life assurance business**

**3B.** These Regulations do not apply to any business of an insurance company the profits arising from which are exempt from corporation tax by virtue of section 460(11) or (12) of the Income and Corporation Taxes Act 1988(8).”

### Amendment of regulation 4

5. In regulation 4 (business which is overseas life assurance business: general), for “11” substitute “8”.

### Amendment of regulations 5, 7, 7A and 8

6. In the following places, for “branch” substitute “permanent establishment”—

(a) regulation 5 (business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom)(9) (wherever occurring),

(b) regulation 7 (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an

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(6) Section 431BA, together with section 431BB, was inserted by paragraph 8 of Schedule 7 to the Finance Act 2007 (c. 11).

(7) Regulation 3A was inserted by S.I. 1997/481.

(8) Section 460(11) was amended by paragraph 5(5) of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48), article 32(4) of S.I. 2001/3629 and paragraph 1(3) of Schedule 12 to the Finance Act 2007. Section 460(12) was substituted by paragraph 1(4) of Schedule 12 to the Finance Act 2007.

(9) Regulation 5 was amended by regulation 5 of S.I. 1999/2839, regulation 4 of S.I. 2000/2104, article 142(b) of S.I. 2001/3629 and regulation 4 of S.I. 2004/3273.

- overseas life insurance company – policies or contacts made on or after 1st January 1996)(10) (wherever occurring except in paragraph (1A)),
- (c) regulation 7A (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company – policy holder not within regulation 7)(11) (wherever occurring except in paragraph (2)), and
- (d) regulation 8 (certain business other than reinsurance business where the company comes into possession of additional information)(12) (wherever occurring except in paragraph (1A)).

### **Omission of regulations 9, 10, 10A and 11**

#### **7. Omit—**

- (a) regulation 9 (reinsurance of business effected by a company resident in the United Kingdom outside the United Kingdom)(13),
- (b) regulation 10 (reinsurance of business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company)(14),
- (c) regulation 10A (reinsurance of business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company – policy holder not within regulation 7)(15), and
- (d) regulation 11 (classification of certain categories of reinsurance business as overseas life assurance business)(16).

### **Amendment of regulation 12**

**8.** In regulation 12(17) (territories in which policy holders residing: general), for “16A” substitute “14A”.

### **Amendment of regulations 13, 14 and 14A**

#### **9. For “branch” substitute “permanent establishment”—**

- (a) in regulation 13 (business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom)(18) (wherever occurring except in paragraph (1A)),
- (b) in regulation 14 (business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom or by an overseas life insurance company)(19) (wherever occurring except in paragraph (1A)), and

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(10) Regulation 7 was amended by regulation 6 of [S.I. 1999/2839](#), regulation 5 of [S.I. 2000/2104](#), article 142(c) of [S.I. 2001/3629](#) and regulation 5 of [S.I. 2004/3273](#).

(11) Regulation 7A was inserted by regulation 7 of [S.I. 1999/2839](#) and amended by regulation 6 of [S.I. 2000/2104](#), article 142(d) of [S.I. 2001/3269](#) and regulation 6 of [S.I. 2004/3273](#).

(12) Regulation 8 was amended by regulation 8 of [S.I. 1999/2839](#), regulation 7 of [S.I. 2000/2104](#), article 142(e) of [S.I. 2001/3269](#) and regulation 7 of [S.I. 2004/3273](#).

(13) Regulation 9 was amended by regulation 9 of [S.I. 1999/2839](#) and regulation 8 of [S.I. 2000/2104](#).

(14) Regulation 10 was amended by regulation 10 of [S.I. 1999/2839](#) and regulation 9 of [S.I. 2000/2104](#).

(15) Regulation 10A was inserted by regulation 11 of [S.I. 1999/2839](#) and amended by regulation 10 of [S.I. 2000/2104](#).

(16) Regulation 11 was amended by regulation 12 of [S.I. 1999/2839](#) and regulation 11 of [S.I. 2000/2104](#).

(17) Regulation 12 was amended by regulation 12 of [S.I. 2002/2104](#).

(18) Regulation 13 was amended by regulation 13 of [S.I. 1999/2839](#), article 142(f) of [S.I. 2001/3629](#) and regulation 8 of [S.I. 2004/3273](#).

(19) Regulation 14 was amended by regulation 14 of [S.I. 1999/2839](#) and regulation 13 of [S.I. 2002/2104](#), article 142(g) of [S.I. 2001/3629](#) and regulation 9 of [S.I. 2004/3273](#).

- (c) in regulation 14A (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company – policy holder not within regulation 7)(20) (wherever occurring except in paragraph (2)).

### **Omission of regulations 15, 16 and 16A**

#### **10. Omit—**

- (a) regulation 15 (reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom)(21),
- (b) regulation 16 (reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company)(22), and
- (c) regulation 16A (reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company – policy holder not within regulation 7)(23).

### **Amendment of regulation 18**

**11.—**(1) Regulation 18(24) (reclassification of policy or contract from date when it was effected) is amended as follows.

#### **(2) In paragraph (1)—**

- (a) omit sub-paragraphs (aa), (b), (ba) and (d), and
- (b) in sub-paragraph (e)—
  - (i) for “policy, contract or underlying policy” substitute “policy or contract”,
  - (ii) omit “or the relevant business in relation to that underlying policy was entered into”,
  - (iii) renumber paragraph (a) as paragraph (i), and
  - (iv) renumber paragraph (b) as paragraph (ii).

#### **(3) Omit paragraph (2).**

#### **(4) For paragraph (3), substitute—**

“(3) The company shall treat the policy or contract as relating to basic life assurance and general annuity business from the date the policy or contract was made or transferred.”

### **Amendment of regulation 19**

**12.—**(1) Regulation 19(25) (reclassification of policy or contract from date after it was effected) is amended as follows.

#### **(2) In paragraph (1)—**

- (a) omit sub-paragraphs (b) and (d), and
- (b) in sub-paragraph (e)—
  - (i) for “policy, contract or underlying policy” substitute “policy or contract”,

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(20) Regulation 14A was inserted by regulation 15 of [S.I. 1999/2839](#) and amended by regulation 14 of [S.I. 2000/2104](#), article 142(h) of [2001/3629](#) and regulation 10 of [2004/3273](#).

(21) Regulation 15 was amended by regulation 16 of [S.I. 1999/2839](#).

(22) Regulation 16 was amended by regulation 17 of [S.I. 1999/2839](#) and regulation 15 of [S.I. 2000/2104](#).

(23) Regulation 16A was amended by regulation 18 of [S.I. 1999/2839](#) and regulation 16 of [S.I. 2000/2104](#).

(24) Regulation 18 was amended by regulation 19 of [S.I. 1999/2839](#) and regulation 17 of [S.I. 2000/2104](#).

(25) Regulation 19 was amended by regulation 21 of [S.I. 1999/2839](#) and regulation 19 of [S.I. 2000/2104](#).

- (ii) omit “or the relevant business in relation to that underlying policy was entered into”,
  - (iii) renumber paragraph (a) as paragraph (i), and
  - (iv) renumber paragraph (b) as paragraph (ii).
- (3) Omit paragraph (2).
- (4) For paragraph (3), substitute—
- “(3) Subject to paragraphs (3A) and (3B) below, the company shall treat the policy or contract as relating to basic life assurance and general annuity business from the end of the accounting period in which the relevant date falls.”

20th July 2007

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995 (S.I. 1995/3237) (“the principal Regulations”). The principal Regulations make provision for the purposes of giving effect to section 431D of the Income and Corporation Taxes Act 1988 (c. 1) in relation to the meaning of “overseas life assurance business”.

Regulation 1 provides for citation, commencement and effect. Authority for the retrospective effect 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 (c. 11: “FA 2007”) and update the principal Regulations in other respects.

Regulation 3 amends regulation 2 (interpretation) to take account of amendments made by FA 2007.

Regulation 4 inserts a new regulation 3B (exclusion of business of friendly society which is exempt from tax) to exclude the tax exempt life assurance business of an insurance company from the principal Regulations. This regulation takes account of amendments made by FA 2007.

Regulation 5 amends regulation 4 (business which is overseas life assurance business: general) and is consequent upon the amendment made by regulation 7 of these Regulations.

Regulation 6 amends regulations 5, 7, 7A and 8 so as to replace references to a “branch” of an insurance company with references to a “permanent establishment” to take account of amendments made by the Finance Act 2003 (c. 14: “FA 2003”).

Regulation 7 omits regulations 9, 10, 10A and 11 to take account of amendments made by FA 2007 to the definition of overseas life assurance business.

Regulation 8 amends regulation 12 (territories in which policy holders residing: general) and is consequent upon the amendment made by regulation 10 of these Regulations.

Regulation 9 amends regulations 13, 14 and 14A so as to replace references to a “branch” of an insurance company with references to a “permanent establishment” to take account of amendments made by FA 2003.

Regulation 10 omits regulations 15, 16 and 16A to take account of amendments made by FA 2007 to the definition of overseas life assurance business.

Regulation 11 amends regulation 18 (reclassification of policy or contract from date when it was effected) to take account of amendments made by FA 2007 and to make minor corrections.

Regulation 12 amends regulation 19 (reclassification of policy or contract from date after it was effected) to take account of amendments made by FA 2007 and to make minor corrections.

These Regulations, together with the relevant legislation in FA 2007, 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](http://www.hmrc.gov.uk/consultations).