

EXPLANATORY MEMORANDUM TO
THE INSURANCE COMPANIES (CALCULATION OF PROFITS: POLICY HOLDERS’
TAX) (AMENDMENT) REGULATIONS 2008

2008 No. 1906

1. This explanatory memorandum has been prepared by HM Revenue and Customs on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 This instrument amends the Insurance Companies (Calculation of Profits: Policy Holders’ Tax) Regulations 2003 (S.I. 2003/2082: the “principal Regulations”) to add a cross-reference to an additional type of insurance business transfer scheme.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 These Regulations have effect in relation to periods of accounting beginning on or after 1st January 2008 which end on or after these Regulations come into force and are according capable of having retrospective effect in certain circumstances. Authority for the retrospective effect is conferred by section 82A(3)(b) of the Finance Act 1989.

3.2 The explanatory note to this Instrument explains that:

“A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.”

This is because the accepted Government practice is that no IA will be published for HMRC and HMT tax measures for which:

- the total effect of the changes across all UK business is less than £100,000 of administrative burden costs/savings and/or £3m of compliance cost in total; and
- the Department’s Better Regulation and Policy team has confirmed that
 - there are no disproportionate impacts on any business or sector; and
 - there are no other issues which might make publication of an IA advisable.

This is such a measure.

HMRC are working with BERR to ensure that the next edition of the Statutory Instrument Practice reflects these changes.”

4. Legislative Background

4.1 The principal Regulations provide for the determination of how much corporation tax paid by a company carrying on life assurance business is referable to the policyholders’ interest in the company’s profits. Regulation 4 of the principal

Regulations provides for continuity of method of arriving at a deduction for policyholder tax in a computation of profits of life assurance business where there is an insurance business transfer scheme. The regulation lists the cases of schemes set out in section 105 of the Financial Services and Markets Act 2000.

- 4.2 The Reinsurance Directive Regulations 2007 (S.I.2007/3253) amended section 105 to include an additional Case. These Regulations amend regulation 4 of the principal Regulations to refer to that Case.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This instrument is made to keep secondary legislation affecting insurance companies up to date.

7.2 A draft of these Regulations has been circulated to appropriate bodies and persons within the insurance industry and their advisers.

7.3 Guidance on the changes will be incorporated in HMRC's Life Assurance Manual

8. Impact

8.1 A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

8.2 There is no impact on the public sector.

9. Contact

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