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STATUTORY INSTRUMENTS

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**2008 No. 1924**

**CORPORATION TAX**

**The Overseas Life Insurance Companies  
(Amendment) Regulations 2008**

<i>Made</i>	- - - -	<i>22nd July 2008</i>
<i>Laid before the House of Commons</i>	- - - -	<i>22nd July 2008</i>
<i>Coming into force</i>	- -	<i>12th August 2008</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 156 of the Finance Act 2003<sup>(1)</sup>.

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Overseas Life Insurance Companies (Amendment) Regulations 2008 and shall come into force on 12th August 2008.

(2) Regulations 3, 4 and 7 to 17 have effect in relation to periods of account beginning on or after 1st January 2008 which end on or after the day on which these Regulations come into force.

(3) But regulations 7, 9, 10 and 12 have effect only in relation to transfers of business taking place on or after 1st July 2008.

**Amendments to the Overseas Life Insurance Companies Regulations 2006**

2. The Overseas Life Insurance Companies Regulations 2006<sup>(2)</sup> are amended as follows.

**Amendment of regulation 5**

3. In regulation 5(3) (modifications of section 76(7) of the Income and Corporation Taxes Act 1988)—

- (a) in sub-paragraph (a), for “(b)” substitute “(c)”, and
- (b) in sub-paragraph (b), the inserted paragraph (d) becomes inserted paragraph (e).

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(1) 2003 c. 14; section 156 was amended by paragraph 17 of Schedule 9 to the Finance (No. 2) Act 2005 (c. 22).  
(2) S.I. 2006/3271, amended by S.I. 2007/2146 and 3449.

## Amendment of regulation 6

4.—(1) Regulation 6 (modifications of section 431(2) of the Income and Corporation Taxes Act 1988)(3) is amended as follows.

(2) In paragraph (1), omit “(2)”.

(3) After paragraph (1) insert—

“(1ZA) Modify subsection (2) in accordance with paragraphs (1A) to (5).”.

(4) For paragraph (1A) substitute—

“(1A) In the definition of “foreign business assets”(4) omit—

(a) “either”,

(b) “or” at the end of paragraph (a), and

(c) paragraph (b).”.

(5) After paragraph (2) insert—

“(2A) In the case of an EEA firm or a Treaty firm, for the definition of “liabilities” substitute—

““liabilities”, where the company concerned is an EEA firm or a Treaty firm—

(a) does not include liabilities that have been reinsured, but

(b) subject to that, means liabilities (including those which arise from deposit back arrangements) as determined in accordance with actuarial principles for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident;”.

(6) In paragraph (4)—

(a) omit the substituted definition of “liabilities”, and

(b) in the substituted definition of “insurance business transfer scheme”, for “or 4” substitute “, 4 or 5”.

(7) In paragraph (5), in the inserted definition of “free assets amount”—

(a) for “aggregate of the relevant liabilities and the amount of the shareholders’ excess assets” substitute “relevant liabilities”,

(b) insert “and” at the end of paragraph (a), and

(c) omit paragraph (c) and the “and” before it.

(8) After paragraph (5) insert—

“(6) In subsection (2YC)(5), at the end insert—

“so far as that income and those gains fall to be attributed, for the purposes of section 11AA(2)(6), to the permanent establishment in the United Kingdom through which the company carries on life assurance business.”.

(7) In subsection (2YD), at the end insert—

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(3) Regulation 6 was relevantly amended by regulation 5 of [S.I. 2007/2146](#).

(4) In section 431(2) of the [Income and Corporation Taxes Act 1988 \(c. 1\)](#), the definition of “foreign business assets” was substituted for that of “foreign business currency assets” (inserted by paragraph 6(2) of Schedule 7 to the [Finance Act 2007 \(c. 11\)](#)) by paragraph 10(1) of Schedule 17 to the [Finance Act 2008 \(c. 9\)](#).

(5) In section 431 of the Income and Corporation Taxes Act 1988, subsections (2YB) to (2YD) were inserted by paragraph 18(1) of Schedule 17 to the Finance Act 2008.

(6) Section 11AA of the Income and Corporation Taxes Act 1988 was inserted by section 149(2) of the Finance Act 2003.

“so far as those amounts and that deduction fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business.”.”.

#### **Amendment of regulation 8**

**5.** In regulation 8 (modifications of section 432A of the Income and Corporation Taxes Act 1988)(7), omit paragraph (2).

#### **Amendment of regulation 9**

**6.** In regulation 9 (modifications of section 432B of the Income and Corporation Taxes Act 1988)(8), omit paragraph (3).

#### **Insertion of regulations 14ZA to 14ZC**

**7.** After regulation 14 (modification of section 442A of the Income and Corporation Taxes Act 1988) insert—

“**14ZA.** In section 444AA (transfers of business: deemed periodical returns)(9), in subsection (5), in a case where the transferor is an EEA firm or a Treaty firm, for paragraphs (a) and (b) substitute—

- “(a) in respect of the amount of the relevant long-term business provisions immediately before the transfer, and
- (b) in respect of the value, immediately before the transfer, of the assets transferred.”.

**14ZB.** In section 444ABA (relevant non-transferred assets)(10), in subsection (1), in a case where the transferor is an EEA firm or a Treaty firm, for the definition of BTO substitute—

“BTO is the lesser of VA and APL, where—

- (a) VA is the value of the assets transferred by the insurance business transfer scheme shown (or treated as shown) in the periodical return of the transferor for the period of account of the transferor including the transfer date, and
- (b) APL is the amount of the profit or loss for the financial year shown in the balance sheet in the periodical return for the last period of account of the transferor ending before the transfer date, together with—
  - (i) in the case of IAD accounts, the amount of profit or loss shown as being brought forward in that balance sheet, and
  - (ii) in the case of IAS accounts, the amount of retained earnings shown as being brought forward in that balance sheet.”.

**14ZC.—(1) —(1)** In a case where the transferor is an EEA or a Treaty firm, modify section 444ABB (retained assets)(11) as follows.

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(7) Regulation 8 was amended by regulation 7 of [S.I. 2007/2146](#).

(8) Regulation 9 was amended by regulation 8 of [S.I. 2007/2146](#).

(9) Section 444AA was inserted by paragraph 18 of Schedule 33 to the Finance Act 2003 and substituted by article 10 of [S.I. 2008/381](#).

(10) Section 444ABA was inserted by paragraph 3 of Schedule 7 to the [Finance Act 2004 \(c. 12\)](#), substituted by paragraph 4 of Schedule 9 to the Finance Act 2007 and amended by article 12 of [S.I. 2008/381](#).

(11) Section 444ABB was inserted by paragraph 4 of Schedule 9 to the Finance Act 2007 and amended by article 13 of [S.I. 2008/381](#).

- (2) In subsection (1)—
  - (a) for “RL13” (in both places) substitute “RL”; and
  - (b) in the definition of RL13, for “AL13” substitute “APL”.
- (3) In subsection (1A) for paragraphs (a) to (c) substitute—
  - “(a) APL is the amount of the profit or loss for the financial year shown in the balance sheet in the periodical return for the last period of account of the transferor ending before the transfer date, together with—
    - (i) in the case of IAD accounts, the amount of profit or loss shown as brought forward in that balance sheet, and
    - (ii) in the case of IAS accounts, the amount of retained earnings shown as brought forward in that balance sheet;
  - (b) VE is the amount (if any) by which VA exceeds VTL where—
    - (i) VA is the value of the assets transferred by the insurance business transfer scheme shown (or treated as shown) in the periodical return of the transferor for the period of account of the transferor including the transfer date, and
    - (ii) VTL is the value of the liabilities transferred by the insurance business transfer scheme (but excluding those which arise from deposit back arrangements); and
  - (c) relevant retained liabilities are any liabilities of the company’s long-term business which are owed by the company immediately after the transfer date and are shown (or treated as shown) as entries—
    - (i) at items C3 (net of reinsurance) and G in IAD accounts, or
    - (ii) at equivalent items in the balance sheet in IAS accounts.”.

#### **Substitution of regulation 14A**

**8.** For regulation 14A (modification of section 444ABD of the Income and Corporation Taxes Act 1988)(**12**) substitute—

- “**14A.**—(1) —(1) In a case where the transferor is an EEA firm or a Treaty firm, modify section 444ABD (transferor’s period of account including transfer)(**13**) as follows.
  - (2) In subsection (1), for paragraphs (a) and (b) substitute—
    - “(a) the value of the liabilities transferred by the insurance business transfer scheme (but excluding those which arise from deposit back arrangements), exceeds
    - (b) the value, immediately before the transfer, of the assets transferred by the insurance business transfer scheme,”.
  - (3) In subsection (1E) for “amount” (in the first place) substitute “value”.

#### **Substitution of regulation 15**

**9.** For regulation 15 (modifications of section 444AC of the Income and Corporation Taxes Act 1988)(**14**) substitute—

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(12) Regulation 14A was inserted by regulation 12 of [S.I. 2007/2146](#).

(13) Section 444ABD was inserted by paragraph 5 of Schedule 9 to the Finance Act 2007 and amended by article 16 of [S.I. 2008/381](#).

(14) Regulation 15 was substituted by regulation 6 of [S.I. 2007/3449](#).

“**15.**—(1) —(1) In a case where the transferor is an EEA firm or a Treaty firm, modify section 444AC (transfer schemes: reduction of income of transferee)(**15**) as follows.

(2) In subsection (4) for the words from “lesser of” to the end substitute—

“the amount of the profit or loss for the financial year shown in the balance sheet in the periodical return for the last period of account of the transferor ending before the transfer date, together with—

(a) in the case of IAD accounts, the amount of profit or loss shown as being brought forward in that balance sheet, and

(b) in the case of IAS accounts, the amount of retained earnings shown as being brought forward in that balance sheet.”.

(3) Omit subsection (5).”.

### **Omission of regulation 15A**

**10.** Omit regulation 15A (modification of section 444AD of the Income and Corporation Taxes Act 1988)(**16**).

### **Insertion of regulation 15B**

**11.** Before regulation 16 (modification of section 444AL of the Income and Corporation Taxes Act 1988) insert—

“**15B.** In a case where the transferor or the transferee is an EEA firm or a Treaty firm (or both are), omit section 444AE (transfers of business: FAFTS)(**17**).”.

### **Insertion of regulation 15C**

**12.** After regulation 15B (inserted by regulation 11) insert—

“**15C.** In section 444AEA (transfer schemes: anti-avoidance rule)(**18**), in subsection (6), in the definition of “surplus-increasing transfer of assets”, in a case where the transferor is an EEA firm or a Treaty firm, for “increases the amount of total surplus shown in line 39 of Form 58” substitute “gives rise to an amount that increases the profits or reduces the losses shown”.”.

### **Amendment of regulation 22**

**13.** In regulation 22 (modifications of section 83 of the Finance Act 1989), after paragraph (2) insert—

“(2A) In subsection (2A), in the case of an EEA firm or a Treaty firm, omit paragraph (ac)(**19**).”.

### **Insertion of regulation 22B**

**14.** After regulation 22A (modification of section 83XA of the Finance Act 1989)(**20**) insert—

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(15) Section 444AC was inserted by paragraph 20(1) of Schedule 33 to the Finance Act 2003, substituted by paragraph 6(1) of Schedule 9 to the Finance Act 2007 and amended by article 17 of [S.I. 2008/381](#).

(16) Regulation 15A was inserted by regulation 6 of [S.I. 2007/3449](#).

(17) Section 444AE was inserted by paragraph 20(1) of Schedule 33 to the Finance Act 2003 and substituted by paragraph 2 of Schedule 17 to the Finance Act 2008.

(18) Section 444AEA was inserted by paragraph 8 of Schedule 9 to the Finance Act 2007.

(19) Subsection (2A) of section 83 of the [Finance Act 1989 \(c. 26\)](#) was inserted by paragraph 2(2) of Schedule 33 to the Finance Act 2003 and paragraph (ac) of that subsection was inserted by paragraph 1(2) of Schedule 17 to the Finance Act 2008.

(20) Regulation 22A was inserted by regulation 15 of [S.I. 2007/2146](#).

“**22B.** In the case of an EEA firm or a Treaty firm, omit sections 83YC to 83YF (financing-arrangement-funded transfers)(**21**).”.

**Omission of regulation 23**

15. Omit regulation 23 (modification of section 83ZA of the Finance Act 1989).

**Omission of regulation 25**

16. Omit regulation 25 (modification of section 88(3) of the Finance Act 1989).

**Amendment of regulation 26**

17. In regulation 26 (modifications of section 89 of the Finance Act 1989), omit paragraph (2).

*Claire Ward*

*Dave Watts*

Two of the Lords Commissioners of Her  
Majesty’s Treasury

22nd July 2008

## EXPLANATORY NOTE

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

Section 156 of the Finance Act 2003 provides that the enactments relating to corporation tax have effect in relation to overseas life insurance companies subject to such modifications and exceptions as may be prescribed by the Treasury.

These Regulations amend the Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271: “the principal Regulations”) which make such modifications.

Regulation 1 provides for citation, commencement and effect. Authority for the Regulations to have effect in relation to periods of account (whenever beginning) which end on or after the day on which they come into force is contained in section 156(4) of the Finance Act 2003.

Regulation 2 introduces the amendments to the principal Regulations. The following regulations amend the principal Regulations so as to take into account amendments to primary legislation made by the Finance Act 2007 (“FA 2007”), the Finance Act 2008 (“FA 2008”) and the Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (S.I. 2008/381).

Regulations 3 to 12 amend regulations of the principal Regulations which modify provisions of the Income and Corporation Taxes Act 1988 (“ICTA”).

Regulation 3 amends regulation 5(3) which modifies section 76(7) of ICTA (expenses of insurance companies).

Regulation 4 amends regulation 6 which modifies section 431 of ICTA (interpretative provisions relating to insurance companies).

Regulation 5 omits regulation 8(2) which modifies section 432A(8) of ICTA (apportionment of income and gains).

Regulation 6 omits regulation 9(3) in consequence of the repeal of section 432B(8G) of ICTA (apportionment of receipts brought into account) by paragraph 19(4) of Schedule 17 to FA 2008.

Regulation 7 inserts regulations 14ZA, 14ZB and 14ZC which modify respectively sections 444AA (transfers of business: deemed periodical returns), 444ABA (relevant non-transferred assets) and 444ABB (retained assets) of ICTA.

Regulation 8 substitutes regulation 14A which modifies section 444ABD of ICTA (transferor’s period of account including transfer).

Regulation 9 substitutes regulation 15 which modifies section 444AC of ICTA (transfer schemes: reduction of income of transferee).

Regulation 10 omits regulation 15A in consequence of the repeal of section 444AD of ICTA (transfers of business: modification of section 83(2B) of the Finance Act 1989) by paragraph 7(1) of Schedule 9 to FA 2007.

Regulation 11 inserts new regulation 15B which modifies ICTA by omitting section 444AE (transfers of business: FAFTS).

Regulation 12 inserts new regulation 15C which modifies section 444AEA of ICTA (transfer schemes: anti-avoidance rule).

Regulations 13 to 17 amend regulations of the principal Regulations which amend provisions of the Finance Act 1989 (“FA 1989”).

Regulation 13 amends regulation 22 which modifies section 83 of FA 1989 (receipts to be taken into account).

Regulation 14 inserts new regulation 22B which modifies FA 1989 by omitting sections 83YC to 83YF (financing-arrangement-funded transfers).

Regulation 15 omits regulation 23 in consequence of the repeal of section 83ZA of FA 1989 (contingent loans) by paragraph 1(4) of Schedule 17 to FA 2008.

Regulation 16 omits regulation 25 in consequence of the substitution of section 88(3) of FA 1989 (corporation tax: policy holders' fraction of profits) by paragraph 18(4) of Schedule 17 to FA 2008.

Regulation 17 omits regulation 26(2) in consequence of the repeal of section 89(1B) of FA 1989 (policy holders' share of profits) by paragraph 18(5)(a) of Schedule 17 to FA 2008.

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.