

2015 No. 1983

CORPORATION TAX

INCOME TAX

**The Lloyd's Underwriters (Transitional Equalisation Reserves)
(Tax) Regulations 2015**

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| <i>Made</i> | - - - - | <i>7th December 2015</i> |
| <i>Laid before the House of Commons</i> | | <i>8th December 2015</i> |
| <i>Coming into force</i> | - - | <i>1st January 2016</i> |

The Treasury make the following Regulations in exercise of the powers conferred by section 47 of the Finance Act 2009(a) and section 30(1) of the Finance Act 2012(b).

Citation and commencement

1. These Regulations may be cited as the Lloyd's Underwriters (Transitional Equalisation Reserves) (Tax) Regulations 2015 and come into force on 1st January 2016.

Interpretation

2. In these Regulations—

“the 2009 Regulations” means the Lloyd's Underwriters (Equalisation Reserves) (Tax) Regulations 2009(c);

“relevant accounting period” is any accounting period ending on or after 31st December 2008 but ending before 1st January 2016;

“relevant deduction” is an amount deducted by a corporate member or a partnership member in computing the member's profits or losses in a relevant accounting period as a result of the application of section 444BA(2)(a) of ICTA(d) under regulation 3(3) (reserves maintained by Lloyd's members which are equivalent to equalisation reserves) of the 2009 Regulations;

“relevant receipt” is an amount treated as a receipt of the underwriting business of a corporate member or a partnership member in a relevant accounting period as a result of the application of section 444BA(2)(b) of ICTA under regulation 3(3) of the 2009 Regulations; and

“underwriting business” means, in relation to a corporate member or a partnership member, the member's underwriting business as a member of Lloyd's.

(a) 2009 c. 10.

(b) 2012 c. 14.

(c) S.I. 2009/2039.

(d) 1988 c. 1; section 444BA(2) was inserted by paragraph 1 of Schedule 32 to the Finance Act 1996 (c. 8).

Application of sections 26(4) to (8) and 27 of FA 2012 to Lloyd’s members

3. Where a corporate member or partnership member has taken into account a relevant deduction in making any computation of the member’s profits or losses for any relevant accounting period, section 26(4) to (8) and section 27 of FA 2012 apply in relation to the member, subject to the modifications specified in regulation 4, in relation to accounting periods ending on or after 1st January 2016.

Modified application of sections 26(4) to (8) and 27 of FA 2012

4.—(1) The modifications to sections 26(4) to (8) and 27 of FA 2012 referred to in regulation 3 are as follows.

(2) References in those sections to—

“business” are to be treated as references to the part of the underwriting business of the corporate member or partnership member which relates to insurance business other than life assurance business; and

“an insurance company” or “a company” are to be treated as references to the corporate member or the partnership member (as the case may be).

(3) In section 26(4), “transitional equivalent reserve” is to be treated as substituted for “existing equalisation or equivalent reserve”.

(4) Sections 26(7) and (8) and 27(3) are to be treated as omitted.

(5) In paragraph (3), “transitional equivalent reserve” means the amount determined by the sum A – B, where—

“A” means the total of all relevant deductions for all relevant accounting periods; and

“B” means the total of all relevant receipts for all relevant accounting periods.

Revocation

5. The following are revoked—

(a) the Insurance Companies (Reserves) (Tax) Regulations 1996(a); and

(b) the 2009 Regulations.

Charlie Elphicke
David Evennett

7th December 2015

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations—

(a) make transitional provisions in respect of those amounts of “equivalent Lloyd’s reserves” maintained by corporate or partnership members of Lloyd’s as a result of the application of section 444BA of the Income and Corporation Taxes Act 1988 (c. 1) (“ICTA”) under regulation 3(3) of the Lloyd’s Underwriters (Equalisation Reserves) (Tax) Regulations 2009 (S.I. 2009/2039) (“the 2009 Regulations”); and

(b) revoke the Insurance Companies (Reserves) (Tax) Regulations 1996 (S.I. 1996/2991) and the 2009 Regulations.

(a) S.I. 1996/2991, as amended by the Finance Act 2012, section 180 and Schedule 20, Part 3 (paragraphs 46 and 47) and Part 4 (paragraphs 49 and 50) and S.I. 1999/1408, 2001/3629, 2002/1409, 2008/954, 2008/2679 and 2013/472.

General insurance companies are required under rules made by the Prudential Regulation Authority (“PRA”) to maintain “equalisation reserves”. These are amounts held in reserve by the insurer to cover claims that it may be called to pay in relation to classes of business which result in intermittent but potentially large claims. Section 444BA of ICTA provides that amounts transferred into and out of a general insurance companies’ equalisation reserve are brought into account in computing the general insurer’s profits or losses arising in an accounting period. The 2009 Regulations, made under section 47 of the Finance Act 2009 (c. 10), provided that corporate and partnership members of Lloyd’s could maintain similar reserves (although they were not required to do so by the PRA or its predecessor, the Financial Services Authority) in the same manner as general insurance companies and claim equivalent tax treatment.

Section 26 of the Finance Act 2012 (c. 14) (“FA 2012”) repeals section 444BA of ICTA and section 30(2) of FA 2012 repeals section 47 of the Finance Act 2009 in respect of accounting periods specified by order under section 30(2) of FA 2012.

Section 26 of FA 2012 provides that, for a general insurance company, one sixth of the amount of equalisation reserve as it stood immediately before 1st January 2016 should be treated as a receipt of the company’s business in each of the 6 years after that date. Section 27 of FA 2012 provides that an insurance company may elect to treat as receipts of its business arising in a relevant year, all of the amounts which would otherwise be treated, under section 26(4), as receipts arising in later years.

Section 30 of FA 2012 provides that regulations may include provision for Lloyd’s corporate and partnership members which corresponds to that treatment for general insurers’ equalisation reserve. Accordingly, these Regulations provide for a transitional equalisation reserve to be treated as a receipt of the corporate and the partnership members’ underwriting business over six years in six equal amounts. The transitional equalisation reserve is the total of all amounts deducted in computing profits and losses as a result of the application of section 444BA(2)(a) of ICTA less the total of all amounts treated as receipts as a result of the application of section 444BA(2)(b) of ICTA.

Regulation 1 deals with citation and commencement.

Regulation 2 contains interpretative provisions, including the definitions of “relevant accounting period” and “relevant deduction”.

Regulation 3 provides that for corporate members or partnership members that have taken into account a relevant deduction in making any computation of its profits or losses for any relevant accounting period, sections 26(4) to 26(8) and 27 of FA 2012 apply with the modifications specified in regulation 4. The application of those sections, as so modified, applies in respect of accounting periods commencing on or after 1st January 2016.

Regulation 4 specifies the modifications of sections 26(4) to 26(8) and 27 referred to in regulation 3, and includes the definition of the expression “transitional equalisation reserve”.

Regulation 5 revokes the Insurance Companies (Reserves) (Tax) Regulations 1996 and the 2009 Regulations.

A Tax Information and Impact Note has not been prepared for this Instrument as it gives effect to previously announced policy.

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