

EXPLANATORY MEMORANDUM TO
THE INSURANCE COMPANIES (TAXATION OF RE-INSURANCE BUSINESS)
REGULATIONS 2018

2018 No. 538

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The regulations provide for certain descriptions of business being re-insured as excluded business and for certain re-insurance arrangements as prescribed arrangements as well as defining the method for calculating the investment return treated as accruing to a company in respect of a re-insurance arrangement relating to a company's basic life assurance and general annuity business (BLAGAB). Excluded business is treated as BLAGAB. Prescribed arrangements are not subject to the rules which calculate an investment return where risks are re-insured.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 This instrument is the first to be made under the powers contained in the Finance Act 2012 which are recited in the preamble to the instrument.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Sections 57(3) and 90(4) of Finance Act 2012 provides HMRC Commissioners with the power to make regulations covering the definition of BLAGAB, the scope of the charge under section 90 and the method of calculation of that charge. The charge is intended to represent the amount of the investment return accruing to a company that reinsures the risk in respect of a policy or contract attributable to its BLAGAB.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 The Finance Act 2012 introduced a new regime for taxing BLAGAB of life insurance companies. Specific anti-avoidance rules are required for re-insurance of BLAGAB to ensure the tax on investment returns from assets backing life insurance policies remains within the UK and within the special tax regime. These regulations define the scope of the charge and provide the method of calculating the amount of the investment returns.

Consolidation

- 7.2 N/A.

8. Consultation outcome

- 8.1 The consultation on draft regulations ran for 4 weeks from 28 February 2018.
- 8.2 The government received 2 responses from firms of tax advisers and 1 from an industry rep body.
- 8.3 All respondents welcomed the new regulations.

9. Guidance

- 9.1 HMRC will publish guidance on the application of the new regulations in the new Life Insurance Manual which is currently being prepared for a formal consultation in the summer of 2018. The guidance will be published on gov.uk

10. Impact

- 10.1 The impact on business is negligible and due to one-off familiarisation costs. There will be no additional administrative burdens. There is no impact on charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise the impact of the requirements on small businesses (employing up to 50 people).
- 11.3 The basis for the final decision on what action to take to assist small businesses was that, although the changes do not discriminate between businesses few, if any, small businesses are affected. The impact on small businesses is expected to be negligible.

12. Monitoring & review

- 12.1 HMRC will monitor this measure through ongoing contact with the insurance industry.

13. Contact

- 13.1 Marie Madden at HM Revenue & Customs Telephone: 03000 529481 or email: marie.madden@hmrc.gsi.gov.uk can answer any queries regarding the instrument.