STATUTORY INSTRUMENTS

2022 No. 1165

CORPORATION TAX

The Insurance Contracts (Tax) (Change in Accounting Standards) Regulations 2022

Made - - - -	*9th November 2022*
Laid before the House of Commons - - - -	*10th November 2022*
Coming into force - -	*1st January 2023*

The Treasury, in exercise of the powers conferred by paragraph 1 of Schedule 5 to the Finance Act 2022(**1**), make the following Regulations.

PART 1

Introduction

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Insurance Contracts (Tax) (Change in Accounting Standards) Regulations 2022 and come into force on 1st January 2023.

(2) These Regulations have effect in relation to accounting periods beginning on or after 1st January 2023.

Interpretation

2. In these Regulations—

"basic life and general annuity business" (abbreviated to "BLAGAB") has the same meaning as in section 57 of the Finance Act 2012(**2**);

"contract of insurance" has the same meaning as in section 64 of the Finance Act 2012;

"first IFRS 17 balance sheet" means the pre-IFRS 17 balance sheet of the company as restated in the first accounting period in which the accounts are prepared, in accordance with generally accepted accounting practice, based on IFRS 17;

(**1**) 2022 c. 3.
(**2**) 2012 c. 14.

"IFRS 17" means International Financial Reporting Standard 17 (insurance contracts) issued by the International Accounting Standards Board;

"foreign permanent establishments amount" has the same meaning as in section 18A of the Corporation Tax Act 2009(**3**);

"insurance business transfer scheme" has the same meaning as in section 139(1) of the Finance Act 2012;

"insurance company" has the same meaning as in section 65 of the Finance Act 2012(**4**);

"long-term business" has the same meaning as in section 63 of the Finance Act 2012;

"non-BLAGAB long-term business" has the same meaning as in section 66(5) of the Finance Act 2012;

"pre-IFRS 17 balance sheet" means the balance sheet of the company drawn up in accordance with generally accepted accounting practice as at the accounting date immediately before the first accounting period in which accounts are prepared based on IFRS 17;

"transitional amount" has the meaning given in regulation 3(6);

"transitional period" has the meaning given in regulation 6(1).

PART 2

Transitional provisions on adoption of IFRS 17

Determining the transitional amount

3.—(1) When an insurance company which carries on long-term business adopts IFRS 17, the company must determine the sum of—

$$A - B$$

where—

A is the relevant amount shown as a closing balance in the first IFRS 17 balance sheet of the company, and

B is the relevant amount shown as a closing balance in the pre-IFRS 17 balance sheet of the company.

(2) In paragraph (1), the "relevant amount" is the amount of accumulated profits less accumulated losses, subject to any adjustment required or authorised by law in calculating profits of a trade for corporation tax.

(3) The amount determined in paragraph (1) must then exclude any amount—

(a) relating to the adoption of International Financial Reporting Standard 9 issued by the International Accounting Standards Board if the company adopts that Standard at the same time as adopting IFRS 17, or

(b) not solely relating to adopting IFRS 17.

(4) The amount determined under paragraphs (1) and (3) must be apportioned between—

(a) any long-term business carried on by the company as at the first day of the first accounting period in which accounts are prepared in accordance with IFRS 17, and

(b) any other business carried on by the company as at that date.

(**3**) 2009 c. 4; section 18A was inserted by paragraph 4 of Schedule 13 to the Finance Act 2011 (c. 11) and amended by paragraph 3 of Schedule 20 to the Finance Act 2012, section 76(7) of the Finance Act 2016 (c. 24), and paragraph 111 of Schedule 1 and paragraph 12 of Schedule 5 to the Finance Act 2019 (c. 1).

(**4**) Section 65 was amended by S.I. 2019/689.

(5) The apportionment under paragraph (4) must be made on the same basis as shown in the disclosures made in the company's accounts in accordance with the disclosure requirements in IFRS 17 for the first accounting period in which accounts are prepared based on IFRS 17, or if none on a just and reasonable basis.

(6) Subject to paragraph (7), the amount allocated in accordance with paragraph (4)(a) to the company's long-term business is referred to in these Regulations as the "transitional amount".

(7) Paragraph (6) does not apply to any amount referrable to profits or losses taken into account in arriving at the foreign permanent establishments amount in relation to any relevant accounting period under section 18A of the Corporation Tax Act 2009.

(8) If it is necessary to apportion any amount to determine the amount in paragraph (7), such apportionment must be on a just and reasonable basis.

(9) In this regulation—

"accumulated profits" and "accumulated losses" both have the meanings they have for accounting purposes;

"relevant accounting period" has the same meaning as in section 18A of the Corporation Tax Act 2009.

Trading apportionment of the transitional amount

4.—(1) This regulation applies where, as a result of section 66 of the Finance Act 2012, an insurance company has—

(a) a business consisting of basic life assurance and general annuity business, and

(b) a non-BLAGAB long-term business.

(2) The transitional amount is to be allocated between the two separate businesses in accordance with an acceptable commercial method adopted by the company.

(3) A method is an "acceptable commercial method" if it secures that the transitional amount is allocated to the two separate businesses in a way that fairly represents the contribution made by those businesses, in the period ending immediately before the first accounting period in which accounts are prepared based on IFRS 17, to the accounting profit or loss as adjusted to take into account the transitional amount.

(4) The method adopted for the purposes of this regulation—

(a) must be consistent with the method adopted for the purposes of sections 98 and 115 of the Finance Act 2012 for that period, and

(b) in the case of an overseas life insurance company, must be consistent with the method for that period for attributing assets in accordance with the provision made by or under Chapter 4 of Part 2 of the Corporation Tax Act 2009 to its permanent establishment in the United Kingdom.

(5) In paragraph (4)(b), "overseas life insurance company" has the same meaning as in section 139(1) of the Finance Act 2012.

Treatment of the transitional amount

5.—(1) The transitional amount is treated as a receipt or expense of the long-term business carried on by the insurance company.

(2) If the transitional amount is a positive amount, the amount is to be treated as a receipt of the business.

(3) If the transitional amount is a negative amount, the amount is to be treated as an expense of the business.

(4) Receipts and expenses within this regulation are to be taken into account, in accordance with these Regulations, in calculating—

(a) the BLAGAB trade profit or loss of the business, and

(b) the profits of the company's non-BLAGAB long-term business,

for accounting periods beginning on or after 1st January 2023.

Transitional period over which the transitional amount brought into account

6.—(1) A receipt or expense within regulation 5 is to be treated as arising over the period of 10 years ("the transitional period") beginning with the first day of the first accounting period in which accounts are prepared based on IFRS 17.

(2) The amount of the receipt or expense apportioned to (and treated as arising in) any accounting period falling wholly or partly in the transitional period is to be determined in proportion to the number of days in the accounting period falling within the transitional period.

(3) This regulation is subject to regulations 7 to 10 (transfers and cessation of business and elections under section 18A of the Corporation Tax Act 2009).

Transfers of business in the transitional period: transferee within charge to corporation tax

7.—(1) This regulation applies if—

(a) under an insurance business transfer scheme, there is a transfer from one insurance company to another of long-term business (or any part of that business),

(b) the transfer occurs at a time when the full amount of the receipts or expenses within regulation 5 of the business the whole or part of which is transferred has not been treated as arising, and

(c) the transferee—

(i) is within the charge to corporation tax in relation to the transfer, and

(ii) is not a mutual life insurance company (within the meaning of section 129(3) of the Finance Act 2012).

(2) Subject to paragraph (3), the receipts or expenses are to continue to be dealt with in accordance with these Regulations but are treated as arising to the transferee over so much of the transitional period in question as falls on or after the date on which the transfer takes place.

(3) If only part of a business is transferred—

(a) the appropriate amount of the receipts or expenses is treated as arising to the transferee over so much of the transitional period in question as falls on or after the date on which the transfer takes place, and

(b) the remainder of the receipts or expenses is treated as arising to the transferor over that period.

(4) In paragraph (3)(a), "the appropriate amount" means the amount that fairly represents the amount of the receipts or expenses which has not been treated as arising and is attributable to the part of the business transferred immediately before the transfer.

Transfers of business in the transitional period: other cases

8.—(1) This regulation applies if—

(a) under an insurance business transfer scheme, there is a transfer from one insurance company to another of long-term business (or any part of that business),

(b) the transfer occurs at a time when the full amount of the receipts or expenses within regulation 5 of the business the whole or part of which is transferred has not been treated as arising, and

(c) regulation 7 does not apply.

(2) Subject to paragraph (3), the remaining amount of the receipts or expenses is to be treated as arising to the transferor in the accounting period in which the transfer takes place.

(3) If only part of a business is transferred—

(a) the appropriate amount of the receipts or expenses is treated as arising to the transferor in the accounting period in which the transfer takes place, and

(b) the remainder of the receipts or expenses is treated as arising to the transferor over the remainder of the transitional period.

(4) In paragraph (3)(a), "the appropriate amount" means the amount which fairly represents the amount of the receipts or expenses which has not been treated as arising and is attributable to the part of the business transferred immediately before the transfer.

Cessation of long-term business in the transitional period

9.—(1) This regulation applies if—

(a) an insurance company ceases at any time to carry on basic life and general annuity business or non-BLAGAB long-term business otherwise than as a result of an insurance business transfer scheme, and

(b) at that time the full amount of the receipts or expenses within regulation 5 of the business has not been treated as arising to the company.

(2) The remaining amount of the receipts or expenses of that business are treated as arising to the company in the accounting period in which it ceases to carry on the business concerned.

(3) For the purposes of this regulation, an insurance company is to be regarded as ceasing to carry on a business at any time if, at that time, it ceases to be within the charge to corporation tax in relation to the business.

Election under section 18A of the Corporation Tax Act 2009 in the transitional period

10.—(1) This regulation applies if—

(a) an insurance company makes an election under section 18A of the Corporation Tax Act 2009, and

(b) at that time the full amount of the receipts or expenses within regulation 5 of the business has not been treated as arising to the company.

(2) The remaining amount of the receipts or expenses which relate to the business of the permanent establishment are treated as arising to the company in the accounting period—

(a) in which the election is made, or

(b) if section 18F(4) of the Corporation Tax Act 2009(**5**) applies, in the accounting period ending immediately before the relevant day (within the meaning of that section).

(3) If it is necessary to apportion any amount to determine the amount in paragraph (2), such apportionment must be on a just and reasonable basis.

(**5**) Section 18F was inserted by paragraph 4 of Schedule 13 to the Finance Act 2011.

Exclusion of adjustment on change of basis rules

11. A transitional amount must be excluded from—

(a) the calculation of the adjustment under section 182 of the Corporation Tax Act 2009 to the extent that the amounts set out in that section are referrable to the transitional amount, or any part of that amount, and

(b) the adjustment for calculating expenses under section 183 of that Act to the extent that the expenses are referrable to the transitional amount or any part of that amount.

PART 3

General provisions in connection with IFRS 17

Amounts recognised in other comprehensive income

12.—(1) This regulation applies if—

(a) in an accounting period an asset or liability representing a contract of insurance of a company ceases in accordance with IFRS 17 to be recognised in the company accounts,

(b) amounts relating to income or expenses in respect of the contract of insurance have in accordance with IFRS 17 been recognised in the company's accounts as items of other comprehensive income and have not subsequently been transferred to become items of profit or loss, and

(c) condition A or B is met.

(2) Condition A is that, at the time when the contract of insurance ceases to be recognised, it is not expected that the amounts mentioned in paragraph (1)(b) will in future be transferred to become items of profit or loss.

(3) Condition B is that, at any later time, it is no longer expected that the amounts mentioned in paragraph (1)(b) will in future be transferred to become items of profit or loss.

(4) The amounts mentioned in paragraph (1)(b)—

(a) must be brought into account for the purposes of corporation tax as receipts or expenses for the accounting period in which the time mentioned in paragraph (2) or (3) falls, in the same way as a receipt or expense which is brought into account in determining the company's profit or loss for that period in accordance with IFRS 17, and

(b) must not be brought into account for a later period even if they are subsequently transferred to become items of profit or loss for the later period.

(5) This regulation applies in a case where part of an asset or liability representing a contract of insurance of an insurance company ceases to be recognised in the company's accounts as it applies in a case where the whole of an asset or liability representing a contract of insurance ceases to be recognised, but as if the reference in paragraph (1)(b) to amounts in respect of the contract of insurance were a reference to so much of those amounts as are attributable to that part of the asset or liability.

(6) In determining what amounts fall within paragraph (1)(b) at any time in an accounting period, it is to be assumed that the accounting policy applied in drawing up the company's accounts for the period was also applied in previous accounting periods.

(7) But if the company's accounts for the period are in accordance with IFRS 17 drawn up on an assumption as to the accounting policy in previous accounting periods which differs from that mentioned in paragraph (6), that different assumption applies in determining what amounts fall within paragraph (1)(b) at the time in question.

(8) In this regulation, "item of profit or loss" and "item of other comprehensive income" each has the meaning that it has for accounting purposes.

Meaning of "ordinary BLAGAB management expenses"

13. For the purposes of section 77(2)(a) of the Finance Act 2012, an amount is treated as debited in the accounts drawn up by a company in the period of account in which it is recognised in the income statement of the company in accordance with generally accepted accounting practice.

Nigel Huddleston
Amanda Solloway
Two of the Lords Commissioners of His Majesty's Treasury

9th November 2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations made provision in relation to the adoption by insurance companies of International Accounting Standard 17 ("IFRS 17") issued by the International Accounting Standards Board.

Part 1 is introductory and makes provision for citation, commencement, effect and interpretation.

Part 2 makes transitional provisions so that certain amounts that would otherwise be subject to corporation tax on the adoption of IFRS 17 are instead brought into account over 10 years. Provision is made to apportion the amount between different parts of a company's business and to bring the amount into account on a transfer or cessation of the business or an election under section 18A of the Corporation Tax Act 2009 before the expiry of the 10-year period. Amounts subject to this spreading treatment are excluded from the calculation of adjustments on a change of basis under Chapter 14 of Part 3 of the Corporation Tax Act 2009.

Part 3 is of general application and makes provision for amounts which in accordance with IFRS 17 are recognised as items of other comprehensive income to be brought into account for corporation tax and for the year in which amounts are brought into account for the purposes of the meaning of "ordinary BLAGAB management expenses".

A Tax Information and Impact Note covering this instrument will be published online at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.