
STATUTORY INSTRUMENTS

1995 No. 3237

INCOME TAX

The Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995

Made - - - - 12th December 1995
Laid before the House of Commons - - - - 12th December 1995
Coming into force - - 2nd January 1996

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 431E of the Income and Corporation Taxes Act 1988(1) and paragraph 58 of Schedule 8 to the Finance Act 1995(2), hereby make the following Regulations:

Preliminary

Citation, commencement and effect

1. These Regulations may be cited as the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995, shall come into force on 2nd January 1996, and shall have effect in relation to accounting periods beginning on or after 1st November 1994.

Interpretation

- 2.—(1) In these Regulations unless the context otherwise requires —
- “basic life assurance and general annuity business” has the meaning given by section 431F(3);
 - “beneficiary” shall be construed in accordance with section 431D(6)(b)(3);
 - “the Board” means the Commissioners of Inland Revenue;
 - “branch” includes agency;
 - “life reinsurance business” has the meaning given by section 431C(3);
 - “pension business” has the meaning given by section 431B(3);

(1) 1988 c. 1; section 431E was inserted by paragraph 2 of Schedule 8 to the Finance Act 1995 (c. 4).
(2) 1995 c. 4.
(3) Sections 431B to 432F were inserted by paragraph 2 of Schedule 8 to the Finance Act 1995.
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“policy holder” includes annuitant;

“relevant business” means—

- (a) in the case of an overseas life insurance company, life assurance business carried on through a branch or agency in the United Kingdom which is neither pension business nor life reinsurance business, or
- (b) in any other case, life assurance business which is neither pension business nor life reinsurance business;

“relevant policy” means any policy or contract, or any underlying policy, which has at any time been treated as relating to overseas life assurance business;

“relevant record” means—

- (a) any certificate, declaration, undertaking or other document which in these Regulations is either prescribed or specified, or
- (b) any other document relating to a relevant policy;

“settlor” shall be construed in accordance with section 431D(6)(a);

“underlying policy” means a policy or contract any risk arising from which is reinsured by a reinsurer in a reinsurance arrangement, and “underlying policy holder” shall be construed accordingly.

(2) Subject to paragraph (3) below, in any case where the obligations under any policy or contract of the body that issued, entered into or effected it (“the original insurer”) are at any time the obligations of another body (“the transferee”) to whom there has been a transfer of the whole or any part of a business previously carried on by the original insurer, any reference to an insurance company (however expressed) shall, unless the context otherwise requires, include the transferee.

(3) Paragraph (2) above does not apply to regulations 5 to 7, 9, 10 or 21 to 23.

(4) In these Regulations any reference to a particular provision, without more, is a reference to that provision of the Income and Corporation Taxes Act 1988.

Meaning of specified event

3.—(1) For the purposes of these Regulations, “specified event”, in relation to a policy or contract, means any of the following—

- (a) any illness, accident, infirmity or death giving rise to benefits under the policy or contract,
- (b) the maturity of the policy or contract,
- (c) the surrender in whole, or the assignment in whole, of the rights conferred by the policy or contract,
- (d) a surrender in part of the rights conferred by the policy or contract (“the relevant surrender”) as a result of which, for the first time, the total amount of the payments made by reason of the relevant surrender and of any previous surrender in part exceeds 60 per cent. of the premiums paid before the happening of the relevant surrender,
- (e) an assignment of a share in the rights conferred by the policy or contract (“the relevant assignment”) as a result of which, for the first time, the value of the rights under the policy or contract which have not been the subject of any assignment is less than half the value of the rights which the policy would have had if there had been neither the relevant assignment nor any previous assignment of a share in the rights conferred by the policy or contract, and
- (f) the coming into payment of an annuity other than an immediate annuity.

(2) In paragraph (1)(f) above “immediate annuity” means an annuity—

- (a) where a payment to an annuitant under the annuity contract is made no later than twelve months after the date the annuity contract was made, and
- (b) which has no surrender value.

Business which is overseas life assurance business

General

4. In the circumstances prescribed in regulations 5 to 11, any issue as to whether business is overseas life assurance business shall be determined by reference to the matters prescribed in those regulations.

Business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom

- 5.—(1) This regulation applies in circumstances where—
- (a) an insurance company has entered into relevant business which is not reinsurance business,
 - (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom, and
 - (d) the policy or contract was made on or after 1st January 1996.
- (2) The business shall be overseas life assurance business where the insurance company—
- (a) in a case where the policy holder is an individual, completes the certificate prescribed in paragraph (3) below, or
 - (b) in a case where the policy holder is not an individual, completes the certificate prescribed in paragraph (4) below.
- (3) The certificate prescribed is a certificate—
- (a) showing the date on which it is given,
 - (b) stating the name of the policy holder,
 - (c) stating any unique identifying designation given to the policy or contract,
 - (d) stating the territory in which the branch is situated,
 - (e) stating that the company has no knowledge of any information making it reasonable for the company to assume that the policy holder was residing in the United Kingdom at the time the policy or contract was made,
 - (f) stating that to the best of the company's knowledge and belief the policy or contract is not one to which section 431D(2) applies,
 - (g) where the policy or contract is one to which section 431D(2) does not apply solely by virtue of section 431D(5), stating that to the best of the company's knowledge and belief the conditions specified in section 431D(5) are fulfilled, and
 - (h) where the company makes the statement mentioned in sub-paragraph (g) above, stating that the company is in possession of information enabling it to make that statement, and stating the nature of that information.
- (4) The certificate prescribed is a certificate—
- (a) showing the date on which it is given,
 - (b) stating the name of the policy holder,
 - (c) stating any unique identifying designation given to the policy or contract,

- (d) stating the territory in which the branch is situated,
 - (e) stating that the company has no knowledge of any information making it reasonable for the company to assume that the policy holder was residing in the United Kingdom at the time the policy or contract was made,
 - (f) stating that to the best of the company's knowledge and belief the policy or contract is one to which either subsection (5) or subsection (7) of section 431D applies,
 - (g) stating that to the best of the company's knowledge and belief the conditions specified in either subsection (5) or subsection (7) of section 431D, as the case may be, are fulfilled, and
 - (h) stating that the company is in possession of information enabling it to make the statement mentioned in sub-paragraph (g) above, and stating the nature of that information.
- (5) A certificate under this regulation shall be given by an employee of the insurance company, and shall show the name of that employee and his position within the company.
- (6) Paragraph (7) below applies in any case where—
- (a) policies or contracts for business to which this regulation applies were effected at or through a particular branch outside the United Kingdom, and
 - (b) those policies or contracts were effected by an insurance company within the same accounting period.
- (7) The insurance company may—
- (a) combine a certificate under paragraph (3) above with another certificate under paragraph (3) above in a single document, or
 - (b) combine a certificate under paragraph (4) above with another certificate under paragraph (4) above in a single document;
- but a certificate under paragraph (3) above shall not be combined with a certificate under paragraph (4) above in a single document.
- (8) The insurance company shall complete the certificate prescribed in this regulation within three months following the end of the insurance company's accounting period in which the policy or contract was made.

Business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company — policies or contracts made before 1st January 1996

- 6.—(1) This regulation applies in circumstances where—
- (a) an insurance company has entered into relevant business which is not reinsurance business,
 - (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
 - (d) the policy or contract was made before 1st January 1996.
- (2) The business shall be overseas life assurance business where the insurance company completes—
- (a) the certificate prescribed in paragraph (3) below, and
 - (b) the declaration prescribed—
 - (i) in a case where the policy holder is an individual, in paragraph (4) below, or
 - (ii) in a case where the policy holder is not an individual, in paragraph (5) below.

- (3) The certificate prescribed is a certificate—
 - (a) stating that to the best of the company’s knowledge and belief the policy holder was not residing in the United Kingdom on the date the policy or contract was made, and
 - (b) specifying the territory in which to the best of the company’s knowledge and belief the policy holder was residing on that date.
- (4) The declaration prescribed is a declaration that to the best of the company’s knowledge and belief—
 - (a) the policy or contract is not one to which section 431D(2) applies, and
 - (b) where the policy or contract is one to which section 431D(2) does not apply solely by virtue of section 431D(5), that the conditions specified in section 431D(5) are fulfilled.
- (5) The declaration prescribed is a declaration that to the best of the company’s knowledge and belief—
 - (a) the policy or contract is one to which subsection (5) of section 431D applies and that the conditions specified in that subsection are fulfilled, or
 - (b) the policy or contract is one to which subsection (7) of section 431D applies and that the conditions specified in that subsection are fulfilled.
- (6) A certificate or declaration under this regulation shall be given by an employee of the insurance company, and shall show the name of that employee and his position within the company.
- (7) The insurance company shall complete any certificate or declaration prescribed in this regulation either within six months following the end of the insurance company’s accounting period in which the policy or contract was made, or by 1st March 1996, whichever is the later.

Business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company — policies or contracts made on or after 1st January 1996

- 7.—(1) This regulation applies in circumstances where—
 - (a) an insurance company has entered into relevant business which is not reinsurance business,
 - (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
 - (d) the policy or contract was made on or after 1st January 1996.
- (2) The business shall be overseas life assurance business where the insurance company obtains—
 - (a) the document prescribed in paragraph (3) below from the policy holder, and
 - (b) in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, the certificate prescribed in paragraph (8) below from the trustees of the trust.
- (3) The document prescribed is a document containing—
 - (a) the certificate prescribed in paragraph (4) below,
 - (b) the declaration prescribed—
 - (i) in a case where the policy holder is an individual, in paragraph (5) below, or
 - (ii) in a case where the policy holder is not an individual, in paragraph (6) below, and
 - (c) the undertaking prescribed in paragraph (7) below.
- (4) The certificate prescribed is a certificate—

- (a) stating that the policy holder was not residing in the United Kingdom on the date the policy or contract was made, and
 - (b) specifying the territory in which the policy holder was residing on that date.
- (5) The declaration prescribed is a declaration—
- (a) that the policy or contract is not one to which section 431D(2) applies, and
 - (b) where the policy or contract is one to which section 431D(2) does not apply solely by virtue of section 431D(5), that the conditions specified in section 431D(5) are fulfilled.
- (6) The declaration prescribed is a declaration—
- (a) that the policy or contract is one to which subsection (5) of section 431D applies and that the conditions specified in that subsection are fulfilled, or
 - (b) that the policy or contract is one to which subsection (7) of section 431D applies and that the conditions specified in that subsection are fulfilled.
- (7) The undertaking prescribed is an undertaking that the policy holder will notify the company if—
- (a) the policy holder begins residing in the United Kingdom, or
 - (b) the rights conferred by the policy or contract come to be held subject to a trust, or
 - (c) the declaration prescribed in paragraph (5) or (6) above, as the case may be, ceases to be true.
- (8) The certificate prescribed is a certificate stating that —
- (a) the settlor does not reside in the United Kingdom, and
 - (b) each beneficiary is a person within section 431D(5)(c).
- (9) The insurance company shall obtain the document prescribed in paragraph (3) above and, in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, the certificate prescribed in paragraph (8) above, within six months following the end of the insurance company’s accounting period in which the policy or contract was made.

Certain business other than reinsurance business where the company comes into possession of additional information

- 8.—(1) This regulation applies in circumstances where—
- (a) an insurance company has entered into relevant business which is not reinsurance business,
 - (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
 - (d) the insurance company comes to be in possession of information making it reasonable for the company to assume either that there has been a change in the identity of the policy holder or that the policy holder has ceased to be beneficially entitled to the rights conferred by the policy or contract.
- (2) The business shall continue to be overseas life assurance business where the insurance company obtains—
- (a) the document prescribed in paragraph (3) below from the policy holder, and
 - (b) in any case where section 431D(5) applies, the certificate prescribed in paragraph (8) below from the trustees of the trust.
- (3) The document prescribed is a document containing—

- (a) the certificate prescribed in paragraph (4) below,
 - (b) the declaration prescribed—
 - (i) in a case where the policy holder is an individual, in paragraph (5) below, or
 - (ii) in a case where the policy holder is not an individual, in paragraph (6) below, and
 - (c) the undertaking prescribed in paragraph (7) below.
- (4) The certificate prescribed is a certificate—
- (a) stating that the policy holder was not residing in the United Kingdom—
 - (i) in a case where it is reasonable for the company to assume that there has been a change in the identity of the policy holder, on the date he became the policy holder, or
 - (ii) in a case where it is reasonable for the company to assume that the policy holder has ceased to be beneficially entitled to the rights conferred by the policy or contract, on the date on which he ceased to be beneficially entitled to those rights, and
 - (b) specifying the territory in which the policy holder was residing on that date.
- (5) The declaration prescribed is a declaration—
- (a) that the policy or contract is not one to which section 431D(2) applies, and
 - (b) where the policy or contract is one to which section 431D(2) does not apply solely by virtue of section 431D(5), that the conditions specified in section 431D(5) are fulfilled.
- (6) The declaration prescribed is a declaration—
- (a) that the policy or contract is one to which subsection (5) of section 431D applies and that the conditions specified in that subsection are fulfilled, or
 - (b) that the policy or contract is one to which subsection (7) of section 431D applies and that the conditions specified in that subsection are fulfilled.
- (7) The undertaking prescribed is an undertaking that the policy holder will notify the company if—
- (a) the policy holder begins residing in the United Kingdom, or
 - (b) the rights conferred by the policy or contract come to be held subject to a trust, or
 - (c) the declaration prescribed in paragraph (5) or (6) above, as the case may be, ceases to be true.
- (8) The certificate prescribed is a certificate stating that —
- (a) the settlor does not reside in the United Kingdom, and
 - (b) each beneficiary is a person within section 431D(5)(c).
- (9) The insurance company shall obtain the document prescribed in paragraph (3) above and, in any case where section 431D(5) applies, the certificate prescribed in paragraph (8) above, within six months after the insurance company comes to be in possession of information making it reasonable for the company to assume that there has been a change in the identity of the policy holder or that the policy holder has ceased to be beneficially entitled to the rights conferred by the policy or contract, as the case may be.

Reinsurance of business effected by a company resident in the United Kingdom outside the United Kingdom

- 9.—(1) This regulation applies in circumstances where—
- (a) an insurance company has entered into relevant business,
 - (b) that business is reinsurance of life assurance business with a policy holder not residing in the United Kingdom,

- (c) the underlying policy in relation to that business was effected by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom, and
 - (d) the underlying policy in relation to that business was made on or after 1st January 1996.
- (2) The business shall be overseas life assurance business where the insurance company obtains from the cedant company—
- (a) the certificate prescribed in paragraph (3) below, and
 - (b) the undertaking prescribed in paragraph (4) below.
- (3) The certificate prescribed is a certificate that the cedant company has complied with the requirements of regulation 5(2).
- (4) The undertaking prescribed is an undertaking that the cedant company will notify the insurance company if the cedant company comes to be in possession of information making it reasonable for the cedant company to assume that—
- (a) any part of the certificate prescribed in paragraph (3) or (4) of regulation 5, as the case may be, has ceased to be true, or
 - (b) the underlying policy in relation to the business has ceased to be life assurance business with a policy holder who was not residing in the United Kingdom at the time the policy or contract was made or at any time within six months thereafter, or
 - (c) the underlying policy holder, not being the person with whom the policy or contract was originally effected, was residing in the United Kingdom at the time the underlying policy was made or at any time thereafter.
- (5) The insurance company shall obtain the certificate prescribed in paragraph (3) above and the undertaking prescribed in paragraph (4) above within—
- (a) eight months following the end of the cedant company's accounting period in which the underlying policy was made, or
 - (b) three months following the making of the reinsurance arrangement,
- whichever is the later.

Reinsurance of business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company

- 10.—**(1) This regulation applies in circumstances where—
- (a) an insurance company has entered into relevant business,
 - (b) that business is reinsurance of life assurance business with a policy holder not residing in the United Kingdom,
 - (c) the underlying policy in relation to that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
 - (d) the underlying policy in relation to that business was made on or after 1st January 1996.
- (2) The business shall be overseas life assurance business where the insurance company obtains from the cedant company—
- (a) the certificate prescribed in paragraph (3) below, and
 - (b) the undertaking prescribed in paragraph (4) below.
- (3) The certificate prescribed is a certificate that the cedant company either—
- (a) has completed the certificate prescribed in regulation 6(3) and, in any case where section 431D(5) applies, the certificate prescribed in regulation 6(4), or

- (b) has obtained the document prescribed in regulation 7(3) from the underlying policy holder and, in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, the certificate prescribed in regulation 7(8) from the trustees of the trust,

within six months following the end of the cedant company's accounting period in which the underlying policy was made.

(4) The undertaking prescribed is an undertaking that the cedant company will notify the insurance company if the cedant company comes to be in possession of information making it reasonable for the cedant company to assume that—

- (a) any part of the certificate prescribed in regulation 6(3) or any part of the declarations prescribed in paragraphs (4) and (5) of regulation 6 or, as the case may be, any part of the document prescribed in regulation 7(3) has ceased to be true, or
- (b) in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, any part of the certificate prescribed in regulation 7(8) has ceased to be true, or
- (c) the underlying policy in relation to the business has ceased to be life assurance business with a policy holder who was not residing in the United Kingdom at the time the policy or contract was made or at any time within six months thereafter, or
- (d) the underlying policy holder, not being the person with whom the policy or contract was originally effected, was residing in the United Kingdom at the time the underlying policy was made or at any time thereafter.

(5) The insurance company shall obtain the certificate prescribed in paragraph (3) above and the undertaking prescribed in paragraph (4) above within—

- (a) nine months following the end of the cedant company's accounting period in which the underlying policy was made, or
- (b) three months following the making of the reinsurance arrangement,

whichever is the later.

Certain reinsurance business where the company comes into possession of additional information

11.—(1) This regulation applies in circumstances where—

- (a) an insurance company has entered into relevant business,
- (b) that business is reinsurance of life assurance business with a policy holder not residing in the United Kingdom,
- (c) the underlying policy in relation to that business was effected by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
- (d) the insurance company comes to be in possession of information making it reasonable for the company to assume either that there has been a change in the identity of the underlying policy holder or that the underlying policy holder has ceased to be beneficially entitled to the rights conferred by the policy or contract.

(2) The business shall continue to be overseas life assurance business where the insurance company obtains from the cedant company—

- (a) the certificate prescribed in paragraph (3) below, and
- (b) the undertaking prescribed in paragraph (4) below.

(3) The certificate prescribed is a certificate that the cedant company has obtained the document prescribed in regulation 8(3) from the policy holder and, in any case where section 431D(5) applies, the certificate prescribed in regulation 8(8) from the trustees of the trust, within six months after the cedant company came to be in possession of information making it reasonable for the cedant company to assume that there had been a change in the identity of the policy holder or that the policy holder had ceased to be beneficially entitled to the rights conferred by the policy or contract, as the case may be.

(4) The undertaking prescribed is an undertaking that the cedant company will notify the insurance company if the cedant company comes to be in possession of information making it reasonable for the cedant company to assume that—

- (a) any part of the document prescribed in regulation 8(3) has ceased to be true, or
- (b) in any case where section 431D(5) applies, any part of the certificate prescribed in regulation 8(8) has ceased to be true, or
- (c) the underlying policy in relation to the business has ceased to be life assurance business with a policy holder not residing in the United Kingdom.

(5) The insurance company shall obtain the certificate prescribed in paragraph (3) above and the undertaking prescribed in paragraph (4) above within—

- (a) six months following the end of the cedant company's accounting period in which there was a change in the identity of the policy holder or the policy holder ceased to be beneficially entitled to the rights conferred by the policy or contract, as the case may be, or
- (b) three months following the making of the reinsurance arrangement,

whichever is the later.

Territories in which policy holders residing

General

12. In the circumstances prescribed in regulations 13 to 16, any issue as to whether a policy holder is residing in the United Kingdom or in some other territory shall be determined by reference to the matters prescribed in those regulations.

Business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom

13.—(1) This regulation applies in circumstances where—

- (a) an insurance company has entered into relevant business which is not reinsurance business, and
- (b) the policy or contract for that business was effected by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom.

(2) Subject to paragraph (3) below, the territory in which the policy holder was residing at the time the policy or contract was made shall be the territory in which the branch was situated.

(3) Where, at the time the policy or contract was made or at any time within twelve months thereafter, the company was in possession of information making it reasonable for the company to assume that the policy holder was residing in the United Kingdom at the time the policy or contract was made or at any time within six months thereafter, the territory in which the policy holder was residing at the time the policy or contract was made shall be the United Kingdom.

(4) Where, pursuant to paragraph (2) or (3) above, a policy holder has been treated as residing in a particular territory at the time the policy or contract was made, the territory in which the policy holder is residing at any time thereafter shall, subject to paragraph (5) below, be that same territory.

(5) Subject to paragraph (3) above, where at any time after the policy or contract was made the company comes to be in possession of information making it reasonable for the company to assume that the policy holder, not being the person with whom the policy or contract was originally effected, was residing in the United Kingdom at the time he became the policy holder or at any time thereafter, the territory in which the policy holder is residing shall, from the date on which it is reasonable for the company so to assume, be the United Kingdom.

Business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company

14.—(1) This regulation applies in circumstances where—

- (a) an insurance company has entered into relevant business which is not reinsurance business, and
- (b) the policy or contract for that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company.

(2) Subject to paragraph (3) below, the territory in which the policy holder was residing at the time the policy or contract was made shall be the territory specified in the certificate prescribed in regulation 6(3) or, as the case may be, 7(4).

(3) Where, at the time the policy or contract was made or at any time within twelve months thereafter, the company was in possession of information making it reasonable for the company to assume that the policy holder was residing in the United Kingdom at the time the policy or contract was made or at any time within six months thereafter, the territory in which the policy holder was residing at the time the policy or contract was made shall be the United Kingdom.

(4) Where, pursuant to paragraph (2) or (3) above, a policy holder has been treated as residing in a particular territory at the time the policy or contract was made, the territory in which the policy holder is residing at any time thereafter shall, subject to paragraph (5) below, be that same territory.

(5) Subject to paragraph (3) above, where at any time after the policy or contract was made the company comes to be in possession of information making it reasonable for the company to assume that the policy holder, not being the person with whom the policy or contract was originally effected, was residing in the United Kingdom at the time he became the policy holder or at any time thereafter, the territory in which the policy holder is residing shall, from the date on which it is reasonable for the company so to assume, be the United Kingdom.

Reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom

15.—(1) This regulation applies in circumstances where—

- (a) an insurance company has entered into relevant business which is reinsurance business, and
- (b) the underlying policy in relation to that business was effected by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom.

(2) Subject to paragraph (3) below, the territory in which the underlying policy holder was residing at the time the underlying policy was made shall be the territory in which the branch was situated.

(3) Where, at the time the underlying policy was made or at any time within twelve months thereafter, the company was in possession of information making it reasonable for the company to assume that the underlying policy holder was residing in the United Kingdom at the time the underlying policy was made or at any time within six months thereafter, the territory in which the

underlying policy holder was residing at the time the underlying policy was made shall be the United Kingdom.

(4) Where, pursuant to paragraph (2) or (3) above, an underlying policy holder has been treated as residing in a particular territory at the time the underlying policy was made, the territory in which the underlying policy holder is residing at any time thereafter shall, subject to paragraph (5) below, be that same territory.

(5) Subject to paragraph (3) above, where at any time after the underlying policy was made the company comes to be in possession of information making it reasonable for the company to assume that the underlying policy holder, not being the person with whom the policy or contract was originally effected, was residing in the United Kingdom at the time he became the underlying policy holder or at any time thereafter, the territory in which the underlying policy holder is residing shall, from the date on which it is reasonable for the company so to assume, be the United Kingdom.

Reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company

16.—(1) This regulation applies in circumstances where—

- (a) an insurance company has entered into relevant business which is reinsurance business, and
- (b) the underlying policy in relation to that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company.

(2) Subject to paragraph (3) below, the territory in which the underlying policy holder was residing at the time the underlying policy was made shall be the territory specified in the certificate prescribed in regulation 6(3) or, as the case may be, 7(4).

(3) Where, at the time the underlying policy was made or at any time within twelve months thereafter, the company was in possession of information making it reasonable for the company to assume that the underlying policy holder was residing in the United Kingdom at the time the underlying policy was made or at any time within six months thereafter, the territory in which the underlying policy holder was residing at the time the underlying policy was made shall be the United Kingdom.

(4) Where, pursuant to paragraph (2) or (3) above, an underlying policy holder has been treated as residing in a particular territory at the time the underlying policy was made, the territory in which the underlying policy holder is residing at any time thereafter shall, subject to paragraph (5) below, be that same territory.

(5) Subject to paragraph (3) above, where at any time after the underlying policy was made the company comes to be in possession of information making it reasonable for the company to assume that the underlying policy holder, not being the person with whom the policy or contract was originally effected, was residing in the United Kingdom at the time he became the underlying policy holder or at any time thereafter, the territory in which the underlying policy holder is residing shall, from the date on which it is reasonable for the company so to assume, be the United Kingdom.

Certificates to be obtained on the happening of specified events

Business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company

17.—(1) This regulation applies in any case where—

- (a) an insurance company has entered into relevant business which is not reinsurance business,

- (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
 - (d) a specified event (“the relevant specified event”) happens on or after 1st January 1996.
- (2) In any case where the rights conferred by the policy or contract are held subject to a trust, the insurance company shall obtain the certificate specified in paragraph (3) below or, as the case may be, paragraph (4) below from the trustees of the trust; and in any other case the insurance company shall obtain the certificate specified in paragraph (5) below or, as the case may be, paragraph (6) below from the policy holder (or his personal representative).
- (3) The certificate specified is a certificate that neither the settlor nor any beneficiary was residing in the United Kingdom during any part of the period from the opening date until the happening of the relevant specified event.
- (4) The certificate specified is a certificate—
- (a) that a relevant person was residing in the United Kingdom during a part or all of the period from the opening date until the happening of the relevant specified event,
 - (b) giving the name and address of each relevant person who was so residing, and
 - (c) stating the period when that person was so residing.
- (5) The certificate specified is a certificate that the policy holder was not residing in the United Kingdom during any part of the period from the opening date until the happening of the relevant specified event.
- (6) The certificate specified is a certificate—
- (a) that the policy holder was residing in the United Kingdom during a part or all of the period from the opening date until the happening of the relevant specified event,
 - (b) giving the name and address of the policy holder, and
 - (c) stating the period when the policy holder was so residing.
- (7) The insurance company shall obtain the certificate required by this regulation—
- (a) in a case where the relevant specified event is a death or an assignment, within six months of the company’s receiving written notification of that event, or
 - (b) in any other case, within six months of the happening of the relevant specified event.
- (8) In this regulation—
- (a) the “opening date” means—
 - (i) in any case where a specified event has previously happened, the date of the happening of the last specified event, or
 - (ii) in any other case, the date on which the policy or contract was made;
 - (b) a “relevant person” means the settlor or any beneficiary.

Sanctions

Reclassification of policy or contract from date when it was effected

18.—(1) Subject to paragraph (2) below, this regulation applies in any case where an insurance company—

- (a) treats a policy or contract as relating to overseas life assurance business—
 - (i) in the circumstances prescribed in regulation 6(1) where the insurance company has not completed the certificate prescribed in regulation 6(3) or one of the declarations

- prescribed in paragraphs (4) and (5) of regulation 6 within the period limited in regulation 6(7), or
- (ii) in the circumstances prescribed in regulation 7(1) where the insurance company has not obtained the document prescribed in regulation 7(3) or, in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, the certificate prescribed in regulation 7(8) within the period limited in regulation 7(9), or
- (b) treats an underlying policy as relating to overseas life assurance business in the circumstances prescribed in regulation 10(1) where the insurance company has not obtained the certificate prescribed in regulation 10(3) or the undertaking prescribed in regulation 10(4) within the period limited in regulation 10(5), or
- (c) treats a policy or contract as relating to overseas life assurance business in the circumstances prescribed in regulation 13(3) or 14(3), or
- (d) treats an underlying policy as relating to overseas life assurance business in the circumstances prescribed in regulation 15(3) or 16(3), or
- (e) treats a policy, contract or underlying policy as relating to overseas life assurance business in circumstances where the insurance company, at the time the policy or contract was made or the relevant business in relation to that underlying policy was entered into, was in possession of information making it reasonable for the insurance company to assume that any of the requirements of section 431D (other than those relating to where the policy holder is residing) was not fulfilled (notwithstanding its possession of any certificate, declaration or other document).
- (2) This regulation shall not apply in any case specified in sub-paragraph (b), (d) or (e) of paragraph (1) above where the insurance company is a company to which section 439A(4) applies.
- (3) The company shall—
- (a) in the case of business other than reinsurance business, treat the policy or contract as relating to basic life assurance and general annuity business from the date the policy or contract was made, or
- (b) in the case of reinsurance business, treat the business relating to the underlying policy as basic life assurance and general annuity business from the date the underlying policy was made.
- (4) All necessary adjustments, whether by way of assessment or otherwise, shall be made to give effect to paragraph (3) above; and any such assessment may be made without limits on time.

Reclassification of policy or contract from date after it was effected

- 19.—**(1) Subject to paragraph (2) below, this regulation applies in any case where an insurance company—
- (a) treats a policy or contract as relating to overseas life assurance business in the circumstances prescribed in regulation 8(1) where the insurance company has not obtained the document prescribed in regulation 8(3) or, in any case where section 431D(5) applies, the certificate prescribed in regulation 8(8) within the period limited in regulation 8(9), or
- (b) treats an underlying policy as relating to overseas life assurance business in the circumstances prescribed in regulation 11(1) where the insurance company has not obtained the certificate prescribed in regulation 11(3) or the undertaking prescribed in regulation 11(4) within the period limited in regulation 11(5), or

(4) Section 439A was inserted by paragraph 26 of Schedule 8 to the Finance Act 1995.

- (c) treats a policy or contract as relating to overseas life assurance business in the circumstances prescribed in regulation 13(5) or 14(5), or
 - (d) treats an underlying policy as relating to overseas life assurance business in the circumstances prescribed in regulation 15(5) or 16(5), or
 - (e) treats a policy, contract or underlying policy as relating to overseas life assurance business in circumstances where the insurance company, at any time after the policy or contract was made or the relevant business in relation to that underlying policy was entered into, was in possession of information making it reasonable for the insurance company to assume that any of the requirements of section 431D (other than those relating to where the policy holder is residing) was not fulfilled (notwithstanding its possession of any certificate, declaration or other document).
- (2) This regulation shall not apply in any case specified in sub-paragraph (b), (d) or (e) of paragraph (1) above where the insurance company is a company to which section 439A applies.
- (3) The company shall—
- (a) in the case of business other than reinsurance business, treat the policy or contract as relating to basic life assurance and general annuity business from the end of the accounting period in which the relevant date falls, or
 - (b) in the case of reinsurance business, treat the business relating to the underlying policy as basic life assurance and general annuity business from the end of the accounting period in which the relevant date falls.
- (4) All necessary adjustments, whether by way of assessment or otherwise, shall be made to give effect to paragraph (3) above; and any such assessment may be made without limits on time.
- (5) In paragraph (3) above “the relevant date” means—
- (a) in any case specified in sub-paragraph (a) or (b) of paragraph (1) above, the last day by which the insurance company should have obtained any certificate, document or undertaking mentioned in either of those sub-paragraphs, or
 - (b) in any case specified in sub-paragraph (c) or (d) of paragraph (1) above, the date when it became reasonable for the company to assume as mentioned in regulation 13(5), 14(5), 15(5) or 16(5) as the case may be, or
 - (c) in any case specified in sub-paragraph (e) of paragraph (1) above, the date when it became reasonable for the insurance company to assume as mentioned in that sub-paragraph.

Charge to tax where no certificate under regulation 17

- 20.**—(1) Subject to paragraph (2) below, this regulation applies in any case where—
- (a) an insurance company has at any time treated a policy or contract as relating to overseas life assurance business in the circumstances prescribed in regulation 6(1) or 7(1),
 - (b) the company has not reclassified the policy or contract pursuant to regulation 19,
 - (c) a specified event has happened on or after 1st January 1996, and
 - (d) the company has not obtained a certificate pursuant to regulation 17 within six months of the happening of the specified event.
- (2) The company shall be chargeable to corporation tax, as at the date of the specified event, on an amount equal to the policy gain in relation to the policy or contract.
- (3) The amount equal to the policy gain shall be treated—

- (a) as a receipt referable to the company's basic life assurance and general annuity business falling within section 85(1) of the Finance Act 1989⁽⁵⁾, and
- (b) as part of the policy holders' share of relevant profits.

(4) Where (apart from this paragraph) an insurance company would not be carrying on basic life assurance and general annuity business it shall be treated as carrying on such business if any amount is treated as referable to such business pursuant to paragraph (3) above.

(5) A company may be charged to tax by virtue of this regulation whether or not the amount to which paragraph (2) above relates is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.

(6) Subject to paragraph (7) below, in this regulation "policy gain" in relation to a policy or contract, means the amount determined by the formula—

$$(A + B + C) - (D + E)$$

where—

A is the amount which would have been paid on the happening of the specified event (ignoring any reduction in that amount arising from the charge to tax under this regulation),

B is the amount of the payments made on any earlier surrender in part of the rights conferred by the policy or contract (ignoring any reduction in those payments arising from the charge to tax under this regulation),

C is the amount of the payments made on any earlier death where the policy or contract has continued in force after that death,

D is the total amount previously paid under the policy or contract by way of premiums, and

E is the amount, in respect of the policy or contract concerned, of any previous charge to tax under this regulation.

(7) In a case where the specified event is either a death giving rise to benefits under the policy or contract or an assignment (whether in whole or in part) of the rights conferred by the policy or contract, in this regulation "policy gain", in relation to a policy or contract, means the amount determined by the formula specified in paragraph (6) above, but where A is the amount which would have been paid if the policy or contract had been surrendered immediately before the happening of the specified event (ignoring any reduction in that amount arising from the charge to tax under this regulation).

(8) In this regulation "policy holders' share of relevant profits" shall be construed in accordance with sections 88 and 89 of the Finance Act 1989⁽⁶⁾.

Keeping and inspection of records and provision of information

Records to be kept and transfers of records

21.—(1) A company (including any transferee) shall at all times keep sufficient records in respect of each relevant policy to enable the requirements of these Regulations to be satisfied.

(2) Without prejudice to the generality of paragraph (1) above, any relevant record shall be preserved by the company, in such manner as may be approved by the Board, so as to be available for inspection under regulation 23 for a period of six years after the termination of the policy or contract.

(3) In any case where the obligations under any policy or contract of the body that issued, entered into or effected it ("the original insurer") are at any time the obligations of another body (in this

(5) 1989 c. 26; section 85(1) was amended by paragraph 12 of Schedule 7 to the Finance Act 1991 (c. 31).

(6) Section 88 was amended by section 45(1) and (2) of the Finance Act 1990 (c. 29) and by paragraph 21(2) of Schedule 8 to the Finance Act 1995; section 89 was substituted by section 45(3) of the Finance Act 1990 and amended by paragraph 9 of Schedule 16 to the Finance Act 1994 (c. 9).

regulation and in regulations 22 and 23 referred to as the “transferee”) to whom there has been a transfer of the whole or any part of a business previously carried on by the original insurer, the original insurer shall deliver any relevant record to the transferee within the period of three months after the transfer.

(4) Paragraph (3) above has effect in relation to transfers on or after 1st January 1996.

Information to be provided to the Board

22. An officer of the Board authorised for the purposes of this regulation may by notice require any company which has at any time effected a relevant policy or any transferee, within such time as may be provided by the notice (not being less than 30 days), to furnish him with such information relating to any relevant policy as he may reasonably require for the purposes of these Regulations.

Inspection of records

23.—(1) An officer of the Board authorised for the purposes of this regulation may by notice require any company which has at any time effected a relevant policy or any transferee, within such time as may be provided in the notice (not being less than 30 days), to make available for inspection by him such books, documents and other records as are in the company’s possession or under the company’s control containing such information relating to any relevant policy as he may reasonably require for the purposes of these Regulations.

(2) The officer to whom the books, documents and other records are made available shall be entitled to take copies, or make extracts from, any book, document or record made available to him by virtue of paragraph (1) above.

S. C. T. Matheson
G. H. Bush

12th December 1995

Two of the Commissioners of Inland Revenue

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 431D of the Income and Corporation Taxes Act 1988 is concerned with the meaning of the expression “overseas life assurance business”. These Regulations make provision for giving effect to that section.

Regulation 1 provides for citation, commencement and effect, and regulations 2 and 3 contain provisions relating to interpretation.

Regulation 4 provides that any issue as to whether business is overseas life assurance business shall, in the circumstances prescribed in regulations 5 to 11, be determined by reference to the matters prescribed in those regulations. Regulations 5 to 11 prescribe different circumstances, and provide for the business to be overseas life assurance business by reference to the giving of prescribed documents.

Regulation 12 provides that any issue as to whether a policy holder is residing in the United Kingdom or in some other territory shall, in the circumstances prescribed in regulations 13 to 16, be determined by reference to the matters prescribed in those regulations. Regulations 13 to 16 prescribe different circumstances, and provide for the determination of the territory in which a policy holder is residing.

Regulation 17 provides for insurance companies, in certain cases, to obtain certificates on the happening of specified events.

Regulations 18 to 20 provide sanctions where the requirements of these Regulations have not been observed. Regulation 18 makes provision for a policy or contract to be treated as relating to basic life and general life business from the date it was effected, and regulation 19 provides for a policy or contract to be so treated from a later date. Regulation 20 imposes a charge to tax in certain cases where a certificate has not been obtained under regulation 17.

Regulation 21 provides for an insurance company to keep records and for records to be transferred in certain circumstances; and regulations 22 and 23 empower officers authorised by the Commissioners of Inland Revenue to obtain information and to inspect records.

These Regulations have effect in relation to accounting periods of insurance companies beginning on or after 1st November 1994. Authority for the retrospective effect of these Regulations is given by paragraph 58 of Schedule 8 to the Finance Act 1995.