

*This instrument replaces S.I. 2004/2189, is made in consequence of errors in that instrument and is being issued free of charge to all known recipients of that instrument.*

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STATUTORY INSTRUMENTS

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**2004 No. 2257**

**TAXES**

**The Insurance Companies (Taxation of Reinsurance Business)  
(Amendment No. 2) Regulations 2004**

<i>Made</i>	- - - -	<i>1st September 2004</i>
<i>Laid before the House of Commons</i>		<i>2nd September 2004</i>
<i>Coming into force</i>	-	<i>15th September 2004</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 442A of the Income and Corporation Taxes Act 1988(a) and paragraph 58 of Schedule 8 to the Finance Act 1995(b), make the following Regulations:

**Citation, commencement, effect and transitional provisions**

1.—(1) These Regulations may be cited as the Insurance Companies (Taxation of Reinsurance Business)(Amendment No. 2) Regulations 2004 and shall come into force on 15th September 2004.

(2) Regulations 4(2) and (3) shall have effect with respect to accounting periods beginning on or after 1st January 2003 and regulation 5 shall have effect with respect to accounting periods beginning on or after 1st November 2003.

(3) Notwithstanding paragraph (2), no amount shall be treated as an amount of investment return given by regulation 4 of the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995(c) for an accounting period ending before 1st January 2004 if that amount arises solely by virtue of the amendment made to that regulation by regulation 4(3) of this instrument.

(4) For the purposes of computing  $I_{n-1}$  in regulation 5 of the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 in respect of an amount of investment return to which paragraph (3) of this regulation applies, the rate of tax prescribed by virtue of regulation 5(2) of those Regulations shall be treated as nil.

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(a) 1988 c.1. Section 442A was inserted by paragraph 34 of Schedule 8 to the Finance Act 1995 (c. 4).  
(b) 1995 c.4. Paragraph 58 makes provision as to the accounting periods in respect of which the powers conferred by the amendments made by the Schedule may be exercised.  
(c) S.I. 1995/1730.

## **Amendment of the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995**

2. The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 are amended as follows.

3. In regulation 3(1)(a), in the definition of “P” after “premium” there shall be inserted—  
“or otherwise, or treated as paid where that company makes a payment to another person, and in pursuance of any arrangements that other person or a person connected with it (within the meaning of section 839 of the Taxes Act 1988) puts the reinsurer in funds”.

4.—(1) Regulations 4(b) and 5(c) shall be amended as follows.

(2) In regulation 4 in the definition of P, and in regulation 5 in the definition of P<sub>n</sub>, the words “(but excluding any” to “the Prudential Sourcebook (Insurers))” shall be omitted.

(3) In—

(a) regulation 4, in the definition of P after “otherwise”, and

(b) in regulation 5(1), in the definition of P<sub>n</sub> after “otherwise”,

there shall be inserted the words—

“, or treated as paid where that company makes a payment to another person, and in pursuance of any arrangements that other person or a person connected with it (within the meaning of section 839 of the Taxes Act 1988) puts the reinsurer in funds”.

5. In regulation 9(d)—

(a) in paragraph (1), for “(4A)” there shall be substituted “(4)”; and

(b) paragraph (4A) is revoked.

### **Revocation of other provisions**

6.—(1) In the Insurance Companies (Taxation of Reinsurance Business)(Amendment No. 2) Regulations 2003(e), regulations 4(a), 5(a) and 9(2) and (4) are revoked.

(2) The Insurance Companies (Taxation of Reinsurance Business) (Amendment) Regulations 2004(f) are revoked.

1st September 2004

*Ann Chant*  
*Dave Hartnett*  
Two of the Commissioners of Inland Revenue

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(a) Regulation 3 was amended by S.I. 1996/1621.  
(b) Regulation 4 was amended by S.I. 2003/2573.  
(c) Regulation 5 was amended by S.I. 2003/2573.  
(d) Regulation 9 was amended by S.I. 2003/2573.  
(e) S.I. 2003/2573.  
(f) S.I. 2004/2189.

## **EXPLANATORY NOTE**

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

These Regulations amend the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730) (“the Regulations”).

Regulation 1 provides for the citation, commencement and effect of these Regulations.

Regulation 2 introduces the amendments to the Regulations.

Regulation 3 amends the definition of P in regulation 3 of the Regulations and expands the definition of “paid” for the purposes of that regulation.

Regulation 4 amends the definition of P in regulation 4, and P<sub>n</sub> in regulation 5 of the Regulations, and expands the meaning of “paid” for the purposes of those provisions. The effect of the amendments, which apply to accounting periods beginning on or after 1<sup>st</sup> January 2003, is that, in the computation of sums paid by the cedant insurer to the reinsurer for the purposes of Regulations 4 and 5 of the Regulations, words inserted by the Insurance (Taxation of Reinsurance)(Amendment No. 2) Regulations 2003 (S.I. 2003/2573) are excluded and the extended definition of “paid” applies.

Regulation 5 revokes regulation 9(4A) and makes a consequential amendment to regulation 9(1).

Regulation 6 makes revocations in the Insurance (Taxation of Reinsurance)(Amendment No. 2) Regulations 2003 which are consequential on the earlier provisions of this instrument, and revokes the Insurance (Taxation of Reinsurance Business) (Amendment) Regulations 2004 (S.I. 2004/2189), which this instrument replaces.

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. The Regulations will, however, have an Exchequer impact as they will prevent the avoidance of tax by the use of financial reinsurance contracts.

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