

EXPLANATORY MEMORANDUM TO
THE OVERSEAS LIFE INSURANCE COMPANIES (AMENDMENT)
REGULATIONS 2008

2008 No. 1924

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. **Description**

The Regulations amend the Overseas Life Insurance Companies Regulations 2006 (SI 2006/3271: "the principal Regulations") to take into account changes made to the tax legislation applying to insurance companies by the Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (SI 2008/381) and by Schedule 17 to the Finance Act 2008.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

3.1 Regulations 3, 4 and 7 to 17 have effect in relation to periods of account beginning on or after 1st January 2008 which end on or after the day on which the Regulations come into force. Authority for the Regulations to have such effect is contained in section 156(4) of the Finance Act 2003.

3.2 The explanatory note to this Instrument explains that:

"A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen."

This is because the accepted Government practice is that no IA will be published for HMRC and HMT tax measures for which:

- the total effect of the changes across all UK business is less than £100,000 of administrative burden costs/savings and/or £3m of compliance cost in total; and
- the Department's Better Regulation and Policy team has confirmed that
 - there are no disproportionate impacts on any business or sector; and
 - there are no other issues which might make publication of an IA advisable.

This is such a measure.

HMRC are working with BERR to ensure that the next edition of the Statutory Instrument Practice reflects these changes."

4. **Legislative Background**

4.1 Overseas life insurance companies ("OLICs") are charged to corporation tax in the same way as United Kingdom resident life assurance companies. But the tax legislation applying to such companies cannot be applied to OLICs without modification. This applies, in particular, to those OLICs established

in another Member State of the European Economic Area (“EEA”), as such companies are not regulated by the United Kingdom Financial Services Authority. The principal Regulations provide for these modifications.

- 4.2 Each year, following the enactment of the Finance Act and any relevant statutory instruments, regulations need to be made to amend the principal Regulations to reflect any changes made to the life assurance tax legislation.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 Much of the corporation tax code for United Kingdom resident life assurance companies is based on entries in the regulatory return made by such companies to the Financial Services Authority. The rules relating to that return are in the Interim Prudential Sourcebook (Insurers). These rules do not apply to EEA firms and Treaty firms, which are regulated in their home states. Thus, references to the Sourcebook in the life assurance tax legislation have to be modified to refer to other documents (such as, for example, accounts drawn up in accordance with International Accounting Standards).

7.2 In addition, because an OLIC is only liable to corporation tax on the profits of its permanent establishment in the United Kingdom, other modifications to the life assurance tax legislation are required.

7.3 As the life assurance tax legislation is usually amended year by year by the Finance Act, it is necessary to make regulations under section 156 of the Finance Act 2003 amending SI 2006/3271 so as to take into account any amendments made by the Finance Act.

7.4 The Regulations arise as a result of SI 2008/381 and provisions of the Finance Act 2008 amending the life assurance tax legislation. The Regulations have been circulated in draft to interested bodies.

7.5 Guidance on the effect of the regulations will be included in HMRC’s Life Assurance Manual.

8. Impact

8.1 A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

8.2 There is no impact on the public sector.

9. Contact

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