STATUTORY INSTRUMENTS

2007 No. 2147

CORPORATION TAX

The Group Relief for Overseas Losses (Modification of the Corporation Tax Acts for Non-resident Insurance Companies) (No. 2) (Amendment) Regulations 2007

Made - - - -	*23rd July 2007*
Laid before the House of Commons	*24th July 2007*
Coming into force - -	*14th August 2007*

The Treasury make the following Regulations in exercise of the powers conferred by paragraph 16(2) to (5) of Schedule 18A to the Income and Corporation Taxes Act 1988(**a**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Group Relief for Overseas Losses (Modification of the Corporation Tax Acts for Non-resident Insurance Companies) (No. 2) (Amendment) Regulations 2007 and shall come into force on 14th August 2007.

(2) Regulations 3, 4 and 5 have effect in relation to periods of account beginning on or after 1st January 2007.

(3) Regulation 6 has effect in relation to insurance business transfer schemes within the meaning given by section 431(2) of the Income and Corporation Taxes Act 1988(**b**) taking effect on or after 21st March 2007.

Amendments to the Group Relief for Overseas Losses (Modification of the Corporation Tax Acts for Non-resident Insurance Companies) (No. 2) Regulations 2006

2. The Group Relief for Overseas Losses (Modification of the Corporation Tax Acts for Non-resident Insurance Companies) (No. 2) Regulations 2006(**c**) are amended as follows.

Omission of regulation 3

3. Omit regulation 3 (modifications of section 12 of the Income and Corporation Taxes Act 1988).

Amendment of regulation 5

4.—(1) In regulation 5 (modification of section 439A of the Income and Corporation Taxes Act 1988), in paragraph (b), for "439A" substitute "431G(3)".

(**a**) 1988 c. 1; Schedule 18A was inserted by paragraph 7 of Schedule 1 to the Finance Act 2006 (c. 25).
(**b**) The definition of "insurance business transfer scheme" in section 431(2) was substituted by paragraph 1(1) of Schedule 9 to the Finance Act 2007 (c.11).
(**c**) S.I. 2006/3389.

(2) The heading before that regulation accordingly becomes "Modification of section 431G of the Income and Corporation Taxes Act 1988".

Amendment of regulation 6

5. For regulation 6 (modification of section 444AA of the Income and Corporation Taxes Act 1988) substitute—

"**Modification of section 444AA of the Income and Corporation Taxes Act 1988**

6. In section 444AA(**a**)—

(a) in subsection (7)(b)—

(i) in sub-paragraph (i) omit ", other than one that is a preliminary non-EEA transfer scheme";

(ii) in sub-paragraph (ii) omit "that are not preliminary non-EEA transfer schemes";

(b) in subsection (9) omit "and two or more of the insurance business transfer schemes are not preliminary non-EEA transfer schemes";

(c) omit subsection (11)."

Insertion of regulation 7A

6. After regulation 7 (modification of section 444AB of the Income and Corporation Taxes Act 1988) insert—

"**Modification of section 444ABD of the Income and Corporation Taxes Act 1988**

7A. In section 444ABD(1)(b)(**b**), in a case where the transferor is an EEA firm or a Treaty firm, omit "line 32 of"."

Frank Roy
Alan Campbell

23rd July 2007 — Two of the Lords Commissioners of Her Majesty's Treasury

(**a**) Section 444AA was substituted by paragraph 3 of Schedule 9 to the Finance Act 2007 (c. xx).
(**b**) Section 444ABD was inserted by paragraph 5 of Schedule 9 to the Finance Act 2007.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Finance Act 2006 (c. 25: "FA 2006") extended the provisions in the Corporation Tax Acts concerning loss relief for groups of companies (known as "group relief"). Prior to that Act, the relief was available only to U.K. resident companies or companies with a permanent establishment in the U.K.. Following the EC Court of Justice's decision in *Marks and Spencer p.l.c. v Halsey (H.M. Inspector of Taxes)* in 2005, FA 2006 included provisions allowing certain non-resident companies (an "EEA company") to surrender losses to a U.K. resident company in the same group. The loss must be calculated following the provisions of the Corporation Tax Acts.

Paragraph 16 of Schedule 18A to the Income and Corporation Taxes Act 1988 (c. 1) (inserted by FA 2006) gives the Treasury power to modify the relevant provisions, including for a particular class of trade or business. The Group Relief for Overseas Losses (Modification of the Corporation Tax Acts for Non-resident Insurance Companies) (No. 2) Regulations 2006 (S.I. 2006/3389: "the principal Regulations") make such provision for insurance companies.

These Regulations amend the principal Regulations in order to take into account amendments made by the Finance Act 2007 (c. 11: "FA 2007").

Regulation 1 provides for citation, commencement and effect. The retrospective effect is authorised by paragraph 16(5) of Schedule 18A to the Income and Corporation Taxes Act 1988.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 omits regulation 3 (modifications of section 12 of the Income and Corporation Act 1988).

Regulation 4 amends regulation 5 (modification of section 439A of the Income and Corporation Taxes Act 1988) so as to take into account the repeal of section 439A and the insertion of section 431G by FA 2007.

Regulation 5 substitutes regulation 6 (modification of section 444AA of the Income and Corporation Taxes Act 1988) so as to take into account the substitution of section 444AA by FA 2007.

Regulation 6 inserts a new regulation 7A (modification of section 444ABD of the Income and Corporation Taxes Act 1988) so as to take into account the insertion of section 444ABD by FA 2007.

These Regulations, together with the relevant legislation in FA 2007, are part of the outcome of a continuing consultation process. A draft regulatory impact assessment was included as part of a consultation document, "Life Assurance Company Taxation – A Technical Consultative Document", which was published by Her Majesty's Revenue and Customs in May 2006. This is available at www.hmrc.gov.uk/consultations.

STATUTORY INSTRUMENTS

2007 No. 2147

CORPORATION TAX

The Group Relief for Overseas Losses (Modification of the Corporation Tax Acts for Non-resident Insurance Companies) (No. 2) (Amendment) Regulations 2007

£3.00

© Crown copyright 2007

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1104 7/2007 171104T 19585