STATUTORY INSTRUMENTS

1999 No. 2839

INCOME TAX

The Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 1999

Made - - - -	*18th October 1999*
Laid before the House of Commons	*18th October 1999*
Coming into force	*8th November 1999*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 431E of the Income and Corporation Taxes Act 1988(**a**), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 1999 and shall come into force on 8th November 1999.

(2) The repeal by regulation 4 of regulations 17 and 20 of the principal Regulations shall not have effect in relation to specified events occurring before 8th November 1999.

(3) Regulations 5, 9 and 21 shall have effect in relation to—

(a) accounting periods ending on or after 31st December 1999, or

(b) where an insurance company so elects by written notice given to an officer of the Board on or before 31st December 1999, the first accounting period beginning on or after 1st October 1999 and ending after 31st December 1999 and subsequent accounting periods.

(4) Regulations 6, 7, 10, 11, 13(4), 14(5), 15, 16(2), 17(3) and 18 shall have effect in relation to policies or contracts made by or, as the case may be, transferred to, an insurance company on or after 8th November 1999.

(5) Regulations 8 and 12 shall have effect in any case where the date on which—

(a) 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

(b) the policy holder ceased to be beneficially entitled to the rights conferred by the policy or contract,

falls after 8th November 1999.

(**a**) 1988 c. 1; section 431E was inserted by paragraph 2 of Schedule 8 to the Finance Act 1995 (c. 4).

Interpretation

2. In these Regulations—

"the Board" means the Commissioners of Inland Revenue;

"the principal Regulations" means the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995(**a**);

"regulation" means a regulation of the principal Regulations;

"specified event" has the meaning given by regulation 3 of the principal Regulations.

Amendments to the principal Regulations

3.—(1) Regulation 2(1) shall be amended as follows.

(2) After the definition of "branch" there shall be inserted the following definitions—

""company tax return" has the meaning given by paragraph 3 of Schedule 18 to the Finance Act 1998;(**b**)

"the first long term insurance Directive" means Council Directive 79/267 of 5th March 1979;".(**c**)

(3) In the definition of "relevant policy" at the end there shall be added ", or any policy or contract for business to which regulation 5(3) applies;".

(4) After the definition of "settlor" there shall be inserted the following definitions—

""term assurance business" means life assurance business in relation to which the policy or contract, or the underlying policy, has no surrender value, or a surrender value the amount of which does not exceed the amount of the premiums paid, throughout its term;

"the third long term insurance Directive" means Council Directive 92/96 of 10th November 1992;".(**d**)

4. Regulations 3, 17 and 20 shall be omitted.

5.—(1) Regulation 5 shall be amended as follows.

(2) In paragraph (1)—

(a) the word "and" immediately following sub-paragraph (c) shall be omitted;

(b) after sub-paragraph (d) there shall be added "and

(e) to the best of the company's knowledge and belief the policy or contract is not one to which section 431D(2) or (4)(**e**) applies."

(3) After paragraph (1) there shall be inserted—

"(1A) This regulation also applies in circumstances where—

(a) on or after 8th November 1999 business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of—

(i) Article 31a.2(**f**) of the first long term insurance Directive, or

(ii) Article 11 of the third long term insurance Directive,

(b) that business is with a policy holder not residing in the United Kingdom,

(c) that business is, immediately after the transfer, carried on by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom, and

(d) to the best of the company's knowledge and belief the policy or contract for that business is not one to which section 431D(2) or (4) applies."

(4) For paragraphs (2) to (4) there shall be substituted—

"(2) Except in relation to business to which paragraph (3) below applies, the business referred to in paragraphs (1) and (1A) above shall be overseas life assurance business.

(3) This paragraph applies to business—

(**a**) S.I. 1995/3237, amended by S.I. 1997/481 and 1998/1872.
(**b**) 1998 c. 36.
(**c**) O.J. 1979, L63/1, amended by O.J. 1992, L360/1 and O.J. 1995, L168/7.
(**d**) O.J. 1992, L360/1.
(**e**) Section 431D was inserted by paragraph 2 of Schedule 8 to the Finance Act 1995.
(**f**) Article 31a was inserted by O.J. 1992, L360/1, Article 49.

(a) which is not term assurance business, and

(b) for which the policy or contract is one—

(i) in respect of which the insurance company completes the certificate prescribed in paragraph (4) below, or

(ii) which falls within a class of policies or contracts in respect of which the company completes the certificate prescribed in paragraph (4A) below.

(4) The certificate prescribed is a certificate—

(a) showing the date on which it is given,

(b) stating the territory in which the branch is situated, and

(c) identifying the policy or contract by stating the name of the policy holder and any unique identifying designation given to the policy or contract."

(5) After paragraph (4) there shall be inserted—

"(4A) The certificate prescribed is a certificate—

(a) stating the territory in which the branch is situated,

(b) setting out the unique characteristics of a class of policies or contracts which is not being treated by the insurance company as relating to overseas life assurance business, and

(c) confirming that any policy or contract within the class is capable of being identified readily in the books and records of the company by virtue of a unique identifying designation given to policies or contracts within that class."

(6) In paragraph (6)—

(a) in sub-paragraph (a)—

(i) for the words "this regulation" there shall be substituted "paragraph (2) above";

(ii) after the words "United Kingdom" there shall be added "or, where paragraph (1A) above applies, transferred to an insurance company so as to be carried on at or through a particular branch outside the United Kingdom,";

(b) in sub-paragraph (b) after the words "effected by" there shall be inserted ", or transferred to,".

(7) For paragraph (7) there shall be substituted—

"(7) The insurance company may combine a certificate under paragraph (3)(b)(i) above with another certificate under paragraph (3)(b)(i) above in a single document."

(8) In paragraph (8) for the words from "within" to the end there shall be substituted "before the date on which it makes its company tax return for the accounting period in which the policy or contract was made or, where paragraph (1A) above applies, transferred."

6.—(1) Regulation 7 shall be amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a) for the words "not reinsurance business" there shall be substituted "neither reinsurance business nor term assurance business";

(b) in sub-paragraph (b) for the words "not residing in the United Kingdom" there shall be substituted "who is an individual not residing in the United Kingdom and either—

(i) is a British citizen, or

(ii) is a person in respect of whose business the company has treated this regulation as applying,".

(3) After paragraph (1) there shall be inserted—

"(1A) This regulation also applies where—

(a) on or after 8th November 1999 relevant business which is neither reinsurance business nor term assurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of—

(i) Article 31a.2 of the first long term insurance Directive, or

(ii) Article 11 of the third long term insurance Directive,

(b) that business has not been treated by the transferor as relating to overseas life assurance business,

(c) that business is with a policy holder who is an individual not residing in the United Kingdom and either—

(i) is a British citizen, or

(ii) is a person in respect of whose business with the company has treated this regulation as applying, and

(d) that business is, immediately after the transfer, carried on 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."

(4) For sub-paragraph (b) of paragraph (3) and the word "and" immediately following it there shall be substituted—

"(b) the declaration prescribed in paragraph (5) below, and".

(5) In paragraph (4)(a) after the word "made" there shall be added "or, where paragraph (1A) above applies, transferred".

(6) Paragraph (6) shall be omitted.

(7) In paragraph (7)(c) for the words "or (6) above, as the case may be," there shall be substituted "above".

(8) In paragraph (9) for the words from "within" to the end there shall be substituted "before the date on which it makes its company tax return for the accounting period in which the policy or contract was made or, where paragraph (1A) above applies, transferred."

7. After regulation 7 there shall be inserted—

"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—policy holder not within regulation 7

7A.—(1) This regulation applies in circumstances where—

(a) an insurance company has entered into relevant business which is neither reinsurance business nor term assurance business,

(b) that business is with a policy holder not residing in the United Kingdom who either—

(i) is not an individual, or

(ii) if an individual, is not one falling within regulation 7(1)(b)(i) or (ii),

(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 8th November 1999.

(2) This regulation also applies where—

(a) on or after 8th November 1999 relevant business which is neither reinsurance business nor term assurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of—

(i) Article 31a.2 of the first long term insurance Directive, or

(ii) Article 11 of the third long term insurance Directive,

(b) that business has not been treated by the transferor as relating to overseas life assurance business,

(c) that business is with a policy holder not residing in the United Kingdom who either—

(i) is not an individual, or

(ii) if an individual, is not one falling within regulation 7(1)(b)(i) or (ii), and

(d) that business is, immediately after the transfer, carried on 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.

(3) 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 (4) below, or

(b) in a case where the policy holder is not an individual, completes the certificate prescribed in paragraph (5) below.

(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 deisgnation given to the policy or contract,

(d) stating the territory which, to the best of the company's knowledge and belief, is the territory in which the policy holder resides,

(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 or, where paragraph (2) above applies, transferred,

(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.

(5) 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 which, to the best of the company's knowledge and belief, is the territory in which the policy holder resides,

(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 or, where paragraph (2) above applies, transferred,

(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.

(6) 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.

(7) Paragraph (8) below applies in any case where policies or contracts for business to which this regulation applies were effected by, or where paragraph (2) above applies, transferred to, an insurance company within the same accounting period.

(8) The insurance company may—

(a) combine a certificate under paragraph (4) above with another certificate under paragraph (4) above in a single document, or

(b) combine a certificate under paragraph (5) above with another certificate under paragraph (5) above in a single document.

but a certificate under paragraph (4) above shall not be combined with a certificate under paragraph (5) above in a single document.

(9) The insurance company shall complete the certificate prescribed in this regulation before the date on which it makes its company tax return for the accounting period in which the policy or contract was made or, where paragraph (2) above applies, transferred."

8.—(1) Regulation 8 shall be amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a) for the words "not reinsurance business" there shall be substituted "neither reinsurance business nor term assurance business";

(b) for sub-paragraph (b) there shall be substituted—

"(b) that business was entered into by the insurance company with a policy holder referred to in regulation 7(1)(b);";

(c) in sub-paragraph (d) for the words from "either" to the end there shall be substituted "either—

(i) that there has been a change in the identity of the policy holder and the new policy holder is a person referred to in regulation 7(1)(b), or

(ii) that the policy holder (being a person referred to in regulation 7(1)(b)) has ceased to be beneficially entitled to the rights conferred by the policy or contract."

(3) After paragraph (1) there shall be inserted—

"(1A) This regulation also applies in circumstances where—

(a) on or after 8th November 1999 relevant business which is neither reinsurance business nor term assurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of—

(i) Article 31a.2 of the first long term insurance Directive, or

(ii) Article 11 of the third long term insurance Directive,

(b) that business was entered into with a policy holder referred to in regulation 7(1)(b),

(c) that business is, immediately after the transfer, carried on 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 to whom the business is transferred comes to be in possession of information making it reasonable for the company to assume either—

(i) that there has been a change in the identity of the policy holder and the new policy holder is a person referred to in regulation 7(1)(b), or

(ii) that the policy holder (being a person referred to in regulation 7(1)b)) has ceased to be beneficially entitled to the rights conferred by the policy or contract."

(4) For sub-paragraph (b) of paragraph (3) and the word "and" immediately following it there shall be subsituted—

"(b) the declaration prescribed in paragraph (5) below, and".

(5) Paragraph (6) shall be omitted.

(6) In paragraph (7)(c) for the words "or (6) above, as the case may be," there shall be substituted "above".

(7) In paragraph (9) for the words "within six months after" there shall be substituted "before the date on which the insurance company makes its company tax return for the accounting period in which".

9.—(1) Regulation 9 shall be amended as follows.

(2) In paragraph (1)(a) after the words "relevant business" there shall be added "which is not term assurance business".

(3) In paragraph (3) for the words from "that the cedant company" to the end there shall be substituted "that—

(a) the underlying policy in relation to the business is not one in respect of which the cedant company has completed the certificate prescribed in regulation 5(4), or

(b) in relation to an underlying policy which was made in an accounting period for which regulation 5(2) to (4) did not have effect, the cedant company had complied with the requirements of regulation 5(2) as it applied for that accounting period."

(4) In paragraph (4)—

(a) sub-paragraph (a) and the word "or" immediately following it shall be omitted;

(b) in sub-paragraph (b) for the word "six" there shall be substituted "twelve".

(5) In paragraph (5) for the words from "within" to the end there shall be substituted "before the date on which it makes its company tax return for the accounting period in which the reinsurance arrangement was made."

10.—(1) Regulation 10 shall be amended as follows.

(2) In paragraph (1)(a) after the words "relevant business" there shall be added "which is not term assurance business".

(3) In paragraph (1)(b) for the words "not residing in the United Kingdom" there shall be substituted "referred to in regulation 7(1)(b)".

(4) In paragraph (3)—

(a) in sub-paragraph (a) for the words "certificate prescribed in regulation 6(4)" there shall be substituted the words "declaration prescribed in regulation 6(4) or (5)";

(b) the words from "within six months" to the end shall be omitted.

(5) In paragraph (5) for the words from "within" to the end there shall be substituted "before the date on which it makes its company tax return for the accounting period in which the reinsurance arrangement was made."

11. After regulation 10 there shall be inserted—

"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—policy holder not within regulation 7

10A.—(1) This regulation applies in circumstances where—

(a) an insurance company has entered into relevant business which is not term assurance business,

(b) that business is reinsurance of life assurance business with a policy holder not residing in the United Kingdom who either—

(i) is not an individual, or

(ii) if an individual, is not one falling within regulation 7(1)(b)(i) or (ii),

(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 8th November 1999.

(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 7A(3).

(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 (4) or (5) of regulation 7A, 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 before the date on which it makes its company tax return for the accounting period in which the reinsurance arrangement was made."

12.—(1) Regulation 11 shall be amended as follows.

(2) In paragraph (1)(a) after the words "relevant business" there shall be added "which is not term assurance business".

(3) In paragraph (1)(b) for the words "with a policy holder not residing in the United Kingdom" there shall be substituted "and was entered into by the insurance company with a policy holder referred to in regulation 7(1)(b)".

(4) In paragraph (1)(d) for the words from "either" to the end there shall be substituted "either—

(i) that there has been a change in the identity of the underlying policy holder and the new underlying policy holder is a person referred to in regulation 7(1)(b), or

(ii) that the underlying policy holder (being a person referred to in regulation 7(1)(b)) has ceased to be beneficially entitled to the rights conferred by the policy or contract."

(5) In paragraph (5) for the words from "within" to the end there shall be susbstituted "before the date on which it makes its company tax return for the accounting period in which the reinsurance arrangement was made."

13.—(1) Regulation 13 shall be amended as follows.

(2) After paragraph (1) there shall be inserted—

"(1A) This regulation also applies where—

(a) on or after 8th November 1999 relevant business which is not reinsurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of—

(i) Article 31a.2 of the first long term insurance Directive, or

(ii) Article 11 of the third long term insurance Directive, and

(b) that business is, immediately after the transfer, carried on by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom."

(3) In paragraph (2) after the word "made" there shall be inserted "or, where paragraph (1A) applies, transferred".

(4) In paragraph (3)—

(a) for the word "twelve" there shall be substituted "eighteen";

(b) for the word "six" there shall be substituted "twelve";

(c) after the word "made", wherever occurring, there shall be inserted "or transferred".

(5) In paragraph (4) after the word "made" there shall be inserted "or transferred".

(6) In paragraph (5)—

(a) after the word "made" there shall be inserted "or transferred";

(b) for the words from "not being" to "originally effected" there shall be substituted "being neither—

(a) the person with whom the policy or contract was originally effected, nor

(b) a person to whom the rights conferred by the policy or contract have been assigned in circumstances where the assignment did not constitute a chargeable event within the meaning of section 540, 542 or 545, nor

(c) a personal representative in whom those rights have been vested by operation of law".

14.—(1) Regulation 14 shall be amended as follows.

(2) In paragraph (1) after sub-paragraph (b) there shall be added "and

(c) that business is with a policy holder referred to in regulation 7(1)(b)."

(3) After paragraph (1) there shall be inserted—

"(1A) This regulation also applies in circumstances where—

(a) on or after 8th November 1999 relevant business which is not reinsurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of—

(i) Article 31a.2 of the first long term insurance Directive, or

(ii) Article 11 of the third long term insurance Directive,

(b) that business has not been treated by the transferor as relating to overseas life assurance business,

(c) that business is, immediately after the transfer, carried on 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) that business is with a policy holder referred to in regulation 7(1)(b)."

(4) In paragraph (2) after the word "made" there shall be inserted "or, where paragraph (1A) applies, transferred".

(5) In paragraph (3)—

(a) for the word "twelve" there shall be substituted "eighteen";

(b) for the word "six" there shall be substituted "twelve";

(c) after the word "made", wherever occurring, there shall be inserted "or transferred".

(6) In paragraph (4) after the word "made" there shall be inserted "or transferred".

(7) In paragraph (5)—

(a) after the word "made" there shall be inserted "or transferred";

(b) for the words from "not being" to "originally effected" there shall be susbstituted "being neither—

(a) the person with whom the policy or contract was originally effected, nor

(b) any person to whom the rights conferred by the policy or contract have been assigned in circumstances where the assignment did not constitute a chargeable event within the meaning of section 540, 542 or 545, nor

(c) a personal representative in whom those rights have been vested by operation of law".

15. After regulation 14 there shall be inserted—

"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—policy holder not within regulation 7

14A.—(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 who either—

(i) is not an individual, or

(ii) if an individual, is not one falling within regulation 7(1)(b)(i) or (ii),

(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 8th November 1999.

(2) This regulation also applies where—

(a) on or after 8th November 1999 relevant business which is not reinsurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of—

(i) Article 31a.2 of the first long term insurance Directive, or

(ii) Article 11 of the third long term insurance Directive,

(b) that business has not been treated by the transferor as relating to overseas life assurance business,

(c) that business is with a policy holder not residing in the United Kingdom who either—

(i) is not an individual, or

(ii) if an individual, is not one falling within regulation 7(1)(b)(i) or (ii), and

(d) that business is, immediately after the transfer, carried on 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.

(3) Subject to paragraph (4) below, the territory in which the policy holder was residing at the time the policy or contract was made or, where paragraph (2) above applies, transferred shall be the territory specified in the certificate prescribed in paragraph (4) of regulation 7A or, as the case may be, paragraph (5) of that regulation.

(4) Where, at the time the policy or contract was made or transferred or at any time within eighteen 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 transferred or at any time within twelve months thereafter, the territory in which the policy holder was residing at the time the policy or contract was made or transferred shall be the United Kingdom.

(5) Where, pursuant to paragraph (3) or (4) above, a policy holder has been treated as residing in a particular territory at the time the policy or contract was made or transferred, the territory in which the policy holder is residing at any time thereafter shall, subject to paragraph (6) below, be that same territory.

(6) Subject to paragraph (4) above, where at any time after the policy or contract was made or transferred the company comes to be in possession of information making it reasonable for the company to assume that the policy holder, being neither—

(a) the person with whom the policy or contract was originally effected, nor

(b) a person to whom the rights conferred by the policy or contract have been assigned in circumstances where the assignment did not constitute a chargeable event within the meaning of section 540, 542 or 545, nor

(c) a personal representative in whom those rights have been vested by operation of law,

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."

16.—(1) Regulation 15 shall be amended as follows.

(2) In paragraph (3)—

(a) for the word "twelve" there shall be substituted "eighteen";

(b) for the word "six" there shall be substituted "twelve".

(3) In paragraph (5) for the words "not being" to "originally effected" there shall be substituted "being neither—

(a) the person with whom the policy or contract was originally effected, nor

(b) a person to whom the rights conferred by the policy or contract have been assigned in circumstances where the assignment did not constitute a chargeable event within the meaning of section 540, 542 or 545, nor

(c) a personal representative in whom those rights have been vested by operation of law".

17.—(1) Regulation 16 shall be amended as follows.

(2) In paragraph (1) after sub-paragraph (b) there shall be added "and

(c) the underlying policy holder in relation to that business is a person referred to in regulation 7(1)(b)."

(3) In paragraph (3)—

(a) for the word "twelve" there shall be substituted "eighteen";

(b) for the word "six" there shall be substituted"twelve".

(4) In paragraph (5) for the words "not being" to "originally effected" there shall be substituted "being neither—

(a) the person with whom the policy or contract was originally effected, nor

(b) a person to whom the rights conferred by the policy or contract have been assigned in circumstances where the assignment did not constitute a chargeable event within the meaning of section 540, 542 or 545, nor

(c) a personal representative in whom those rights have been vested by operation of law".

18. After regulation 16 there shall be inserted—

"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—policy holder not within regulation 7

16A.—(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 who either—

(i) is not an individual, or

(ii) if an individual, is not one falling within regulation 7(1)(b)(i) or (ii),

(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 8th November 1999.

(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 paragraph (4) of regulation 7A or, as the case may be, paragraph (5) of that regulation.

(3) Where, at the time the underlying policy was made or at any time within eighteen 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 twelve 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, being neither—

(a) the person with whom the policy or contract was originally effected, nor

(b) a person to whom the rights conferred by the policy or contract have been assigned in circumstances where the assignment did not constitute a chargeable event within the meaning of section 540, 542 or 545, nor

(c) a personal representative in whom those rights have been vested by operation of law,

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."

19.—(1) Regulation 18 shall be amended as follows.

(2) In paragraph (1)(a) after paragraph (ii) and the word "or" immediately following it there shall be added—

"(iii) in the circumstances prescribed in regulation 7(A)(1) where the insurance company has not completed the certificate prescribed in regulation 7A(4) or (5) within the period limited in regulation 7A(9), or".

(3) After paragraph (1)(a) and the word "or" immediately following it there shall be inserted—

"(aa) treats an underlying policy as relating to overseas life assurance business in the circumstances prescribed in regulation 9 where the insurance company has not obtained the certificate prescribed in regulation 9(3) or the undertaking prescribed in regulation 9(4) within the period limited in regulation 9(5), or".

(4) After paragraph (1)(b) and the word "or" immediately following it there shall be inserted—

"(ba) treats an underlying policy as relating to overseas life assurance business in the circumstances prescribed in regulation 10A(1) where the insurance company has not obtained the certificate prescribed in regulation 10A(3) or the undertaking prescribed in regulation 10A(4) within the period limited in regulation 10A(5), or".

(5) In paragraph (1)(c) for the words "or 14(3)" there shall be substituted ", 14(3) or 14A(4)".

(6) In paragraph (1)(d) for the words "or 16(3)" there shall be substituted ", 16(3) or 16A(3)".

(7) In paragraph (1)(e) after the word "made" there shall be inserted "or transferred".

(8) In paragraph (2) for the words "(b), (d) or (e)" there shall be substituted "(aa), (b), (ba), (d) or (e)".

(9) In paragraph (3)(a) after the word "made" there shall be inserted "or transferred".

(10) In pargraph (4) after the word "assessment" there shall be inserted "self-assessment,".

20. After regulation 18 there shall be inserted—

"Reclassification of policy or contract as relating to overseas life assurance business from date when it was made or transferred.

18A.—(1) This regulation applies in any case where an insurance company—

(a) does not treat a policy or contract as relating to overseas life assurance business in the circumstances prescribed in regulation 5(1) or (1A), and

(b) has not completed the certificate prescribed in regulation 5(4) within the period limited in regulation 5(8).

(2) The company shall treat the policy or contract as relating to overseas life assurance business from the date the policy or contract was made or transferred.

(3) All necessary adjustments, whether by way of assessment or otherwise, shall be made to give effect to paragraph (2)."

21.—(1) Regulation 19 shall be amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (c) for the words "or 14(5)" there shall be substituted ", 14(5) or 14A(6)";

(b) in sub-paragraph (d) for the words "or 16(5)" there shall be substituted ", 16(5) or 16A(5)";

(c) in sub-paragraph (e) after the word "made" there shall be inserted "or transferred".

(3) In paragraph (3) there shall be inserted at the beginning "Subject to paragraph (3A) below,".

(4) After paragraph (3) there shall be inserted—

"(3A) Paragraph (3) above shall not apply where—

(a) the case concerned falls within paragraph (1)(e) above,

(b) section 431D(7) applied to the policy or contract when it was made or transferred, or the underlying policy when it was made,

(c) the case falls within paragraph (1)(e) above by reason of the fact that, at some time that is—

(i) more than three years after the date on which the policy or contract was made or transferred, or the underlying policy was made, but

(ii) is not earlier than 8th November 1999,

the number of persons for or in respect of whom benefits were to be provided under the policy or contract, or the underlying policy, and who were not relevant overseas employees within the meaning of section 431D(8), became a not insignificant number ("the relevant number") for the purposes of section 431D(7), and

(d) the relevant number has at no time exceeded the number which is equal to twenty per cent. of the total number of persons for or in respect of whom benefits are to be provided under the policy or contract or the underlying policy."

G H Bush
Tim Flesher

18th October 1999 Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995 ("the principal Regulations").

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 inserts various definitions in regulation 2 of the principal Regulations.

Regulation 4 repeals regulations 3, 17 and 20 of the principal Regulations.

Regulation 5 amends regulation 5 of the principal Regulations (overseas branch business) so as to make provision for transfers of insurance business from non-UK insurance companies to UK insurance companies and also to provide that overseas branch business, not being term assurance business, is overseas life assurance business unless the insurance company completes a prescribed certificate.

Regulation 6 amends regulation 7 of the principal Regulations (overseas direct services business) so as to cater for transfers of insurance business from non-UK insurance companies and also to limit the scope of the regulation to business, not being term assurance business, with a policy holder not residing in the United Kingdom who is a British citizen, or in respect of whose business the insurance company has treated the amended regulation 7 as applying.

Regulation 7 inserts a new regulation (regulation 7A) in the principal Regulations which caters for overseas direct services business of an insurance company where the business, not being reinsurance business or term assurance business, is with a policy holder who is not an individual within the amended regulation 7 of the principal Regulations.

Regulation 8 amends regulation 8 of the principal Regulations (overseas direct services business where the insurance company comes into possession of additional information) so as to cater for transfers of insurance business from non-UK insurance companies and also to limit the scope of the regulation to business which is not term assurance business and which is with a policy holder within the amended regulation 7 of the principal Regulations.

Regulation 9 amends regulation 9 of the principal Regulations (reinsurance of overseas branch business) so as to provide that the certificate prescribed in that regulation is that the underlying policy is one which has been treated as relating to overseas life assurance business.

Regulation 10 amends regulation 10 of the principal regulations (reinsurance of overseas direct services business) so as to limit the scope of the regulation to business which is not term assurance business and which is with a policy holder falling within the amended regulation 7 of the principal Regulations.

Regulation 11 inserts a new regulation (regulation 10A) in the principal Regulations which caters for reinsurance of overseas direct services business where the business is not term assurance business and is with a policy holder who is not an individual within the amended regulation 7 of the principal Regulations.

Regulation 12 amends regulation 11 of the principal Regulations (reinsurance of overseas direct services business where the insurance company comes into possession of additional information) so as to limit the scope of the regulation to business which is not term assurance business and which is with a policy holder within the amended regulation 7 of the principal Regulations.

Regulation 13 amends regulation 13 of the principal Regulations (territory in which policy holder residing in the case of overseas branch business) so as to cater for transfers of insurance business from non-UK insurance companies and also to extend the time limits relating to the insurance company receiving information that the policy holder is residing in the United Kingdom.

Regulation 14 amends regulation 14 of the principal Regulations (territory in which policy holder residing in the case of overseas direct business) so as to make similar provision to the amendment made by regulation 13 of these Regulations in relation to a policy holder falling within the amended regulation 7 of the principal Regulations.

Regulation 15 inserts a new regulation (regulation 14A) in the principal Regulations so as to make provision for the territory in which the policy holder is residing in the case of overseas direct business with a policy holder who is not an individual within the amended regulation 7 of the principal Regulations.

Regulation 16 amends regulation 15 of the principal Regulations (territory in which policy holder residing in the case of reinsurance of overseas branch business) so as to extend the time limits relating to the insurance company receiving information that the policy holder is residing in the United Kingdom.

Regulation 17 amends regulation 16 of the principal Regulations (territory in which policy holder residing in the case of reinsurance of overseas direct business) so as to extend the time limits relating to the insurance company receiving information that the policy holder is residing in the United Kingdom where the policy holder is an individual falling within the amended regulation 7 of the principal Regulations.

Regulation 18 inserts a new regulation (regulation 16A) in the principal Regulations so as to make provision for the territory in which the policy holder is residing in the case of reinsurance of overseas direct business with a policy holder who is not an individual within the amended regulation 7 of the principal Regulations.

Regulations 19 and 21 make amendments to regulations 18 and 19 of the principal Regulations (reclassification of policy or contract from date when or after it was effected) which are consequential on the amendments made by preceding regulations of these Regulations. Regulation 21 also amends regulation 19 of the principal Regulations so as to provide that a policy or contract whose business was overseas life assurance business when the policy or contract was made is not required to be reclassified as relating to basic life assurance business on a subsequent failure to meet the "relevant overseas employees" test in section 431D(7) of the Income and Corporation Taxes Act 1988, provided that the number of non resident overseas employees who stand to benefit under the policy or contract does not exceed 20 per cent. of the total number of persons who stand to benefit.

Regulation 20 inserts a new regulation (regulation 18A) in the principal Regulations so as to provide that, where the requirements of regulation 5 of the principal Regulations (as amended by regulation 5 of these Regulations) have not been observed, a policy or contract shall be treated as relating to overseas life assurance business from the date on which it was made or transferred.

STATUTORY INSTRUMENTS

1999 No. 2839

INCOME TAX

The Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 1999

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