STATUTORY INSTRUMENTS

# 2008 No. 1944

# CORPORATION TAX

## The Insurance Companies (Taxation of Reinsurance Business) (Amendment) Regulations 2008

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| *Made - - - -* | *22nd July 2008* |
| *Laid before the House of Commons* | *22nd July 2008* |
| *Coming into force - -* | *12th August 2008* |

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 442A(2) to (6) of the Income and Corporation Taxes Act 1988(**a**) and paragraph 58 of Schedule 8 to the Finance Act 1995 and now vested in them(**b**).

**Citation, commencement and effect**

**1.**—(1) These Regulations may be cited as the Insurance Companies (Taxation of Reinsurance Business) (Amendment) Regulations 2008 and shall come into force on 12th August 2008.

(2) These Regulations shall have effect in relation to accounting periods beginning on or after 1st January 2008.

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

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

**Amendment of regulation 2**

**3.** In regulation 2 (interpretation)—

(a) omit the definition of "the Board";

(b) for the definition of "deposit-back arrangement" substitute—

""deposit-back arrangement" has the meaning given to "deposit back arrangements" by section 431(2)(**d**) of the Taxes Act;"; and

(c) for the definition of "inspector" substitute—

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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) and amended by paragraph 23 of Schedule 33 to the Finance Act 2003 (c. 14).

(**b**) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that in so far as it is appropriate in consequence of section 5 a reference in an enactment, howsoever expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**c**) S.I. 1995/1730 relevantly amended by S.I.1996/1621, 2001/3629 and 2004/2310.

(**d**) The definition of "deposit back arrangements" was inserted by paragraph 9 of Schedule 17 to the Finance Act 2008 (c. 9).

""inspector" means any officer of Revenue and Customs;".

**Amendment of regulation 3**

**4.** In regulation 3(1) (calculation of investment return in sole accounting period)(**a**) in the definition of "C" in paragraph (b) omit "under section 85 of the Finance Act 1989".

**Amendment of regulation 6**

**5.** In regulation 6(3)(e)(ii) (calculation of investment return in final accounting period)(**b**) omit "under section 85 of the Finance Act 1989".

**Amendment of regulation 7**

**6.** In regulation 7(11) (prescribed percentage rates of return for the purposes of regulations 4 and 5)(**c**)—

(a) in sub-paragraph (a) for "whose head office is" substitute "which is resident"; and

(b) in sub-paragraph (b)—

(i) in paragraph (i) for "branch or agency" substitute "permanent establishment"; and

(ii) in paragraph (ii) for branches and agencies substitute "permanent establishments".

**Amendment of regulation 9**

**7.** In regulation 9(2)(c) (exclusion of certain reinsurance arrangements from section 442A) after "Schedule D" insert "by virtue of section 431G(3)(a) of the Taxes Act(**d**)".

**Amendment of regulation 13**

**8.** In regulation 13 (transfer of insurance arrangements effected by novation or insurance business transfer schemes) for paragraph (3) substitute—

"(3) For the purposes of regulations 4 to 7—

(a) if there is no accounting period of the transferor ending on the day of the transfer, an accounting period of the transferor shall be treated as ending on that day;

(b) an accounting period of the transferor which ends (or is treated as ending) on the day of the transfer shall not be treated as the final accounting period during which the reinsurance arrangement concerned is in force;

(c) if there is no accounting period of the transferee beginning on, or immediately after, the day of the transfer an accounting period of the transferee shall be treated as beginning immediately after that day; and

(d) an accounting period of the transferee which begins on, or immediately after, (or is treated as beginning immediately after) the day of the transfer shall not be treated as the first accounting period during which the reinsurance arrangement concerned is in force.".

*Dave Hartnett*
*Steve Lamey*

22nd July 2008 — Two of the Commissioners for Her Majesty's Revenue and Customs

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(**a**) Regulation 3(1) was amended by S.I. 2004/2310.
(**b**) Regulation 6(3)(e)(ii) was amended by S.I. 2004/2310.
(**c**) Regulation 7(11) was amended by S.I. 2001/3629.
(**d**) Section 431G was substituted for section 432 by section 39 of, and paragraphs 1 and 4 of Schedule 8 to, the Finance Act 2007 (c.11).

## 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 principal Regulations").

Regulation 1 provides for citation, commencement and effect of these Regulations. The power to make Regulations with retrospective effect is contained in paragraph 58 of Schedule 8 to the Finance Act 1995.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends the definition of "deposit-back arrangement" in regulation 2 of the principal Regulations to refer to the definition of "deposit back arrangements" in section 431(2) of Income and Corporation Taxes Act 1988 ("ICTA") which is inserted by paragraph 9 of Schedule 17 to the Finance Act 2008. Regulation 3 also updates the principal Regulations following the transfer of functions to Her Majesty's Revenue and Customs by the Commissioners for Revenue and Customs Act 2005.

Regulation 4 amends the definition of "C" in regulation 3(1) of the principal Regulations and regulation 5 amends regulation 6(3)(e) of the principal Regulations by omitting the references to section 85 of the Finance Act 1989.

Regulation 6 amends regulation 7(11) of the principal Regulations. The amendments update the regulation, in particular by replacing references to "branch and agency" with references to "permanent establishment" in accordance with sections 149 and 153 of the Finance Act 2003.

Regulation 7 amends regulation 9(2)(c) of the principal Regulations. The amendment replaces the reference to the charge under Case I of Schedule D with a reference to the charge on an insurance company which is a reinsurer to which section 431G of ICTA applies. As a result of Schedule 7 to the Finance Act 2007 this charge is the only one that can apply a Case I basis of charge to an insurance company.

Regulation 8 amends regulation 13 of the principal Regulations by substituting paragraph (3). The amendment ensures that, where necessary, an accounting period of the transferor of reinsurance arrangements shall be treated as ending on the day of the transfer and an accounting period of the transferee shall be treated as beginning immediately after that day. The amendment also ensures that accounting periods ending (or treated as ending) on that date or beginning (or treated as beginning) on or immediately after that day are not to be treated as final or first periods respectively for the purposes or regulations 4 to 7 of the principal Regulations.

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.

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