
STATUTORY INSTRUMENTS

1994 No. 3231

INCOME TAX

**The Exchange Gains and Losses
(Insurance Companies) Regulations 1994**

Made - - - - *15th December 1994*
Laid before the House of
Commons - - - - *16th December 1994*
Coming into force - - *23rd March 1995*

The Treasury, in exercise of the powers conferred on them by sections 167(1) and 168(2) to (5) of the Finance Act 1993(1), hereby make the following Regulations:

1.—(1) These Regulations may be cited as the Exchange Gains and Losses (Insurance Companies) Regulations 1994.

(2) These Regulations shall come into force on 23rd March 1995.

(3) In these Regulations “the 1993 Act” means the Finance Act 1993.

2.—(1) For corporation tax purposes, Chapter II of Part II of the 1993 Act (and regulations made under that Chapter including the following provisions of these Regulations) shall apply—

(a) in relation to insurance companies' unearned premium reserves as if—

(i) the unearned premium reserve of any insurance company were a liability owed by the company, and

(ii) the reference in paragraph (b) of section 153(2) of that Act to a provision made by the company in respect of a duty to which it may become subject and which (if it were to become subject to it) would be a duty to settle under a qualifying liability included the unearned premium reserve (disregarding section 153(7)(a)); and

(b) as if any item (not being a provision apart from this sub-paragraph)—

(i) which is included in any accounts for any period prepared by the company for tax purposes, and

(ii) which, if it were included in the company's statutory accounts for the same period, would be a provision within section 153(2)(b),

were a provision within section 153(2)(b).

- (2) In paragraph (1)(b) above “statutory accounts”, in relation to a company, means—
- (a) the annual accounts of the company prepared in accordance with Part VII of the Companies Act 1985⁽²⁾, or
 - (b) if the company is not required to prepare such accounts, the accounts which it is required to keep under the law of its home State or, if it is not so required to keep accounts, such of its accounts as most closely correspond to accounts which it would have been required to prepare if the provisions of that Part applied to the company.
3. Any exchange difference which arises as regards a qualifying asset which is a share held by a qualifying company which is an insurance company shall be disregarded for the purposes of Chapter II of Part II of the 1993 Act (including regulations made under that Chapter), and accordingly—
- (a) an exchange gain or loss which (apart from this regulation) would accrue as regards that asset shall be taken not to accrue for the purposes of that Chapter; and
 - (b) section 128(11) of that Act shall not apply in relation to any gain or loss which accrues as regards that asset.
- 4.—(1) Paragraph (2) below shall apply where—
- (a) a gain or loss accrues to an insurance company as regards an asset or liability at any time when the asset or liability is held or owed by the company wholly or partly in exempt circumstances (within the meaning of paragraph 2 of Schedule 15 to the 1993 Act), and
 - (b) apart from paragraph (2) below, that gain or loss would fall within section 128(11) of that Act, and
 - (c) by virtue of paragraph 1 of that Schedule and regulation 2 of the Exchange Gains and Losses (Alternative Method of Calculation of Gains and Losses) Regulations 1994⁽³⁾ the amount of an initial exchange gain or loss accruing to the company as regards the asset or liability for the accrual period which includes or ends immediately before that time is to be found in accordance with the alternative method of calculation.
- (2) In any case where this paragraph applies—
- (a) if by virtue of regulation 2 of those Regulations the amount of the initial exchange gain or loss referred to in paragraph (1)(c) above is reduced to zero, then section 128(11) of the 1993 Act shall not apply in relation to the gain or loss referred to in paragraph (1)(a) above;
 - (b) if by virtue of regulation 2 of those Regulations the amount of that initial exchange gain or loss is reduced by a proportion so that it is less than it would have been if that regulation had not applied, then section 128(11) of the 1993 Act shall not apply in relation to a corresponding proportion of the gain or loss referred to in paragraph (1)(a) above.
5. In any case where a transaction in pursuance of which an insurance company acquires an asset or becomes subject to a liability is entered in the company’s accounting records on a date (“the later date”) after the date on which the company becomes unconditionally entitled or subject to the asset or liability (“the earlier date”), then for the purposes of Chapter II of Part II of the 1993 Act (and regulations made under that Chapter) the company shall be deemed to have become unconditionally entitled or subject to the asset or liability on the later date (and not on the earlier date).
- 6.—(1) Relief under subsection (4) or (7) of section 131 of the 1993 Act, so far as those subsections have effect in relation to losses other than losses treated as non-trading losses for the purposes of section 160 of the Finance Act 1994⁽⁴⁾, shall not be allowable against the policy holders’ share of the relevant profits for any accounting period.

(2) 1985 c. 6.
(3) S.I.1994/3227.
(4) 1994 c. 9.

(2) In this regulation “the policy holders' share of the relevant profits” has the same meaning as in section 88 of the Finance Act 1989⁽⁵⁾.

15th December 1994

Derek Conway
Andrew Mitchell
Two of the Lords Commissioners of Her
Majesty's Treasury

(5) 1989 c. 26. Section 88 was amended by section 45(1) and (2) of the Finance Act 1990 (c. 29).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations, which come into force on 23rd March 1995, modify the provisions relating to exchange gains and losses contained in Chapter II of Part II of the Finance Act 1993 in their application to assets and liabilities held or owed by insurance companies.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 provides that, for the purposes of applying the provisions of Chapter II to assets and liabilities held or owed by insurance companies, unearned premium reserves and certain provisions included in accounts prepared for tax purposes are to be treated as if they were provisions within section 153(2)(b) of the Finance Act 1993.

Regulation 3 provides that exchange gains or losses which would otherwise accrue under Chapter II on qualifying assets which are shares held by an insurance company are to be disregarded for the purposes of that Chapter, and ensures that exchange gains or losses on such qualifying assets may be taken into account in computing profits otherwise than in accordance with Chapter II.

Regulation 4 applies to exchange gains or losses which are reduced or extinguished for the purposes of Chapter II under the [Exchange Gains and Losses \(Alternative Method of Calculation\) Regulations 1994 \(S. I. 1994/3227\)](#) because the asset or liability is held or owed in exempt circumstances which includes the holding of assets for the purposes of long term or mutual insurance business). It enables such exchange gains and losses to be taken into account in computing profits otherwise than in accordance with Chapter II.

Regulation 5 applies where the transaction in pursuance of which the company became unconditionally entitled or subject to an asset or liability on any date is recorded in the accounting records on a later date. For the purposes of Chapter II, the company is deemed to become unconditionally entitled or subject to the asset or liability on the date the transaction is recorded in the accounting records, and not on the earlier date.

Regulation 6 ensures that in the case of a company carrying on life insurance business, relief for non-trading exchange losses cannot be set against that part of the profits of the life insurance business which accrues for the benefit of the company's policy holders.