
STATUTORY INSTRUMENTS

1995 No. 3223

INCOME TAX

The Insurance Companies (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995

Made - - - - *11th December 1995*
Laid before the House of
Commons - - - - *11th December 1995*
Coming into force - - *2nd January 1996*

The Treasury, in exercise of the powers conferred on them by section 51B(1) to (4) of the Income and Corporation Taxes Act 1988(1) hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Insurance Companies (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995 and shall come into force on 2nd January 1996.

Interpretation

2. In these Regulations unless the context otherwise requires—

“amount of excess gilt interest received”, “amount of manufactured gilt interest paid”, “amount of manufactured gilt interest received” and “amount of real gilt interest received” have the same meanings as in the Gilts Regulations;

“the Gilts Regulations” means the Gilt-edged Securities (Periodic Accounting for Tax on Interest) Regulations 1995(2);

“pension business” has the meaning given by section 431B of the Taxes Act(3);

“relevant gilt-edged securities” has the meaning given by section 51B(5) of the Taxes Act;

“return period” has the same meaning as in the Gilts Regulations;

“Schedule 19AB” means Schedule 19AB to the Taxes Act(4);

“the Taxes Act” means the Income and Corporation Taxes Act 1988(5).

(1) 1988 c. 1; section 51B was inserted by section 78(1) of the Finance Act 1995 (c. 4).

(2) S.I. 1995/3224.

(3) Section 431B was inserted by paragraph 2 of Schedule 8 to the Finance Act 1995.

(4) Schedule 19AB was inserted by Schedule 8 to the Finance Act 1991 (c. 31), and amended by section 103(2)(h) of, and Part III(9) of Schedule 23 to, the Finance Act 1993 and by paragraph 12(1)(b) of Schedule 8 to the Finance Act 1995.

(5) 1988 c. 1.

Basic rule

3.—(1) Where the condition specified in paragraph (3) below is satisfied, then, notwithstanding the provisions of the Gilts Regulations, an insurance company carrying on pension business shall not be required to include in its return for any return period the amount of tax on the amount of excess gilt interest received which is referable to the company's pension business.

(2) Where paragraph (1) above applies, the company is accordingly required to include in its return for the return period only—

- (a) the aggregate of the amount of manufactured gilt interest received and of the amount of real gilt interest received, and
- (b) the amount of manufactured gilt interest paid,

which is not included in a claim for a notional repayment made pursuant to sub-paragraph (1) of paragraph 1A of Schedule 19AB (as inserted by regulation 6 of these Regulations and referred to in this regulation as “sub-paragraph (1)”).

(3) The condition specified is that the amount of tax referred to in paragraph (1) above is identified in a claim, made by the specified date, for a notional repayment made pursuant to sub-paragraph (1).

(4) In sub-paragraph (3) above “the specified date” means the date—

- (a) 14 days after the end of the return period, or
- (b) in a case where the return for the return period is made on a date less than 14 days from the end of the return period, that date,

whichever is the earlier.

Modifications of Schedule 19AB

4. Regulations 5 to 10 make provision modifying the operation of Schedule 19AB in relation to cases where payments of interest on relevant gilt-edged securities are made without deduction of tax to insurance companies carrying on pension business.

5.—(1) Paragraphs (2) and (3) below specify modifications of paragraph 1 of Schedule 19AB.

(2) In sub-paragraph (2), before the words “For the purposes of this paragraph” there shall be inserted the words “Subject to sub-paragraphs (2A) to (2C) below,”.

(3) After sub-paragraph (2) there shall be inserted the following sub-paragraphs—

“(2A) Sub-paragraphs (2B) and (2C) below have effect where payments of interest on relevant gilt-edged securities are made without deduction of tax to companies carrying on pension business.

(2B) Subject to sub-paragraph (2C) below, for the purposes of this paragraph, a “provisional repayment period” of a company—

- (a) shall begin whenever—
 - (i) the company begins to carry on pension business;
 - (ii) an accounting period of the company begins, at a time when the company is carrying on such business; or
 - (iii) a provisional repayment period of the company ends, at a time when the company is carrying on such business; and
- (b) shall end on the first occurrence of either of the following—
 - (i) the expiration of a period ending with 31st March, 30th June, 30th September or 31st December which falls within an accounting period of the company, or
 - (ii) the end of an accounting period of the company.

(2C) In a case where, on 1st January 1996, the company either—

- (a) holds a relevant gilt-edged security on which the next payment of interest will be made without deduction of tax, or
- (b) has entered into a transaction which may give rise to an amount of manufactured gilt interest received,

a provisional repayment period shall begin on 1st January 1996 (with, accordingly, the end of a provisional repayment period on 31st December 1995, whether or not a provisional repayment period would otherwise have ended on that day).”.

6. After paragraph 1 of Schedule 19AB there shall be inserted the following paragraph—

“Entitlement to certain notional payments on account

1A.—(1) An insurance company carrying on pension business shall for each provisional repayment period in an accounting period be entitled on a claim made in that behalf by the specified date to a notional payment (in this Schedule referred to as a “notional repayment”) of an amount equal to the tax on the appropriate portion of the amount of excess gilt interest received in that provisional repayment period as is referable to its pension business, or of such lesser amount as may be specified in the claim.

(2) No repayment shall be made to a company in respect of any claim to a notional repayment; but the notional repayment shall be taken to be the amount of tax referred to in regulation 3(1) of the Insurance Companies (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995.

(3) Subject to sub-paragraphs (4) and (5) below, for the purposes of this paragraph, a “provisional repayment period” of a company—

- (a) shall begin whenever—
 - (i) the company begins to carry on pension business;
 - (ii) an accounting period of the company begins, at a time when the company is carrying on such business; or
 - (iii) a provisional repayment period of the company ends, at a time when the company is carrying on such business; and
- (b) shall end on the first occurrence of either of the following—
 - (i) the expiration of a period ending with 31st March, 30th June, 30th September or 31st December which falls within an accounting period of the company, or
 - (ii) the end of an accounting period of the company.

(4) In a case where, on 1st January 1996, the company either—

- (a) holds a relevant gilt-edged security on which the next payment of interest will be made without deduction of tax, or
- (b) has entered into a transaction which may give rise to an amount of manufactured gilt interest received,

a provisional repayment period shall begin on 1st January 1996 (whether or not a provisional repayment period would otherwise have begun on that day).

(5) Subject to sub-paragraph (4) above, in a case where, on or after 1st January 1996, the company receives either—

- (a) a payment of interest on a relevant gilt-edged security made to it without deduction of tax, or

(b) a payment which for the purposes of Schedule 23A is a payment of manufactured interest and to which paragraph 3A of Schedule 23A applies,
a provisional repayment period shall begin on a day ascertained in accordance with paragraph 1(2)(a) above and shall end on a day ascertained in accordance with sub-paragraph (3)(b) above.

(6) In sub-paragraph (1) above “the specified date” means the date—

- (a) 14 days after the end of the provisional repayment period, or
- (b) in a case where a provisional repayment period coincides with a return period within the meaning of the Gilts Regulations and the return for the return period is made on a date less than 14 days from the end of the return period, that date,

whichever is the earlier.

(7) In the application of subsections (5) to (9) of section 432A for the purpose of determining the amounts to which a company is entitled by way of notional repayments in the case of any accounting period, the reference in subsection (5) to “the relevant fraction” shall be taken as a reference to a fraction determined in accordance with subsections (6) to (9)—

- (a) for the latest preceding accounting period of the company for which an inspector is satisfied that the company has supplied him with such information as would enable the relevant fraction for that accounting period to be estimated with reasonable accuracy, and
- (b) by reference to that information,

and, subject to sub-paragraph (8)(b) below, any reference in this paragraph to “the provisional fraction” is a reference to the fraction so determined.

(8) For the purposes of sub-paragraph (7) above—

- (a) “information” means any information, accounts, statements or reports delivered under section 11 of the Management Act; and
- (b) unless and until an inspector is satisfied as mentioned in paragraph (a) of that sub-paragraph, the provisional fraction shall be taken to be nil.

(9) In sub-paragraph (1) above “the appropriate portion” means—

- (a) in the case of an insurance company carrying on pension business and no other category of long term business, the whole; and
- (b) in the case of an insurance company carrying on more than one category of long term business—
 - (i) where the payment in question is of interest on relevant gilt-edged securities arising from an asset linked to pension business, the whole;
 - (ii) where the payment in question is an amount of manufactured gilt interest received derived from an asset which at the time of its transfer (being the transfer referred to in paragraph 3 of Schedule 23A) was linked to pension business, the whole;
 - (iii) where the payment in question is an amount of manufactured gilt interest paid in respect of an asset linked to pension business, the whole; and
 - (iv) in any other case, the provisional fraction.

(10) For the purposes of sub-paragraph (9) above and in relation to a manufactured payment, the provisional fraction shall be found by applying subsections (5) to (9) of section 432A to the payment as if it were an amount of income arising from the assets of the company’s long term business fund.

(11) In sub-paragraph (1) above “the amount of excess gilt interest received”, in relation to a provisional repayment period, means the amount ascertained in accordance with the formula—

$$A+B-C$$

where—

A is the amount of manufactured gilt interest received in that provisional repayment period;

B is the amount of real gilt interest received in that provisional repayment period; and

C is the amount of manufactured gilt interest paid in that provisional repayment period

and where the aggregate of A and B exceeds C.

(12) Where the basic rate changes during a provisional repayment period, the amount equal to the tax on the appropriate portion of the amount of excess gilt interest received mentioned in sub-paragraph (1) above shall be ascertained after considering each of the amounts A, B and C specified in sub-paragraph (11) above separately for the period before 6th April and for the period after 5th April.

(13) Where a claim made pursuant to sub-paragraph (1) above is for a lesser amount as mentioned in that sub-paragraph, the appropriate portion of each of the amounts A, B and C specified in sub-paragraph (11) above shall be ascertained in accordance with the formula—

$$\frac{D}{E}$$

where—

D is the lesser amount of the notional repayment claimed, and

E is the maximum amount of the notional repayment which it is possible for the company to claim.

(14) An inspector shall not give effect to any claim under this paragraph unless and until he is satisfied that the claimant has supplied to him in connection with the claim such information as will enable the inspector to determine that the amount claimed has been computed in accordance with the provisions of this paragraph.

(15) In this paragraph “manufactured payment” means any payment which for the purposes of Schedule 23A is a payment of manufactured interest, and to which paragraph 3A of that Schedule applies(6).”.

7.—(1) Paragraphs (2) to (6) below specify modifications of paragraph 2 of Schedule 19AB.

(2) In sub-paragraph (1), after the words “a provisional repayment” there shall be inserted the words “or a notional repayment”.

(3) In sub-paragraph (2)—

(a) after the words “any provisional repayment” there shall be inserted the words “or any notional repayment”, and

(b) after the words “sub-paragraph (3) below” there shall be inserted the words “or, as the case may be, sub-paragraph (3A) below.”.

(4) In sub-paragraph (3), for the words “referred to in sub-paragraph (2) above” there shall be substituted the words “of any provisional repayment to which the company is entitled”.

(5) After sub-paragraph (3) there shall be inserted the following sub-paragraphs—

“(3A) The amount of any notional repayment to which the company is entitled is the amount (if any) by which total notional entitlement exceeds total notional past payments, and for this purpose—

(6) Schedule 23A was inserted by section 58(2) of, and paragraph 1 of Schedule 13 to, the Finance Act 1991 (c. 31). Paragraph 3A of Schedule 23A was inserted by section 82(2) of the Finance Act 1995 and was brought into effect in relation to payments made on or after 2nd January 1996 by S.I. 1995/2933 (C.63).

“total notional entitlement” means the aggregate of the notional repayments to which the company would have been entitled (apart from this paragraph) for—

- (a) the provisional repayment period to which the claim relates, and
- (b) any earlier provisional repayment period in the same accounting period,

had the later or, as the case may be, latest provisional fraction applicable in relation to that accounting period been so applicable as from the beginning of that period; and

“total notional past payments” means the aggregate of any amounts already taken into account by way of notional repayments for provisional repayment periods falling within that accounting period.

(3B) In a case where, following the application of sub-paragraph (3A) above, the notional repayment for a provisional repayment period is less than the amount to which the company would be entitled for that provisional repayment period (apart from that sub-paragraph), the appropriate portion of each of the amounts A, B and C specified in paragraph 1A(11) above shall be ascertained in accordance with the formula—

$$\frac{F}{G}$$

where—

F is the amount of any notional repayment ascertained in accordance with sub-paragraph (3A) above, and

G is the maximum amount of the notional repayment which it is possible for the company to claim (apart from that sub-paragraph).

.”

(6) In sub-paragraph (4), at the end there shall be added “; and expressions used in this paragraph and in paragraph 1A above have the same meaning in this paragraph as they have in that paragraph”.

8.—(1) Paragraphs (2) to (5) below specify modifications of paragraph 3 of Schedule 19AB.

(2) In sub-paragraph (1), for paragraph (b) there shall be substituted—

“(b) the aggregate amount of the provisional repayments made to the company for that accounting period and of the notional repayments to which the company is entitled in respect of that accounting period exceeds the aggregate of the amount referred to in paragraph 1(7) above and the relevant final amount.”.

(3) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) In sub-paragraph (1) above “the relevant final amount” means the amount of tax which the company would have been entitled to be paid in respect of income tax borne by deduction on the amount of manufactured gilt interest received and the amount of real gilt interest received referable to its pension business if these amounts had been paid under deduction of tax when the assessment to corporation tax for that accounting period is finally determined or when effect is given to a claim such as is mentioned in section 7(6) made in respect of that accounting period.”.

(4) In sub-paragraph (5), at the end there shall be added—

“; and so much of the principal as does not exceed the amount of the last notional repayment made to the company for the accounting period in question shall be taken to have become outstanding on the date on which the company made the claim referred to in paragraph 1A(1) above.”

(5) In sub-paragraph (6)—

- (a) in paragraph (a), after the words “provisional repayment” there shall be inserted the words “or, as the case may be, notional repayment”.

- (b) in paragraph (b), after the words “preceding provisional repayment” there shall be inserted the words “or, as the case may be, the preceding notional repayment”,
- (c) after the words “that preceding provisional repayment” there shall be inserted the words “or, as the case may be, that preceding notional repayment”, and
- (d) after the words “any preceding provisional repayments” there shall be inserted the words “or, as the case may be, any preceding notional repayments”.

9.—(1) Paragraphs (2) to (4) below specify modifications of paragraph 4 of Schedule 19AB.

(2) In sub-paragraph (1), after the words “any provisional repayment” there shall be inserted the words “or any notional repayment”.

(3) In sub-paragraph (2)—

- (a) after the words “claiming a provisional repayment” there shall be inserted the words “or a notional repayment”,
- (b) in paragraph (a), after the words “by way of provisional repayment” there shall be inserted the words “or notional repayment”, and
- (c) in paragraph (c), after the words “the provisional repayment” there shall be inserted the words “or the notional repayment”.

(4) In sub-paragraph (6), in the definition of “the maximum reduced entitlement”, after the words “by way of provisional repayment” there shall be inserted the words “or, as the case may be, by way of notional repayment”.

10.—(1) Paragraphs (2) and (3) below specify modifications of paragraph 6 of Schedule 19AB.

(2) In sub-paragraph (1)—

- (a) before the definition of “provisional fraction” there shall be inserted—
 - ““the Gilts Regulations” means the Gilt-edged Securities (Periodic Accounting for Tax on Interest) Regulations 1995;
 - “notional repayment” means a notional repayment under paragraph 1A above;”
- (b) in the definition of “provisional fraction”, after the words “paragraphs 1(3), (4)(b)” there shall be inserted “, 1A(7), (8)(b)”;
- (c) in the definition of “provisional repayment period”, after the words “paragraph 1” there shall be inserted the words “or 1A”;
- (d) at the end there shall be added—

““relevant gilt-edged securities” has the meaning given by section 51B(5);

and “amount of manufactured gilt interest paid”, “amount of manufactured gilt interest received” and “amount of real gilt interest received” have the same meanings in this Schedule in relation to a provisional repayment period as they have in the Gilts Regulations in relation to a return period.”

(3) After sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) Any reference in this Schedule to a notional repayment for an accounting period is a reference to a notional payment for a provisional repayment period falling within that accounting period.”.

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

11th December 1995

Simon Burns
Derek Conway
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 51A(1) of the Income and Corporation Taxes Act 1988 (“the 1988 Act”), inserted by section 77 of the Finance Act 1995 (“the 1995 Act”), provides that, in certain circumstances, interest on gilt-edged securities shall be paid without deduction of income tax and that the interest so paid shall be chargeable under Case III of Schedule D. Section 51B of the 1988 Act, inserted by section 78(1) of the 1995 Act, provides that the Treasury may by regulations provide that persons to whom payments of interest on gilt-edged securities are made without deduction of tax shall make periodic returns to an officer of the Commissioners of Inland Revenue. The powers conferred on the Treasury by section 51B of the 1988 Act were exercised in the Gilt-edged Securities (Periodic Accounting for Tax on Interest) Regulations 1995 (S.I. 1995/3224) (“the Gilts Regulations”). These Regulations make further provision in relation to companies carrying on life assurance business.

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

Regulation 3 contains the basic rule that, notwithstanding the provisions of the Gilts Regulations, an insurance company carrying on life assurance business shall not be required to include in its return for any return period the amount of tax on the amount of excess gilt interest received which is referable to the company’s pension business. The amount of tax must be identified in a claim made by the specified date.

Regulation 4 provides for regulations 5 to 10 to make provision modifying the operation of Schedule 19AB to the 1988 Act in relation to cases where payments of interest on relevant gilt-edged securities are made without deduction of tax to insurance companies carrying on pension business; and regulations 5 to 10 make modifications of that Schedule.

By virtue of section 463(1) of the 1998 Act, these Regulations also apply to friendly societies carrying on pension business as they apply to insurance companies carrying on pension business.