
STATUTORY INSTRUMENTS

2004 No. 2200

The Overseas Life Insurance Companies Regulations 2004

Modifications to section 89A of, and Schedule 8A to, the Finance Act 1989

- 6.—(1) Schedule 8A to the Finance Act 1989(1) is modified as follows.
- (2) In the heading, for “83 TO 83A” substitute “82 TO 83A, 88”.
- (3) In paragraph 1 —
- (a) in sub-paragraph (1) —
- (i) for “sections 83 to 83A” substitute “sections 82 to 83A and 88”;
- (ii) for “paragraphs 1A to 1C” substitute “paragraphs 1ZA to 1D”;
- (b) omit sub-paragraph (2).
- (4) After paragraph 1 insert —
- “**1ZA.** The reference in section 82(2) to amounts allocated to policy holders or annuitants in respect of a period of account shall be construed as a reference to such of those amounts as fall to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.
- “**1ZB.** The reference in section 82A(1) to tax expended on behalf of policy holders or annuitants shall be construed as a reference to so much of that tax as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.”(2).
- (5) In paragraph 1A —
- (a) in sub-paragraph (1), for “branch or agency” substitute “permanent establishment”;
- (b) for sub-paragraph (2) substitute —
- “(2) The references to assets in section 83(2) (as it applies apart from subsection (3) of that section) and section 83(2B) to (2E) shall be construed as references to such of the assets concerned as fall to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to that permanent establishment.”;
- (c) omit sub-paragraph (3);
- (d) after sub-paragraph (3) insert —
- “(3A) The reference in section 83(2)(d) to other income shall be construed as a reference to such of the income concerned as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to that permanent establishment.”(3);
- (e) in sub-paragraph (4), for “any amount being added” substitute “assets being added”, and for “branch or agency” substitute “permanent establishment”;

(1) Schedule 8A was inserted by section 101(2) of, and Schedule 10 to, the Finance Act 1993.

(2) Section 82 is substituted by, and sections 82A and 82B are inserted by, section 170 of, and paragraph 1 of Schedule 33 to, the Finance Act 2003.

(3) Section 83 is amended by section 170 of, and paragraph 2 of Schedule 33 to, the Finance Act 2003.

- (f) after sub-paragraph (4) insert —
- “(4A) In section 83(6), insert “or” at the end of paragraph (a), and omit paragraph (b).”;
- (g) in sub-paragraph (5) omit “, (3) or (4)”.
- (6) After paragraph 1A insert —
- “**1AA.**—(1) Where an overseas life insurance company has a revenue account prepared for the purposes of Chapter 9 of the Prudential Sourcebook (Insurers), the reference in section 83ZA(8) (definition of “relevant net transfers to shareholders”) to the positive amounts brought into account as transfers to non-technical account shall be read as a reference to so much of any positive amounts brought into account as transfers to non-technical account as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.
- (2) Where an overseas life insurance company is an EEA firm, the reference in section 83ZA(8) to the positive amounts brought into account as transfers to non-technical account shall be read as a reference to so much of any positive amounts brought into account as transfers to non-technical account as —
- (a) is shown in accounts drawn up in accordance with the Council Directive of 19th December 1991 on the annual accounts and consolidated accounts of insurance undertakings (No.91/674/EEC), and
- (b) falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.
- (3) In sub-paragraph (2) “EEA firm” means a firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000.
- (4) The reference in section 83ZA(9) to the amount allocated to policy holders as bonuses shall be construed as a reference to so much of that amount as is brought into account, and “brought into account” has the meaning given by section 83A.
- (5) The reference in section 83ZA(10)(a) to liabilities shall be construed as a reference to so much of those liabilities as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.
- (6) Section 83ZA(12) shall apply but with the omission of the words “as other income”.”(4), (5).
- (7) In paragraph 1B —
- (a) at the end of sub-paragraph (1) insert —
- “This is subject to sub-paragraph (1A).”;
- (b) after sub-paragraph (1) insert —
- “(1A) In its application in relation to an overseas life insurance company which is an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000, section 83A shall have effect with the substitution for subsection (2) of —
- “(2) Subject to the following provisions of this section and to any regulations made by the Treasury, the accounts recognised for the purposes of those

(4) By virtue of section 90A of the Finance Act 1989 (inserted by section 170 of, and paragraph 31 of Schedule 33 to, the Finance Act 2003) “the Prudential Sourcebook (Insurers)” has the meaning given in section 431(2) of the Taxes Act.

(5) Section 83ZA is inserted by section 170 of, and paragraph 3(1) and (3) of Schedule 33 to, the Finance Act 2003.

sections are technical accounts included in accounts drawn up in accordance with the Council Directive of 19th December 1991 on the annual accounts and consolidated accounts of insurance undertakings (No.91/674/EEC), in respect of the whole of the company's long-term business or such of that business as is carried on through the permanent establishment in the United Kingdom through which the company carries on life assurance business.”;

- (c) omit sub-paragraph (2).
- (8) Omit paragraph 1C.
- (9) After paragraph 1C insert —

“**1D.**—(1) In section 88(3), the reference to income and gains of the company's life assurance business shall be construed as a reference to so much of that income and those gains as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.

(2) The reference to the aggregate amount of the items specified in paragraphs (aa) to (b) of section 88(3) shall be construed as a reference to the aggregate of so much of the amount of each of those items as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to that permanent establishment.”.

- (10) In paragraph 2 —
 - (a) in sub-paragraph (1), omit the words from “; and ” to the end of the sub-paragraph;
 - (b) omit sub-paragraph (2);
 - (c) after sub-paragraph (2) insert —

“(2A) In subsection (1B), the reference to income and chargeable gains referable to the company's basic life assurance and general annuity business shall be construed as a reference to so much of that income and those gains as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.

(2B) In subsection (1B), the reference to the aggregate amount of the items specified in paragraphs (a) to (c) of that subsection shall be construed as a reference to the aggregate of so much of the amount of each of those items as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to that permanent establishment.

(2C) In paragraph (b) of subsection (2), the reference to distributions shall be construed as a reference to so much of the distributions mentioned in that paragraph as falls to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to that permanent establishment.”(6);

- (d) in sub-paragraph (3), for the words from “the branch or agency” to the end of the sub-paragraph substitute “that permanent establishment”;
- (e) for sub-paragraph (4) substitute —

“(4) The reference in subsection (5)(b) to assets shall be construed as a reference to such of the assets concerned as fall to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to that permanent establishment.”;
- (f) in sub-paragraph (5), for “the branch or agency” substitute “that permanent establishment”;
- (g) after sub-paragraph (6) insert —

(6) Section 89(1B) is inserted by section 170 of, and paragraph 6 of Schedule 33 to, the Finance Act 2003, and section 89(2)(b) is amended by section 170 of, and paragraph 12 of Schedule 33 to, the Finance Act 2003.

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“(6A) Where the company is an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000, subsection (6) shall have effect as if, for the words from ““brought into account”” to “(Insurers);” there were substituted ““brought into account” means brought into account in the technical accounts included in accounts drawn up in accordance with the Council Directive of 19th December 1991 on the annual accounts and consolidated accounts of insurance undertakings (No.91/674/EEC), in respect of the whole of the company’s long-term business or such of that business as is carried on through the permanent establishment in the United Kingdom through which the company carries on life assurance business;”.”;

(h) omit sub-paragraphs (7), (7A), (8), (9) and (10).