

2006 No. 3271

CORPORATION TAX

The Overseas Life Insurance Companies Regulations 2006

Made - - - - *7th December 2006*

Laid before the House of Commons *8th December 2006*

Coming into force - - *31st December 2006*

The Treasury make the following Regulations in exercise of the powers conferred by section 156 of the Finance Act 2003(a):

Citation, commencement and effect

1. These Regulations may be cited as the Overseas Life Insurance Companies Regulations 2006, shall come into force on 31st December 2006 and shall have effect in relation to periods of account (whenever beginning) which end on or after that day.

Interpretation

2. In these Regulations—

“overseas life insurance company” has the meaning given in section 156(5) of the Finance Act 2003;

“period of account” has the meaning given in section 832(1) of the Income and Corporation Taxes Act 1988(b).

Modifications of the Income and Corporation Taxes Act

3. In relation to an overseas life insurance company, the Income and Corporation Taxes Act 1988 shall have effect as if it were subject to the following modifications.

4. In section 12 (basis of, and periods for, assessment), in subsection (7A)(c) after “scheme” insert “or a qualifying overseas transfer”.

5.—(1) Modify section 76(d) (expenses of insurance companies) as follows.

(2) For subsection (3) substitute—

“(3) For the purposes of this section “expenses payable” means—

(a) 2003 c.14.

(b) 1988 c. 1. The definition of “period of account” was inserted into section 832(1) by section 103(1) and (6) of the Finance Act 2002 (c. 23).

(c) Subsection (7A) was inserted by paragraphs 3 and 7 of the Finance Act 1990 (c. 29) and amended by section 196 of, and paragraph 1 of Schedule 41, to the Finance Act 2003 (c. 14), paragraph 20(2) and (3) of Schedule 9 to the Finance (No. 2) Act 2005 (c. 22) and articles 13 and 14 of S.I. 2001/3629.

(d) Section 76 was substituted by section 40(1) of the Finance Act 2004 (c. 12) and amended by sections 42 and 70 of, and paragraph 1 of Schedule 9 and Part 2(10) of Schedule 11 to, the Finance (No. 2) Act 2005.

- (a) where the company is a UK-authorised firm, expenses brought into account in the periodical return of the company for a period of account in line 12, 22 or 25 of Form 40 (the revenue account) in relation to the long-term business carried on by the company at a permanent establishment in the United Kingdom ;
- (b) where the company is an EEA firm or a Treaty firm, so much of the expenses included in item II.8 or 9(a) of the profit and loss account included in IAD accounts as are attributable to a permanent establishment in the United Kingdom through which the company carries on life assurance business,

but does not include any of the amounts falling within subsections (4), (5) or (6).”.

(3) In subsection (7), in Step 2—

- (a) in paragraph (b) omit “or”, and
- (b) at the end insert—
“, or
- (d) equal to the amount—

$$S1 \times \frac{FOTRA}{TBLAGAB}$$

where—

S1 is the amount given by Step 1,

FOTRA is the amount of any profits and gains arising from a FOTRA security, or from any loan relationship represented by it (after applying the provisions of section 154(2) to (7) of the Finance Act 1996), excluded by virtue of the tax exemption condition of that security,

TBLAGAB means the income from the investments of an overseas life insurance company referable in accordance with section 432A to the basic life assurance and general annuity business of the permanent establishment in the United Kingdom through which the company carries on life assurance business, and

“FOTRA security” and “tax exemption condition” have the same meaning as in section 154(8) of the Finance Act 1996.”.

(4) In subsection (11), in the definition of “the relevant income”—

- (a) in paragraph (a), at the end insert “to the extent such income and gains fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business”,
- (b) in paragraph (b), at the end insert “to the extent such distributions fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business.”.

6.—(1) Modify section 431(2)(a) (interpretative provisions relating to insurance companies) as follows.

(2) In the definition of “insurance company”—

- (a) in paragraph (a), after “contracts of insurance” insert “(a “UK-authorised firm”)", and
- (b) in paragraph (b)—
 - (i) after “Schedule 3 to that Act” insert “(an “EEA firm”)",
 - (ii) after “Schedule 4 to that Act” insert “(a “Treaty firm”)", and
 - (iii) in sub-paragraph (ii) for “branch or agency” substitute “permanent establishment”.

(a) Section 431(2) has been relevantly amended by section 42 of, and paragraph 2 of Schedule 9 and Part 2(10) of Schedule 11 to the Finance (No. 2) Act 2005, and articles 13 and 26(3) of S.I. 2001/3629.

(3) In the definition of “overseas life insurance company” for “branch or agency” substitute “permanent establishment”.

(4) Substitute the following definitions in the appropriate places—

““liabilities”, where the company concerned is an overseas life insurance company, does not include liabilities that have been reinsured, and (subject to that) means—

- (a) the long-term liabilities of the company determined for the purposes of the company’s periodical return on actuarial principles in accordance with section 5.6 of the Prudential Sourcebook (Insurers), or
- (b) in the case of liabilities not determined for the purposes of such a periodical return, liabilities as determined in accordance with actuarial principles for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident;”

““value”, in relation to assets and where the company concerned is an overseas life insurance company, means—

- (a) their value as taken into account for the purposes of the company’s periodical return, or
- (b) where their value is not taken into account for the purposes of such a periodical return, their value as taken into account for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident;”;

““insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000 and includes a reference to—

- (a) an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section; and
- (b) a qualifying overseas transfer;”.

(5) Insert the following definitions in the appropriate places—

““free assets amount”, in relation to an overseas life insurance company, means the excess of the value of the relevant assets over the aggregate of the relevant liabilities and the amount of the shareholders’ excess assets, and for the purposes of this definition—

- (a) relevant assets are such assets of the company’s long-term insurance fund as fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on long-term business;
- (b) relevant liabilities are—
 - (i) such liabilities of the long-term business as fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment; and
 - (ii) any money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) of the company which are not within sub-paragraph (i) above but which are owed in respect of that business and fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment; and
- (c) the amount of the shareholders’ excess assets has the meaning given by section 432A(8)(b);”;

““IAD accounts” means the 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);”;

““long-term insurance fund”, in the case of an overseas life insurance company where the company is an EEA firm or a Treaty firm, means the technical account for life assurance business of the company included in the IAD accounts, and references to assets of the long-term insurance fund shall be read as references to assets from which any income or gain is or would be included in the technical account;”;

““periodical return” means, in relation to an overseas life insurance company, where the company is an EEA firm or a Treaty firm, the IAD accounts;”;

““qualifying overseas transfer” means so much of any transfer of the whole or any part of the business of an overseas life insurance company carried on through a permanent establishment in the United Kingdom as takes place in accordance with any authorisation granted outside the United Kingdom for the purposes of Article 14 of the Council Directive of 5th November 2002 concerning life assurance (No.2002/83/EC);”.

7. In section 431D(a) (meaning of “overseas life assurance business”), in subsection (1), after “means life assurance business” insert “carried on through a permanent establishment in the United Kingdom by an overseas life insurance company”.

8.—(1) Modify section 432A(b) (apportionment of income and gains) as follows.

(2) In subsection (8A) after “non-participating funds” insert “that are referable to the permanent establishment in the United Kingdom through which the company carries on life assurance business”.

(3) After subsection (9A) insert—

“(9AA) In this section—

“assets” means those assets that fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business;

“liabilities” means those liabilities that fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business.”.

9.—(1) Modify section 432B(c) (apportionment of receipts brought into account) as follows.

(2) In subsection (3) after “business” insert in (both places) “of the permanent establishment in the United Kingdom through which the company carries on life assurance business”.

(3) In subsection (8G)—

(a) for “any company” substitute “any overseas life insurance company where the company is an EEA firm or a Treaty firm”,

(b) for “in line 13 of Form 40 in the periodical return of the company” substitute (in both places) “in the profit and loss account included in the IAD accounts”, and

(c) at the end insert—

““assets” shall be treated 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.”.

10. After section 434A (computation of losses and limitation on relief) insert—

“Treatment of annuities

434AA. An overseas life insurance company shall not be entitled to treat as paid out of profits or gains brought into charge to income tax any part of the annuities paid by the company which is referable to its life assurance business.”.

(a) Section 431 was inserted by paragraphs 2 and 55 of the Finance Act 1995 (c. 7) and amended by section 108(2) to (4) of the Finance Act 2000 (c.17)

(b) Section 432A was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 and has been relevantly amended by paragraphs 13(2) and (3) and 57 of Schedule 8 to the Finance Act 1995, articles 13 and 52(1)(c) of S.I. 2001/3629 and articles 2 and 5 of S.I. 2005/3465.

(c) Section 432B was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 and has been relevantly amended by paragraphs 17(1) and 53 of Schedule 8 to the Finance Act 1995 and article 13 of S.I. 2001/3629.

11.—(1) Modify section 440(a) (transfers of assets etc) as follows.

(2) In subsection (2), in paragraph (b), for “is within another of those categories” substitute “is not within the corresponding category”.

(3) In subsection (4)—

(a) in paragraphs (a) to (f) before “assets” insert “UK”, and

(b) at the end insert—

“(h) assets of the company which are not UK assets.”.

(4) After subsection (4) insert—

“(4AA) Section 13 of the Capital Allowances Act (use for qualifying activity of plant or machinery provided for other purposes) shall apply in relation to any case in which an asset or part of an asset held by an overseas life insurance company—

(a) ceases to be within the category set out in paragraph (h) of subsection (4) above; and

(b) at the same time comes within another of the categories set out in that subsection.”.

(5) At the end insert—

“(7) For the purposes of this section UK assets are assets which fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business.

(8) Where the transferor company mentioned in subsection (2) is an overseas life insurance company, this section shall have effect, as regards the time immediately before the acquisition.

(9) Where the acquiring company mentioned in subsection (2) is an overseas life insurance company, this section shall have effect as regards the time immediately after the acquisition.”.

12.—(1) Modify section 440A(b) (securities) as follows.

(2) In subsection (2)—

(a) in paragraph (a) before “securities” in the first place where it occurs insert “UK”,

(b) in paragraphs (c) to (e) before “securities” insert “UK”,

(c) in paragraph (d) omit “and”, and

(d) at the end insert

“, and

(g) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.”.

(3) After subsection (6) insert—

“(6A) For the purposes of this section —

(a) UK securities are such securities as are assets which fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business; and

(b) non-UK securities are securities which are not UK securities.”.

(a) Section 432B was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 and has been relevantly amended by paragraphs 5(3) and 57 of Schedule 8 to the Finance Act 1995 and articles 13 and 52(1)(a) of S.I. 2001/3629.

(b) Section 440A was inserted by paragraph 8 of Schedule 6 to the Finance Act 1990 and relevantly amended by paragraphs 6 and 57 of Schedule 8 to the Finance Act 1995 and articles 13 and 52(1)(h) of S.I. 2001/3629.

13. In section 440B(a) (modifications where tax charged under Case I of Schedule D)—

(a) for subsection (3) substitute—

“(3) Section 440(1) and (2) have effect as if the only categories specified in subsection (4) of that section were—

- (a) UK assets of the long-term insurance fund,
- (b) other UK assets, and
- (c) assets of the company which are not UK assets,

and UK assets has the meaning given by section 440(7).”, and

(b) for subsection (4) substitute—

“(4) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—

- “(a) so many of the UK securities as are identified in the company’s records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of long-term business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,
- (b) any remaining UK securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph, and
- (c) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs.””

14. In section 442A(b) (taxation of investment return where risk reinsured) after subsection (6) insert—

“(7) In the case of an overseas life insurance company, the investment return treated as accruing under this section in any accounting period in relation to a policy or contract shall be treated as chargeable profits within section 11(2) of the Taxes Act 1988 where the policy or contract is one which in that accounting period gives rise, or but for the reinsurance arrangement would give rise, to such profits.”.

15. In section 444AC(c) (transfers of business: excess of assets or liabilities), in subsection (5A), in a case where the transferor is an EEA firm or a Treaty firm—

- (a) for the words from “means—” to “other” substitute “means, in relation to an overseas life insurance company where the company is an EEA firm or a Treaty firm,”; and
- (b) omit “(in either case)”.

16. In section 444AL(d) (interpretation of sections 444AF to 444AK), in subsection (3), in a case where the transferor is an EEA firm or a Treaty firm—

- (a) for “insurance company” substitute “overseas life insurance company where the company is an EEA firm or a Treaty firm”, and
- (b) for “surplus on valuation as shown in the periodical return” substitute “balance on the technical account – long-term business, so far as it relates to life assurance business carried on in the United Kingdom through a permanent establishment”.

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- (a) Section 440B was inserted by paragraphs 28 and 57 of Schedule 8 to the Finance Act 1995 and relevantly amended by articles 13 and 52(1)(i) of S.I. 2001/3629.
 - (b) Section 442A was inserted by paragraphs 34 and 57 of Schedule 8 to the Finance Act 1995.
 - (c) Section 82 was inserted by section 170 of, and paragraph 20(1) of Schedule 33 to, the Finance Act 2003 (c. 14) and relevantly amended by section 86 of, and paragraph 3(4), (5) and (7) of Schedule 11 to, the Finance Act 2006 (c. 25).
 - (d) Section 444AL was inserted by section 86 of, and paragraph 5 of Schedule 11 to, the Finance Act 2006.

17. In section 460(10A)(a) (exemption from tax in respect of life or endowment business) after “scheme” insert “or a qualifying overseas transfer”.

18.—(1) In Schedule 19AA(b) (overseas life assurance fund)—

- (a) omit paragraph 5(5)(c) (and the reference to it in paragraph 2(3) of that Schedule),
- (b) at the end insert—

“6. In its application to an overseas life insurance company this Schedule shall have effect as if—

- (a) the references in paragraphs 2 and 3 to assets of the long-term insurance fund were to such of those assets as fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business; and
- (b) the references in paragraphs 2 and 4 to the liabilities of the company’s long-term business were to such of those liabilities as are attributable to the permanent establishment; and
- (c) the references in paragraph 4(1) and (2) to liabilities of the company’s long-term insurance fund which represent a money debt, and the reference in paragraph 4(5)(b) to money debts of the company, were references to such of those liabilities or debts as fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment.”.

Modifications of the Finance Act 1989

19. In relation to an overseas life insurance company, the Finance Act 1989(c) shall have effect as if it were subject to the following modifications.

20. In section 82(d) (calculation of profits: bonuses etc), in subsection (2) at the end insert “to the extent that such amounts 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”.

21. In section 82A(e) (calculation of profits: policy holders’ tax), in subsection (1) at the end insert “and that such tax 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”.

22.—(1) Modify section 83(f) (receipts to be taken into account) as follows.

(2) In subsection (2)(a) and (d) after “income” insert—

“so far as such income 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 subsection (3)—

(a) for “assets are added to the company’s long-term insurance fund” substitute—

“assets become assets of the long-term insurance fund used or held for the purposes of the company’s United Kingdom permanent establishment, having immediately previously been

(a) Section 440A(10A) was inserted by paragraphs 6 and 7 of Schedule 9 to the Finance Act 1990 and amended by articles 13 and 32 of S.I. 2001/3629.

(b) Schedule 19AA was inserted by paragraphs 6 and 10(1) of Schedule 9 to the Finance Act 1990.

(c) 1989 c. 26.

(d) Section 82 was substituted by section 170 of, and paragraph 1(1) of Schedule 33 to, the Finance Act 2003.

(e) Section 82A was inserted by section 170 of, and paragraph 1(1) of Schedule 33 to, the Finance Act 2003.

(f) Section 83 was substituted by paragraph 16(1) of Schedule 8 to the Finance Act 1995 and relevantly amended by paragraph 4 of Schedule 31 to the Finance Act 1996, sections 170 and 216 of, and paragraph 2 of Schedule 33 to, the Finance Act 2003, articles 54, 56 and 60(1)(a) of S.I. 2001/3629 and articles 7 and 8 of S.I. 2004/3266.

held by the company otherwise than as assets of that fund or used or held otherwise than for those purposes”, and

(b) after “amount” insert “equal to the value of the assets added”.

(4) In subsection (6)—

(a) in paragraph (a) at the end insert “or”, and

(b) omit paragraph (b).

(5) In subsection (8) after the definition of “add” insert—

““assets” means those assets that fall to be attributed, for the purposes of section 11AA(2), to the permanent establishment in the United Kingdom through which the company carries on life assurance business;”.

23.—(1) Modify section 83ZA(a) (contingent loans) as follows.

(2) In subsection (8) after “non-technical account” insert “so far as such amounts 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”.

(3) After subsection (8) insert—

“(8A) In the case of an EEA firm or a Treaty firm, the reference in subsection (8) to the positive amounts brought into account as transfers to non-technical account shall be treated as a reference to so much of any positive amounts brought into account as transfers to non-technical account as—

(a) is shown in the IAD accounts, 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.”.

(4) In subsection (9) before “allocated” insert “brought into account and”.

24.—(1) Modify section 83A(b) (meaning of “brought into account”), as follows.

(2) After subsection (2) insert—

“(2A) In the case of an EEA firm or a Treaty firm, subject to the following provisions of this section, the accounts recognised for the purposes of those sections are technical accounts included in the IAD accounts 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.”.

(3) At the end insert—

“(7) In the case of a UK-authorised firm references in this section to the company’s long-term business shall be treated as references to the whole of that business or to the whole of that business other than business in respect of which preparation of a revenue account for the purposes of Chapter 9 of the Prudential Sourcebook (Insurers) is not required.”.

25. In section 88(c) (corporation tax: policy holders’ fraction of profits), in subsection (3)—

(a) after “business” insert “so far as that income and those gains 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”, and

(b) at the end insert—

“so far as those amounts and that deduction fall to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to that permanent establishment”.

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

(b) Section 83A was substituted by paragraph 16(1) of Schedule 8 to the Finance Act 1995.

(c) Section 88B was amended by paragraph 21(2) of Schedule 8 to the Finance Act 1995, section 104 of, and paragraph 56 of Schedule 14, to the Finance Act 1996 (c. 8), and article 2 of, and paragraph 45 of the Schedule to, S.I. 2004/2310.

- 26.**—(1) Modify section 89(a) (policy holders’ share of profits) as follows.
- (2) In subsection (1B)—
- (a) after “business” insert—
- “so far as that income and those gains 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”, and
- (b) at the end insert—
- “so far as those amounts and that deduction fall to be attributed, for the purposes of section 11AA(2) of the Taxes Act 1988, to that permanent establishment”.
- (3) In subsection (2), in paragraph (b), after “distributions” insert—
- “, so far as those distributions 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.”.
- (4) In subsection (5) after “business” insert “carried on at a permanent establishment in the United Kingdom”.
- (5) In subsection (6) after “provide” insert “and subject to subsection (6A)”.
- (6) After subsection (6) insert—
- “(6A) In the case of an EEA firm or a Treaty firm, in this section “brought into account” means brought into account in the technical accounts included in the IAD accounts 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.”.

Modification of the Taxation of Chargeable Gains Act 1992

27. In relation to an overseas life insurance company, the Taxation of Chargeable Gains Act 1992(b) shall have effect as if it were subject to the following modifications.

28. In section 10B(c) (non-resident company with United Kingdom permanent establishment), in subsection (1)(b) omit “situated in the United Kingdom and”.

29. In section 185 (deemed disposal of assets on company ceasing to be resident in UK), in subsection (4)(d) —

- (a) in paragraph (a) omit “are situated in the United Kingdom and”, and
- (b) in paragraph (b) omit “are so situated and”.

30. In section 212 (annual deemed disposal of holdings of unit trusts etc) after subsection (5) insert—

“(5A) In its application to an overseas life insurance company, this section shall have effect as if the references in subsections (1) and (2) to assets were to such of the assets concerned as fall to be attributed, for the purposes of section 11AA(2) of the Taxes Act, to the permanent establishment in the United Kingdom through which the company carries on life assurance business.”.

31. In section 213(e) (spreading of gains and losses under section 212), in subsection (4) after “long-term business” insert “in the United Kingdom through a permanent establishment”.

(a) Section 89 was substituted by section 45 (3) and (10) of the Finance Act 1990 and relevantly amended by sections 23 and 36(4) of, and paragraph 14 of Schedule 3, paragraph 19 of Schedule 6 and Part 2(6) and (11) of Schedule 8 to, the Finance Act 1997 (c. 16), section 170 of, and paragraph 6(4) of Schedule 33 to, the Finance Act 2003, section 47 of, and paragraph 9(2) of Schedule 7 to, the Finance Act 2004 and article 2 of, and paragraph 46 of the Schedule to, S.I. 2004/2310.

(b) 1992 c. 12.

(c) Section 10B was inserted by section 149(4) of the Finance Act 2003.

(d) Section 185(4) was amended by section 153(1)(b) and (4) of the Finance Act 2003.

(e) Section 213(4) was amended by articles 61 and 73 (2)(a) S.I. 2001/3629.

- 32.** In Schedule 7A(a) (restriction on set-off of pre-entry losses), after paragraph 1(4) insert—
- “(4A) Where—
- (a) an asset is held by an overseas life insurance company, and
 - (b) section 440 of the Taxes Act applies at any time in relation to the asset,
- the asset shall not be treated for the purposes of sub-paragraph (3A)(b) above as having become a chargeable asset at that time.”.

Modification of the Finance (No. 2) Act 1992

33.—(1) In relation to an overseas life insurance company, the Finance (No. 2) Act 1992(b) shall have effect as if it were subject to the following modifications.

- (2) In section 65 (life assurance business: I minus E basis) omit subsection (2)(ab)(c) .

Modification of the Finance Act 1995

34.—(1) In relation to an overseas life insurance company, the Finance Act 1995(d) shall have effect as if it were subject to the following modifications.

- (2) In Schedule 8, in paragraph 55(1)—
- (a) for “33, 37, 38 and 45(1) and (3)” substitute “33 and 37”, and
 - (b) omit the words from “paragraph 46” to the end.

Modification of the Finance Act 1996

35.—(1) In relation to an overseas life insurance company, the Finance Act 1996(e) shall have effect as if it were subject to the following modifications.

- (2) In Schedule 9, in paragraph 12 (continuity of treatment: groups etc), in subsection (1)(d) omit “by paragraph 6(9) of Schedule 19AC to that Act”.

Modification of the Capital Allowances Act 2001

36.—(1) In relation to an overseas life insurance company, the Capital Allowances Act 2001(f) shall have effect as if it were subject to the following modifications.

- (2) In section 255 (apportionment of allowances and charges), in subsection (2) for “branch or agency” substitute “permanent establishment”.

Modification of the Finance Act 2002

37. In relation to an overseas life insurance company, the Finance Act 2002(g) shall have effect as if it were subject to the following modifications.

- 38.** In section 66 (general interpretation of Part 2)—
- (a) in subsection (6)(a)—
 - (i) for “branch or agency” substitute “permanent establishment”,
 - (ii) for “Article 11 of the third life insurance directive” substitute “Article 14 of the consolidated life assurance directive”; and
 - (b) in subsection (7), for the definition of “the third life insurance directive” substitute—

(a) Schedule 7A was inserted by section 88 of, and Schedule 8 to, the Finance Act 1993 (c. 34).

(b) 1992 c. 48.

(c) Section 65(2)(ab) was inserted by section 23 of, and paragraph 15 of Schedule 3 to, the Finance (No.2) Act 1997 (c. 58).

(d) 1995 c. 4.

(e) 1996 c.8.

(f) 2001 c. 2.

(g) 2002 c. 23.

““the consolidated life assurance directive” means the Directive of the European Parliament and of the Council of 5th November 2002 concerning life assurance (No. 2002/83/EC);”.

39. In Schedule 22, in paragraph 10 (application of paragraphs 8 and 9 in case of transfer of insurance business)—

- (a) in sub-paragraph (5)(a)—
 - (i) for “branch or agency” substitute “permanent establishment”,
 - (ii) for “Article 11 of the third life insurance directive” substitute “Article 14 of the consolidated life assurance directive”; and
- (b) in sub-paragraph (6), for the definition of “the third life insurance directive” substitute—

““the consolidated life assurance directive” means the Directive of the European Parliament and of the Council of 5th November 2002 concerning life assurance (No. 2002/83/EC);”.

40. In Schedule 26—

- (a) in the case of an EEA firm or a Treaty firm, in paragraph 4 (contracts excluded by virtue of their underlying subject matter), in sub-paragraph (2A)(a)—
 - (i) after paragraph (a) insert—

“(aa) the company is an EEA firm or a Treaty firm within the meaning of Chapter 1 Part 12 of ICTA;”, and
 - (ii) in paragraph (b) for the words “is an approved derivative for the purposes of Rule 4.3.5 of the Integrated Prudential Sourcebook” substitute “is a derivative instrument falling within article 23.3 of the EC Consolidated Life Directive (EC/2002/83)”.
- (b) in paragraph 28 (transactions within groups), in sub-paragraph (2)(d) omit “by paragraph 6(9) of Schedule 19AC to that Act”.

41. In Schedule 29, in paragraph 89 (transfer of life assurance business), in sub-paragraph (1)(b) omit “by paragraph 6(9) of Schedule 19AC to that Act”.

Modification of the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995

42.—(1) In relation to an overseas life insurance company, the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995(b) shall have effect as if they were subject to the following modifications.

(2) In paragraph 2(1), in the definition of “relevant business”, for “branch or agency” substitute “permanent establishment”.

Repeals and revocations

43.—(1) The enactments specified in Part 1 of the Schedule are repealed to the extent specified.

(2) The instruments specified in Part 2 of the Schedule are revoked to the extent specified.

Dave Watts

Frank Roy

7th December 2006

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Paragraph (2A) was substituted by articles 2 and 4 of S.I. 2005/646, articles 2 and 5 of S.I. 2005/2082 and articles 3 and 5 of S.I. 2005/3440.

(b) S.I. 1995/3237 which has been relevantly amended by S.I. 1998/1872 and regulation 12 of S.I. 2004/2200.

SCHEDULE

Regulation 41

Repeals and Revocation

PART 1

<i>Enactment</i>	<i>Extent of Repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 444B. Schedule 19AC.
Finance Act 1989 (c.26)	Section 89A. Schedule 8A.
Taxation of Chargeable Gains Act 1992 (c. 12)	Section 214B. Schedule 7B.
Finance Act 1993 (c. 34)	Section 97. Section 98. Section 101. Section 102. Schedule 9. Schedule 10. Schedule 11.
Finance Act 1995 (c. 4)	In Schedule 8, in paragraph 55(1) the words from “paragraph 46” to the end. In Schedule 8, paragraphs 35, 38, 39, 40, 42, 44, 45, 46, 48 and 49. In Schedule 9, paragraphs 2 and 6.
Finance Act 1996 (c. 8)	Section 164(3). In Schedule 28, paragraph 5. In Schedule 31, paragraph 8(4) and (5).
Finance Act 1997 (c. 16)	Section 67(5).
Finance (No. 2) Act 1997 (c. 58)	In Schedule 3, paragraph 13.
Finance Act 2000 (c. 17)	Section 75(4). In section 75(6), the words “In this section—” and paragraph (a). In Schedule 29, paragraph 39.
Capital Allowances Act 2001 (c. 2)	In Schedule 2, paragraph 64(2).

PART 2

<i>Instrument</i>	<i>Extent of Revocation</i>
The Manufactured Dividends (Tax) Regulations 1997 (S.I. 1997/993)	Regulation 2(3)(a).
The Insurance Companies (Capital Redemption Business) (Modification of the Corporation Tax Acts) Regulations 1999 (S.I. 1999/498)	Regulation 8.
The Individual Savings Account (Insurance Companies) (Amendment) Regulations 2000 (S.I. 2000/2075)	Regulation 1A.
The Overseas Life Assurance Fund (Amendment) Order 2000 (S.I. 2000/2188)	Regulation 5.
The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629)	Article 49. Article 52(1)(l) and (2)(o). Article 59. Article 60(1)(d) and (2)(b). Article 72. Article 73(1)(b) and (2)(b).
The Overseas Life Insurance Companies Regulations 2004 (S.I. 2004/2200)	The whole instrument.
The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310)	Paragraph 36 of the Schedule.
The Overseas Life Insurance Companies (Amendment) Regulations 2005 (S.I. 2005/3375)	The whole instrument.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Overseas Insurance Companies Regulations 2004 (S.I. 2004/2200, as amended by S.I. 2005/3375) and other provisions which modify legislation relating to the taxation of overseas life insurance companies (insurance companies resident outside the United Kingdom which carry out life assurance business in the United Kingdom through a permanent establishment).

These Regulations set out all the modifications required to the Corporation Tax Acts so that provisions relating to UK companies carrying on life assurance business apply appropriately to overseas life insurance companies. Different provision are made in some cases for EEA firms and Treaty firms.

Regulation 1 provides for the citation, commencement and effect of the Regulations.

Regulations 3 to 18 contain the modifications to the Income and Corporation Taxes Act 1988.

Regulations 19 to 26 contain the modifications to the Finance Act 1989.

Regulations 27 to 32 contain the modifications to the Taxation of Chargeable Gains Act 1992.

Regulation 33 contains the modifications to the Finance (No. 2) Act 1992.

Regulation 34 contains the modification to the Finance Act 1995.

Regulation 35 contains the modification to the Finance Act 1996.

Regulation 36 contains the modifications to the Capital Allowances Act 2001.

Regulations 37 to 41 contain the modifications to the Finance Act 2002.

Regulation 42 contains the modifications to the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995 (S.I. 1995/3237).

Regulation 43 introduces the Schedule which lists the provisions repealed and revoked by these Regulations.

These Regulations do not impose new costs on business.

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The Overseas Life Insurance Companies Regulations 2006

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