

**2007 No. 2145**

**CORPORATION TAX**

**The Insurance Companies (Tax Exempt Business) Regulations  
2007**

<i>Made</i>	- - - -	<i>23rd July 2007</i>
<i>Laid before the House of Commons</i>		<i>24th July 2007</i>
<i>Coming into force</i>	- -	<i>14th August 2007</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 460(15) and (16), 461(12) and (13) and 461B(8) and (9) of the Income and Corporation Taxes Act 1988(a).

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Insurance Companies (Tax Exempt Business) Regulations 2007 and shall come into force on 14th August 2007.

(2) Subject to paragraph (3), these Regulations have effect for periods of account ending on or after the date on which these Regulations come into force.

(3) Where any part of a company's business is exempt from corporation tax by virtue of section 460(11), 461(4) or 461B(5) of the Taxes Act 1988(b), these Regulations have effect for periods of account beginning on or after 1st January 2007 (whenever ending).

**Interpretation**

2. In these Regulations—

“the Taxes Act 1988” means the Income and Corporation Taxes Act 1988;

“tax exempt business” means business which is exempt from corporation tax by virtue of any of the following provisions of the Taxes Act 1988—

- (a) section 460(11) or (12)(c);
- (b) section 461(4) or (4A)(d); and
- (c) section 461B(5) or (6A)(e).

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(a) 1988 c. 1. Sections 460(15) and (16) and 461(12) and (13) were inserted by paragraphs 1(5) and 4(4) of Schedule 12 to the Finance Act 2007 (c. 11). Section 461B was inserted by paragraph 7 of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48) and subsections (8) and (9) of that section were inserted by paragraph 5(4) of Schedule 12 to the Finance Act 2007.

(b) Section 460(11) was amended by paragraph 5(5) of Schedule 9 to the Finance (No. 2) Act 1992, article 32(4) of S.I. 2001/3629 and paragraph 1(3) of Schedule 12 to the Finance Act 2007. Section 461(4) was amended by paragraph 6 of Schedule 9 to the Finance (No. 2) Act 1992 and article 33(3) of S.I. 2001/3629.

(c) Section 460(12) was substituted by paragraph 1(4) of Schedule 12 to the Finance Act 2007.

(d) Section 461(4A) was inserted by paragraph 4(2) of Schedule 12 to the Finance Act 2007.

(e) Subsection (6A) of section 461B, together with subsections (6), (6A) and (6B), was substituted for subsection (6) of that section by paragraph 5(2) of Schedule 12 to the Finance Act 2007.

### **Modifications of the Taxes Act 1988**

3. Where any part of the business of a company is tax exempt business, the Taxes Act 1988 has effect subject to the following modifications.

#### **Modification of section 431**

4.—(1) Section 431 (interpretative provisions relating to insurance companies) is modified as follows.

(2) In subsection (2), insert at the appropriate places—

““tax exempt life assurance business” has the meaning given by section 431FA;”, and

““tax exempt other business” has the meaning given by section 431FB;”.

#### **Insertion of sections 431FA and 431FB**

5. After section 431F (meaning of “basic life assurance and general annuity business”)(a) insert—

##### **“431FA Meaning of “tax exempt life assurance business”**

(1) In this Chapter “tax exempt life assurance business” means business which is exempt from corporation tax by virtue of section 460(11) or (12).

(2) For the purposes of this Chapter, tax exempt life assurance business shall be treated as not being life assurance business.

##### **431FB Meaning of “tax exempt other business”**

(1) In this Chapter “tax exempt other business” means business which is exempt from corporation tax by virtue of section 461(4) or (4A) or 461B(5) or (6A).

(2) For the purposes of this Chapter, tax exempt other business shall be treated as being neither PHI business nor general insurance business.”

#### **Modifications of section 431H**

6.—(1) Section 431H (company carrying on life assurance business and other insurance business)(b) is modified as follows.

(2) For subsection (1) substitute—

“(1) This section applies in relation to an insurance company which carries on two or more of the following—

- (a) life assurance business,
- (b) tax exempt life assurance business,
- (c) tax exempt other business, and
- (d) insurance business of any other kind.”

(3) In subsection (2)—

- (a) omit the word “and” immediately following paragraph (a),
- (b) after paragraph (a) insert—
  - “(aa) tax exempt life assurance business,
  - (ab) tax exempt other business, and”, and
- (c) in paragraph (b), for “the” substitute “any”.

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(a) Section 431F was inserted by paragraph 2 of Schedule 8 to the Finance Act 1995 (c. 4).

(b) Section 431H, together with section 431G, was substituted for section 432 by paragraph 4 of Schedule 8 to the Finance Act 2007.

## Modifications of section 432A

7.—(1) Section 432A (apportionment of income and gains)(a) is modified as follows.

(2) In subsection (2)—

- (a) omit the word “and” immediately following paragraph (b), and
- (b) for paragraph (c) substitute—
  - “(c) PHI business,
  - (d) tax exempt life assurance business, and
  - (e) tax exempt other business.”

(3) In subsection (6)—

- (a) in the fraction, for the denominator “ $A + B + C$ ” substitute “ $A + B + C + D + E$ ”,
- (b) omit the word “and” immediately following the definition of  $B$ , and
- (c) after the definition of  $C$  insert—

“ $D$  is the aggregate of—

- (a) the mean of the opening and closing liabilities of the tax exempt life assurance business (but taking that mean to be nil if it would otherwise be below nil), and
- (b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts,

reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category; and

$E$  is the aggregate of—

- (a) the mean of the opening and closing liabilities of the tax exempt other business (but taking that mean to be nil if it would otherwise be below nil), and
- (b) the mean of the appropriate parts (that is, the parts relating to that category) of the opening and closing amounts of the free assets amounts,

reduced (but not below nil) by the mean of the opening and closing net values of any assets directly referable to that category.”

(4) In subsection (6A)—

- (a) in the fraction, for the denominator “ $A + B + C$ ” substitute “ $A + B + C + D + E$ ”, and
- (b) for “and  $C$ ” substitute “,  $C$ ,  $D$  and  $E$ ”.

(5) In subsection (6B)—

- (a) in the fraction, for the denominator “ $A + B + C$ ” substitute “ $A + B + C + D + E$ ”, and
- (b) for “and  $C$ ” substitute “,  $C$ ,  $D$  and  $E$ ”.

(6) After subsection (6B) insert—

“(6BA) For the purposes of subsection (5) above “the relevant fraction”, in relation to tax exempt life assurance business, is—

$$\frac{D}{A + B + C + D + E}$$

where  $A$ ,  $B$ ,  $C$ ,  $D$  and  $E$  have the same meaning as in subsection (6) above.

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(a) Section 432A was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 (c. 29) and was relevantly amended by paragraph 13(2) of Schedule 8 to the Finance Act 1995, paragraph 8(3) and (4) of Schedule 7 to the Finance Act 2004 (c. 12), article 5(4) of S.I. 2005/3465, article 4 of S.I. 2007/1031 and paragraph 13]of Schedule 7, and paragraph 5 of Schedule 8, to the Finance Act 2007.

(6BB) For the purposes of subsection (5) above “the relevant fraction”, in relation to tax exempt other business, is—

$$\frac{E}{A + B + C + D + E}$$

where *A*, *B*, *C*, *D* and *E* have the same meaning as in subsection (6) above.”

(7) In subsection (6C), for “or (6B)” substitute “, (6B), (6BA) or (6BB)”.

(8) In subsection (7), for “and (6B)” substitute “, (6B), (6BA) and (6BB)”.

(9) In subsection (8ZA), for “and *C*” substitute “, *C*, *D* and *E*”.

#### **Modifications of section 432AA**

**8.**—(1) Section 432AA (Schedule A business or overseas property business)(a) is modified as follows.

(2) In subsection (4)—

(a) omit the word “and” immediately following paragraph (b), and

(b) after paragraph (c) insert—

“(d) tax exempt life assurance business; and

(e) tax exempt other business.”

#### **Modifications of section 432C**

**9.**—(1) Section 432C (section 432B apportionment: non-participating funds)(b) is modified as follows.

(2) In subsection (5), in the definition of *B*, after “PHI business” (in both places) insert “, tax exempt life assurance business or tax exempt other business”.

(3) In subsection (9), in the definition of *D*—

(a) for “or PHI business” substitute “, PHI business, tax exempt life assurance business or tax exempt other business”, and

(b) for “either” substitute “any”.

#### **Modifications of section 440**

**10.**—(1) Section 440 (transfers of assets etc)(c) is modified as follows.

(2) In subsection (4)—

(a) after paragraph (a) insert—

“(b) assets which are linked solely to tax exempt life assurance business;”, and

(b) in paragraph (e), for “either” substitute “any”.

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(a) Section 423AA was inserted by paragraph 39 of Schedule 5 to the Finance Act 1998 (c. 36) and was relevantly amended by paragraph 14 of Schedule 7 to the Finance Act 2007.

(b) Section 432C was substituted by paragraph 17 of Schedule 7 to the Finance Act 2007.

(c) Sections 440 and 440A were substituted for section 440 by paragraph 8 of Schedule 6 to the Finance Act 1990. Section 440 was relevantly amended by paragraph 5(3) of Schedule 8 to the Finance Act 1995 and paragraph 31 of Schedule 7 to the Finance Act 2007.

### **Modification of section 440A**

- 11.**—(1) Section 440A (securities)(a) is modified as follows.
- (2) In subsection (2)(a)—
- (a) omit the word “or” immediately following sub-paragraph (i), and
  - (b) after sub-paragraph (ii) insert—
    - “(iii) tax exempt life assurance business, or
    - (iv) tax exempt other business.”.

### **Modifications of section 755A**

- 12.**—(1) Section 755A (treatment of chargeable profits and creditable tax apportioned to company carrying on life assurance business)(b) is modified as follows.
- (2) In subsection (4), for the words from “as is referable” to the end substitute—  
“as is referable to—
- (a) gross roll-up business,
  - (b) tax exempt life assurance business, or
  - (c) tax exempt other business,
- carried on by the UK company.”
- (3) In subsection (6)(c), for “gross roll-up business” substitute “a category of business specified in paragraphs (a) to (c) of subsection (4) above”.
- (4) In subsection (13)—
- (a) omit the word “or” immediately following paragraph (a), and
  - (b) after paragraph (ba) insert—
    - “(bb) tax exempt life assurance business, or
    - (bc) tax exempt other business.”.

### **Modification of section 212 of the Taxation of Chargeable Gains Act 1992**

- 13.**—(1) Where any part of the business of a company is tax exempt life assurance business, section 212 of the Taxation of Chargeable Gains Act 1992 (annual deemed disposal of holdings of unit trusts)(c) is modified as follows.
- (2) In subsection (2), after “gross roll-up business” insert “or tax exempt life assurance business”.

### **Modification of paragraph 3A of Schedule 11 to the Finance Act 1996**

- 14.**—(1) Where any part of the business of a company is tax exempt business, paragraph 3A of Schedule 11 to the Finance Act 1996 (loan relationships: special provisions for insurers)(d) is modified as follows.
- (2) In sub-paragraph (5), after “(6B)” insert “, (6BA), (6BB)”.

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(a) Section 440A was relevantly amended by paragraph 6 of Schedule 8 to the Finance Act 1995 and paragraph 32 of Schedule 7 to the Finance Act 2007.

(b) Section 755A was inserted by paragraph 13 of Schedule 17 to the Finance Act 1998 and was relevantly amended by paragraph 47 of Schedule 7 to the Finance Act 2007.

(c) 1992 c. 12. Section 212(2) was amended by section 91(2)(b) of the Finance Act 1993 (c. 34), paragraph 9(2) of Schedule 8 to the Finance Act 1995 and paragraph 63 of Schedule 7 to Finance Act 2007.

(d) 1996 c. 8. Paragraph 3A was inserted by section 109(8) of the Finance Act 2000 (c. 17) and was relevantly amended by article 9 of S.I. 2005/3465 and paragraph 67(3) of Schedule 7 to the Finance Act 2007.

**Modification of section 255 of the Capital Allowances Act 2001**

**15.**—(1) Where any part of the business of a company is tax exempt business, section 255 of the Capital Allowances Act 2001 (apportionment of allowances and charges)(**a**) is modified as follows.

(2) In subsection (1), for “and PHI business” substitute “, PHI business, tax exempt life assurance business and tax exempt other business”.

*Frank Roy*  
*Alan Campbell*

23rd July 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

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(a) 2002 c. 2. Section 255 was relevantly amended by paragraph 69 of Schedule 7 to the Finance Act 2007.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Where a friendly society has converted into an insurance company, or has transferred tax exempt life or endowment business or other tax exempt business to such a company, sections 460, 461 and 461B of the Income and Corporation Taxes Act 1988 (c. 1: “ICTA 1988”) provide for the tax exemption to be preserved. These Regulations modify the enactments relating to corporation tax in order to take into account such tax exempt business.

Regulation 1 provides for citation, commencement and effect. The power to make retrospective provision is conferred by sections 460(16), 461(13) and 461B(9) of ICTA 1988.

Regulation 2 defines terms used in the Regulations.

Regulation 3 introduces the modifications of ICTA 1988. Regulations 2 to 12 make technical modifications to the provisions of ICTA 1988.

Regulation 13 modifies section 212 of the Taxation of Chargeable Gains Act 1992 (c. 12).

Regulation 14 modifies paragraph 3A of Schedule 11 to the Finance Act 1996 (c. 8).

Regulation 15 modifies section 255 of the Capital Allowances Act 2001 (c. 2).

These Regulations, together with legislation in FA 2007 (c. 11), are part of the outcome of a continuing consultation process. A draft regulatory impact assessment was included as part of a consultation document, “Life Assurance Company Taxation – A Technical Consultative Document”, which was published by Her Majesty’s Revenue and Customs in May 2006. This is available at [www.hmrc.gov.uk/consultations](http://www.hmrc.gov.uk/consultations).

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STATUTORY INSTRUMENTS

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