

2007 No. 2146

CORPORATION TAX

**The Overseas Life Insurance Companies (Amendment)
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 section 156 of the Finance Act 2003(a).

Citation, commencement and effect

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

(2) Subject to paragraph (3), these Regulations have effect in relation to periods of account beginning on or after 1st January 2007 which end on or after the date on which these Regulations come into force.

(3) Regulation 14 has effect in relation to such periods of account only where the transfer of business or demutualisation concerned took place before 21st March 2007.

Amendments to the Overseas Life Insurance Companies Regulations 2006

2. The Overseas Life Insurance Companies Regulations 2006(b) are amended as follows.

Omission of regulation 4

3. Omit regulation 4 (modification of section 12 of the Income and Corporation Taxes Act 1988).

Amendment of regulation 5

4.—(1) Regulation 5 (modifications of section 76 of the Income and Corporation Taxes Act 1988) is amended as follows.

(2) In paragraph (2), in the substituted subsection (3), for paragraph (b) substitute—

“(b) where the company is an EEA firm or a Treaty firm—

(i) 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

(a) 2003 c. 14; section 156 was amended by paragraph 17 of Schedule 9 to the Finance (No. 2) Act 2005 (c. 22).

(b) S.I. 2006/3271.

establishment in the United Kingdom through which the company carries on life assurance business; or

- (ii) so much of the expenses included in the income statement included in IAS accounts as are equivalent to expenses that would be included in item II.8 or 9(a) of the profit and loss account included in any IAD accounts and are so attributable;”.

(3) Omit paragraph (4).

Amendment of regulation 6

5.—(1) Regulation 6 (modifications of section 431(2) of the Income and Corporation Taxes Act 1988) is amended as follows.

(2) After paragraph (1) insert—

“(1A) In the definition of “foreign currency assets”(a) for the words from “which—” to the end substitute “which are denominated in a foreign currency and specified in a certificate given by a director of the company no later than three months after the end of the period of account as being all of the assets of the company’s long-term insurance fund which are held at that time during the period of account to enable the company to meet liabilities of its gross roll-up business which are denominated in that currency;”.

(3) In paragraph (5)—

(a) after the inserted definition of “IAD Accounts” insert—

““IAS accounts” means accounts prepared in accordance with international accounting standards;”;

(b) in the inserted definition of “long-term insurance fund”, for the words from “means” to “in the technical account” substitute—

“means—

(a) the technical account for life assurance business of the company included in the IAD accounts; or

(b) such part of the income statement as relates to as relates to the life assurance business of the company included in the IAS 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 that technical account or income statement”, and

(c) in the inserted definition of “periodical return”, after “the IAD accounts” insert “or the IAS accounts”.

Insertion of regulation 7A

6. After regulation 7 (modification of section 431D of the Income and Corporation Taxes Act 1988) insert—

“7A.—(1) Modify section 431G (company carrying on life assurance business)(b) as follows.

(2) In subsection (1) after “life assurance business” insert “through a permanent establishment in the United Kingdom”.

(3) In subsections (2) and (3)(a) and (b), after “life assurance business” insert “carried on through a permanent establishment in the United Kingdom”.

(a) The definition of “foreign currency assets” was inserted by paragraph 6(2) of Schedule 7 to the Finance Act 2007 (c. 11).

(b) Sections 431G and 431H of the Income and Corporation Taxes Act 1988 (c. 1) were substituted for section 432 of that Act by paragraph 4 of Schedule 8 to the Finance Act 2007.

7B. In section 431H (company carrying on life assurance business and other insurance business), in subsection (1), after “any other kind” insert “through a permanent establishment in the United Kingdom”.

Amendment of regulation 8

7. In regulation 8 (modifications of section 432A of the Income and Corporation Taxes Act 1988), for paragraph (2) substitute—

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

Amendment of regulation 9

8.—(1) Regulation 9 (modifications of section 432B of the Income and Corporation Taxes Act 1988) is amended as follows.

(2) In paragraph (2), for “ in (both places” substitute “(in the first place”.

(3) In paragraph (3), for sub-paragraphs (a) and (b) substitute—

“(a) in the case of an EEA firm or a treaty firm—

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

(ii) 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, or in the income statement included in the IAS accounts,”, and”.

Amendment of regulation 11

9. In regulation 11(3)(a) (modifications of section 440 of the Income and Corporation Taxes Act 1988), for “to (f)” substitute “and (d) to (f)”.

Amendment of regulation 12

10. In regulation 12(2)(b) (modifications of section 440A of the Income and Corporation Taxes Act 1988), for “(c) to” substitute “(d) and”.

Amendment of regulation 13

11.—(1) Regulation 13 (modifications of section 440B of the Income and Corporation Taxes Act 1988) is amended as follows.

(2) In paragraph (a), in the substituted subsection (3), for “Section 440(1) and (2) have” substitute “Subsection (1) of section 440 has”.

(3) In paragraph (b), in the substituted subsection (4)—

(a) for “to (e)” substitute “, (d) and (e)”, and

(b) for paragraph (a) substitute—

“(a) so many of the UK securities as are included in the company’s long-term insurance fund shall be treated for the purposes of corporation tax as a separate holding which is an asset of that fund.”.

Insertion of regulation 14A

12. After regulation 14 (modification of section 442A of the Income and Corporation Taxes Act 1988) insert—

“14A. In section 444ABD (transferor’s period of account including transfer)(a), in subsection (1)(b), in a case where the transferor is an EEA firm or a Treaty firm, omit “line 32 of”.”

Omission of regulation 18

13. Omit regulation 18 (modifications of Schedule 19AA to the Income and Corporation Taxes Act 1988).

Amendment of regulation 22

14. In regulation 22 (modifications of section 83 of the Finance Act 1989), omit paragraphs (3) and (4).

Insertion of regulation 22A

15. After regulation 22 insert—

“22A. In section 83XA (structural assets)(b), in subsection (3), in the case of an EEA firm or a Treaty firm, for paragraph (a) substitute—

“(a) assets listed under 1 and 2 in C(II) in Article 6 of the Council Directive of 19th December 1991 on the annual accounts and consolidated accounts of insurance undertakings (No. 91/674/EEC)(c), and”.”

Amendment of regulation 24

16. In regulation 24(2) (modifications of section 83A of the Finance Act 1989), in the inserted subsection (2A), after “the IAD accounts” insert “, or the income statement included in the IAS accounts,”.

Insertion of regulation 24A

17. After regulation 24 insert—

“24A. In section 85A(6) (excess adjusted Case I profits)(d)—

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

Amendment of regulation 26

18. In regulation 26(6) (modifications of section 89 of the Finance Act 1989), in the inserted subsection (6A), after “the IAD accounts” insert “, or the income statement included in the IAS accounts,”.

(a) Section 444ABD of the Income and Corporation Taxes Act 1988 was inserted by paragraph 5 of Schedule 9 to the Finance Act 2007.

(b) Section 83XA of the Finance Act 1989 (c. 26) was inserted by paragraph 2 of Schedule 10 to the Finance Act 2007.

(c) O.J. L374, 31.12.1991, p.7.

(d) Section 85A of the Finance Act 1989 was inserted by paragraph 14 of Schedule 8 to the Finance Act 2007.

(e) Section 11AA of the Income and Corporation Taxes Act 1988 was inserted by section 149(2) of the Finance Act 2003.

Omission of regulation 33

19. Omit regulation 33 (modification of the Finance (No. 2) Act 1992).

Amendment of regulation 35

20. In regulation 35(2) (modification of paragraph 12(1)(d) of Schedule 9 to the Finance Act 1996), for ““by paragraph 6(9) of Schedule 19AC to that Act”” substitute “the words from “within the meaning” to “overseas life insurance company)””.

Amendment of regulation 36

21. In regulation 36 (modification of the Capital Allowances Act 2001), for paragraph (2) substitute—

“(2) In section 255 (apportionment of allowance and charges)(a), after subsection (1B) insert—

“(2) In its application to an overseas life insurance company, subsection (1A) has effect as if the references to liabilities were only to such liabilities as are attributable to the permanent establishment in the United Kingdom through which the company carries on the business concerned.””

Omission of regulations 38 and 39

22. Omit—

- (a) regulation 38 (modifications of section 66 of the Finance Act 2002), and
- (b) regulation 39 (modifications of paragraph 10 of Schedule 22 to the Finance Act 2002).

Amendment of regulation 40

23.—(1) Regulation 40 (modifications of Schedule 26 to the Finance Act 2002) is amended as follows.

(2) In paragraph (a)(ii), for “4.3.5 of the Integrated” substitute “3.2.5 of the Insurance”.

(3) In paragraph (b), for ““by paragraph 6(9) of Schedule 19AC to that Act”” substitute “the words from “within the meaning” to the end”.

Amendment of regulation 41

24. In regulation 41(2) (modification of paragraph 89 of Schedule 29 to the Finance Act 2002), for ““by paragraph 6(9) of Schedule 19AC to that Act”” substitute “the words from “within the meaning” to “overseas life insurance company)””.

23rd July 2007

Frank Roy
Alan Campbell
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Section 255 of the Capital Allowances Act 2001 (c. 2) was relevantly amended by paragraph 69 of Schedule 7 to the Finance Act 2007.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 156 of the Income and Corporation Taxes Act 1988 (c. 1: “ICTA 1988”) provides that the enactments relating to corporation tax have effect in relation to overseas life insurance companies subject to such modifications and exceptions as may be prescribed by the Treasury.

These Regulations amend the regulations making such modifications, the Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271: “the principal Regulations”). In particular, the Regulations take into account a number of changes made to the life assurance tax provisions by the Finance Act 2007 (c. 11: “FA 2007”). The Regulations also make other amendments to the principal Regulations, in particular to cater for overseas life insurance companies which are EEA firms or Treaty firms and which follow international accounting standards (“IAS”) (with the result that they are not required to produce the IAD accounts referred to in the principal Regulations).

Regulation 1 provides for citation, commencement and effect. The power to make retrospective provision is conferred by section 156(4) of the Finance Act 2003.

Regulation 2 introduces the amendments to the principal Regulations. The remaining regulations amend the principal Regulations so as to make technical modifications to the enactments relating to corporation tax.

Regulations 3 to 13 amend regulations of the principal Regulations which modify provisions of ICTA 1988.

Regulations 14 to 18 amend regulations of the principal Regulations which modify provisions of the Finance Act 1989 (c. 26).

Regulation 19 omits a regulation of the principal Regulations which modifies provisions of the Finance (No. 2) Act 1992 (c. 48).

Regulation 20 amends a regulation of the principal Regulations which modifies a provision of the Finance Act 1996 (c. 8).

Regulation 21 omits a regulation of the principal Regulations which modifies a provision of the Capital Allowances Act 2001 (c. 2).

Regulations 22 to 24 amend regulations of the principal Regulations which modify provisions of the Finance Act 2002 (c. 23).

These Regulations, together with the relevant legislation in FA 2007, 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.

STATUTORY INSTRUMENTS

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