

2007 No. 3449

CORPORATION TAX

**The Overseas Life Insurance Companies (Amendment No. 2)
Regulations 2007**

<i>Made</i>	- - - -	<i>6th December 2007</i>
<i>Laid before the House of Commons</i>		<i>7th December 2007</i>
<i>Coming into force</i>	- -	<i>28th December 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 No. 2) Regulations 2007 and shall come into force on 28th December 2007.

(2) These Regulations have effect in relation to periods of account which begin on or after 1st January 2008.

Amendments to the Overseas Life Insurance Companies Regulations 2006

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

Amendment of regulation 5

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

(2) In paragraph (2), in sub-paragraphs (i) and (ii) of paragraph (b) of the substituted subsection (3), for “profit and loss account” substitute “long-term business technical account”.

(3) After paragraph (4) add—

“(5) In subsection (15)(d), after the definition of “expenses payable” insert—

““long-term business technical account” means the technical account for life-assurance business included in IAD accounts, or where the technical account included in the IAD accounts for non-life-insurance business of the company is used for all business, such part of that account as relates to the long-term business of the company;”.

(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, amended by S.I. 2007/2146.

(c) Regulation 5 was amended by S.I. 2007/2146.

(d) Section 76 was substituted by section 40(1) of the Finance Act 2004 (c. 12) and subsection (15) was amended by paragraph 3(5) of Schedule 7, and paragraph 14(2)(c) of Schedule 10, to the Finance Act 2007.

Amendment of regulation 6

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

(2) In paragraph (2)(b), for paragraph (i) substitute—

“(i) for “paragraph 5(d) of Schedule 3 to that Act” substitute “sub-paragraph (d) or (da) of paragraph 5 of Schedule 3 to that Act(b) (an “EEA firm”);”.

(3) In paragraph (5), in the inserted definition of “long-term insurance fund”—

(a) in paragraph (a), for “life assurance” substitute “life-assurance”,

(b) after paragraph (a) insert—

“(aa) where the technical account included in the IAD accounts for non-life-insurance business of the company is used for all business, such part of that account as relates to the long-term business of the company; or”,

(c) in paragraph (b), omit “as relates to” (in the first place), and

(d) for “that technical account or income statement”, substitute “either that technical account or that part of the technical account or that part of the income statement”.

Amendment of regulation 11

5. In regulation 11(4) (modifications of section 440 of the Income and Corporation Taxes Act 1988)—

(a) in the inserted subsection (4AA), after “Act” insert “2001”, and

(b) after the inserted subsection (4AA) insert—

“(4AB) Where goodwill is acquired by an EEA firm or a Treaty firm (“the transferee”) as a result of an insurance business transfer scheme which has effect to transfer long-term business from any person who is not such a firm to the transferee—

(a) if the goodwill (or part of it) was within the category set out in paragraph (e) of subsection (4) above immediately before the acquisition, the goodwill (or part) shall for the purposes of subsections (2) and (3) above be treated as being within that category immediately afterwards, and

(b) if the goodwill (or part of it) was within the category set out in paragraph (f) of subsection (4) above immediately before the acquisition, the goodwill (or part) shall for the purposes of subsections (2) and (3) above be treated as being within that category immediately afterwards.”

Amendment of regulation 15

6. For regulation 15 (modification of section 444AC of the Income and Corporation Taxes Act 1988) substitute—

“15.—(1) Modify section 444AC (transfers of business: excess of assets or liabilities)(c) as follows.

(2) In subsections (2)(a), (2A)(b) and (5)(b), in a case where the transferee is an EEA firm or a Treaty firm, for “transferee’s line 31 amount in relation to the transfer” substitute “value of the assets transferred to the transferee’s long-term insurance fund in consideration of the assumption by the transferee of the liabilities to policy holders and annuitants”.

(3) In subsection (5A), in a case where the transferor is an EEA firm or a Treaty firm—

(a) Regulation 6 was amended by S.I. 2007/2146.

(b) Sub-paragraph (da) was inserted in paragraph 5 of Schedule 3 to the Financial Services and Markets Act 2000 (c. 8) by S.I. 2007/3253.

(c) Section 444AC was inserted by paragraph 20(1) of Schedule 33 to the Finance Act 2003 and relevantly amended by paragraph 7 of Schedule 9 to the Finance (No. 2) Act 2005, paragraph 3(5) of Schedule 11 to the Finance Act 2006 (c. 25) and S.I. 2006/3270.

- (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)”.

15A. In section 444AD(4)(b) (transfers of business: modification of s 83(2B) FA 1989)(a), in a case where the transferee is an EEA firm or a treaty firm, for the words from “transferee’s” to “fund” substitute “value of the assets transferred to the transferee’s long-term insurance fund in consideration of the assumption by the transferee of the liabilities to policy holders and annuitants”.

Amendment of regulation 24

7. In regulation 24(2) (modifications of section 83A of the Finance Act 1989)(b), in the inserted subsection (2A), for the words from “are” to the end substitute—

“are—

- (a) such technical accounts (or such parts of those accounts) included in the IAD accounts, or
- (b) such parts of the income statements included in the IAS accounts,

as relate to 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.”

Amendment of regulation 26

8. In regulation 26(6) (modification of section 89 of the Finance Act 1989)(c), in the inserted subsection (6A), for the words from “means” to the end substitute—

“means brought into account—

- (a) in such technical accounts (or such parts of those accounts) included in the IAD accounts, or
- (b) in such parts of the income statements included in the IAS accounts,

as relate to 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.”

Frank Roy
Alan Campbell

6th December 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Section 444AD was inserted by paragraph 20(1) of Schedule 33 to the Finance Act 2003 and relevantly amended by S.I. 2006/3270.
(b) Regulation 24(2) was amended by S.I. 2007/2146.
(c) Regulation 26(6) was amended by S.I. 2007/2146.

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”).

Regulation 1 provides for citation, commencement and effect.

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. The main purpose of most of these modifications is to deal with the possibility of the technical account included in IAD accounts (i.e. accounts drawn up in accordance with Council Directive No. 91/674/EEC) for non-life-insurance business being used by a company for all its business, including life assurance business.

Regulations 3 to 6 amend regulations of the principal Regulations which modify provisions of ICTA 1988.

Regulation 3 amends regulation 5 of the principal Regulations which modifies section 76 (expenses of insurance companies).

Regulation 4 amends regulation 6 of the principal Regulations which modifies section 431(2) (interpretative provisions relating to insurance companies). The amended modifications also reflect amendments recently made to the Financial Services and Markets Act 2000 (c. 8) in consequence of the implementation of Council Directive No. 2005/68/EC on reinsurance.

Regulation 5 amends regulation 11 of the principal Regulations which modifies section 440 (transfers of assets etc). The amended modifications deal specifically with the tax treatment where goodwill is acquired by an EEA firm or a Treaty firm as a result of an insurance business transfer scheme.

Regulation 6 substitutes new regulations 15 and 15A for regulation 15 of the principal Regulations. The new regulations 15 and 15A modify respectively sections 444AC (transfers of business: excess of assets or liabilities) and 444AD (transfers of business: modification of s 83(2B) FA 1989) in order to replace references to UK regulatory returns which overseas life insurance companies do not make.

Regulations 7 and 8 amend regulations 24 and 26 of the principal Regulations which modify respectively sections 83A (meaning of “brought into account”) and 89 (policy holders’ share of profits) of the Finance Act 1989 (c. 26).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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