

**EXPLANATORY MEMORANDUM TO
THE OVERSEAS LIFE INSURANCE COMPANIES (AMENDMENT No. 2)
REGULATIONS 2007**

2007 No. 3449

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 The Regulations amend the Overseas Life Insurance Companies Regulations 2006 (SI 2006/3271) to cater for the ability of reinsurance companies established in some member states of the European Economic Area to account for all business in the technical account for non-life-insurance business even if some or all of it is life assurance business.

2.2 The Regulations will have effect generally for periods of account and accounting periods beginning on or after 1st January 2008.

3. Matters of Special interest to the Select Committee on Statutory Instruments

None

4. Legislative Background

Non-resident companies carrying on life assurance business through a permanent establishment in the UK are required by section 156 of the Finance Act 2003 to be charged to corporation tax in the same way as UK resident company but with modifications to reflect the fact that they are only chargeable on their UK profits and other variations in treatment. The Regulations amend SI 2006/3271 which provides for those modifications.

5. Extent

The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The corporation tax rules for companies carrying on life assurance business are substantially based on entries made by such companies in the

return they make to the Financial Services Authority (FSA), and not, as with other companies, their Companies Act accounts.

- 7.2 Some companies established in other member states of the EEA operate in the United Kingdom through a permanent establishment and are subject to corporation tax. But by virtue of the EC Insurance Directives such companies are not regulated by the FSA. So there is no return on which to base their tax computations. Instead SI 2006/3271 require such companies to use the technical account for life-assurance in accounts made up in accordance with the Insurance Accounts Directive (91/674/EEC) as a proxy for the FSA return.
- 7.3 In the case of reinsurance companies, member states are free to permit or require such companies to use the technical account for non-life-insurance business to report all their business. These Regulations amend SI 2006/3271 to cater properly for such cases.
- 7.5 There has been consultation on the Regulations with firms acting for the (very few) companies to which the Regulations apply and with industry representative bodies.
- 7.6 Guidance on the taxation of overseas life insurance companies and of the effect of the Regulations will be included in HMRC's Life Assurance Manual.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is nil.

9. Contact

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