

2008 No. 2679

CORPORATION TAX

**The Insurance Companies (Reserves) (Tax) (Amendment)
Regulations 2008**

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| <i>Made</i> - - - - | <i>9th October 2008</i> |
| <i>Laid before the House of Commons</i> | <i>9th October 2008</i> |
| <i>Coming into force</i> - - | <i>30th October 2008</i> |

The Treasury make the following Regulations in exercise of the powers conferred by sections 444BB(1), (3), (4) and (5), 444BC and 444BD(1), (4) and (5) of the Income and Corporation Taxes Act 1988(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Insurance Companies (Reserves) (Tax) (Amendment) Regulations 2008 and shall come into force on 30th October 2008.

(2) These Regulations shall have effect in relation to accounting periods beginning on or after 6th April 2008 and ending on or after the day on which these Regulations come into force.

Amendment to the Insurance Companies (Reserves) (Tax) Regulations 1996

2. The Insurance Companies (Reserves) (Tax) Regulations 1996(b) are amended as follows.

Amendments of regulation 2 (interpretation)

3.—(1) Paragraph (1) of regulation 2 is amended as follows.

(2) In the definition of “the Board” for “Commissioners of Inland Revenue” substitute “Commissioners for Her Majesty’s Revenue and Customs”.

(3) Omit the definition of “branch”.

(4) In the definition of “EEA firm”(c) after “paragraph 5(d)” insert “or (da)(d)”.

(5) In the definition of “equalisation reserve rules”(e) for “Chapter 7.5 of the Integrated Prudential Sourcebook” substitute “Chapter 1.4 of INSPRU”.

(6) Omit the definition of “paragraph 52 method of accounting on a non-annual basis”.

(a) 1988 (c. 1). Sections 444BB to 444BD were inserted by paragraph 1 of Schedule 32 to the Finance Act 1996 (c. 8) and amended by article 30 of S.I. 2001/3629. Section 444BB was further amended by section 153(1)(a) of the Finance Act 2003 (c. 14).

(b) S.I. 1996/2991; relevant amending instruments are S.I. 1999/1408, 2001/3629, 2002/2409 and 2004/3260.

(c) The definition of “EEA firm” was substituted for the definition of “EC company” by article 147 of S.I. 2001/3629.

(d) Paragraph 5(da) of Schedule 3 to the Financial Services and Markets Act 2000 (c. 8) was inserted by paragraph 6(c) of the Schedule to S.I. 2007/3253.

(e) The definition of “equalisation reserve rules” was inserted by article 147 of S.I. 2001/3629 and substituted by regulation 2 of S.I. 2004/3260.

(7) Omit the definition of “the Prudential Sourcebook (Insurers)(a)”.

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

““INSPRU” means the Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000”(b),

““paragraph 58 method of accounting on a non-annual basis” means the method of accounting on a non-annual basis described in paragraph 58 of Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008(c);”.

Omission of regulation 5 (non-annual accounts: tax returns prepared on an annual basis)

4. Omit regulation 5.

Amendment of regulation 7 (EEA firms and Treaty firms)

5. In regulation 7(d) for “branch”, wherever it occurs, substitute “permanent establishment”.

Amendment of regulation 8A (certain insurance business carried on outside the United Kingdom by a controlled foreign company – non-annual accounts but returns prepared on an annual basis)

6.—(1) Regulation 8A(e) is amended as follows.

(2) In paragraph (1)—

(a) at the end of sub-paragraph (a) insert “and”,

(b) in sub-paragraph (b)—

(i) for “paragraph 52” substitute “paragraph 58”, and

(ii) omit “, but”, and

(c) omit sub-paragraph (c).

(3) Omit paragraph (5).

(4) For paragraph (6) substitute—

“(6) For the purposes of paragraph (4), accounts are prepared on an accident year basis where the accounts and statements required to be deposited with the Financial Services Authority pursuant to Chapter 9 of IPRU(INS) are prepared using Forms 21, 22 and 23 prescribed by the Accounts and Statements Rules contained in that Chapter.”.

(5) Insert after paragraph (6)—

“(7) For the purposes of paragraph (6), “IPRU(INS)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.”.

Amendment of regulation 8B (disapplication of regulations 8 and 8A where controlled foreign company prepares non-annual accounts and final replacement of the technical provision does not take place in conformity with the Companies Act)

7. In paragraph (a) of regulation 8B(f) for “paragraph 52” substitute “paragraph 58”.

(a) The definition of “the Prudential Sourcebook (Insurers)” was inserted by article 147 of S.I. 2001/3629.

(b) 2000 (c. 8).

(c) S.I. 2008/410.

(d) Regulation 7 was amended by articles 149 and 151 of S.I. 2001/3629, and article 5 of S.I. 2002/1409.

(e) Regulation 8A was inserted by regulation 7 of S.I. 1999/1408 and amended by article 151 of S.I. 2001/3629.

(f) Regulation 8B was inserted by regulation 7 of S.I. 1999/1408.

Amendment of regulation 9 (United Kingdom branches of companies not resident in the United Kingdom which maintain equalisation reserves by virtue of equalisation reserves rules)

8.—(1) Regulation 9(a) is amended as follows.

(2) For “branch”, wherever it occurs, substitute “permanent establishment”.

(3) In paragraph (2) for “return under section 11 of the Management Act” substitute “company tax return”.

Amendment of regulation 10 (double taxation relief)

9.—(1) Regulation 10(b) is amended follows.

(2) For “branch”, wherever it occurs, substitute “permanent establishment”.

(3) In paragraph (2)(a) for “branches” substitute “permanent establishments”.

Amendment of regulation 14 (application of provisions contained in Part 2 of these Regulations)

10. In regulation 14 omit “5”.

Steve McCabe
Frank Roy

9th October 2008

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Regulation 9 was amended by article 151 of S.I. 2001/3629.
(b) Regulation 10 was amended by article 151 of S.I. 2001/3629.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insurance Companies (Reserves) (Tax) Regulations 1996 (S.I. 1996/2991) (“the principal Regulations”). The principal Regulations provide for the taxation of two different types of equalisation reserve which are required to be maintained by insurance companies. The amendments are in consequence of the Finance Act 2003, the Commissioners for Revenue and Customs Act 2005 (s. 11) (“CRCA 2005”), the Companies Act 2006 (c. 46) and as a result of changes to the Statement of Recommended Practice on Accounting for Insurance Business, the Financial Services Authority Sourcebooks and the way UK GAAP is applied to insurance companies.

Regulation 1 provides for the citation, commencement and effect.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends regulation 2 of the principal Regulations (interpretation). The definition of “Board” is updated (in consequence of the enactment of the CRCA 2005). The definition of “branch” (which is substituted in the principal Regulations by the concept “permanent establishment”) is omitted. The definition of “paragraph 52 method of accounting” is substituted by “paragraph 58 method of accounting” (which is the equivalent method in provisions made under the Companies Act 2006 and which replaces the paragraph 52 method). The definition of “equalisation reserve rules” is amended and the definition of “the Prudential Sourcebook (Insurers)” is replaced by the definition of “INSPRU”, a newly defined term.

Regulation 4 omits regulation 5 of the principal Regulations (non-annual accounts: tax returns prepared on an annual basis).

Regulation 5 amends regulation 7 of the principal Regulations (EEA firms and Treaty firms) by substituting “permanent establishment” for “branch”.

Regulation 6 amends regulation 8A of the principal Regulations (certain insurance business carried on outside the United Kingdom by a controlled foreign company – non-annual accounts but returns prepared on an annual basis) by substituting “paragraph 58” (method of accounting) for “paragraph 52” and amending the reference to “accident year basis”. The amendments also disapply the operation of regulation 8A in respect of returns of chargeable profits based on accounts prepared on an annual basis.

Regulation 7 amends regulation 8B of the principal Regulations (disapplication of regulations 8 and 8A where controlled foreign company prepares non-annual accounts and final replacement of the technical provision does not take place in conformity with the Companies Act) by substituting “paragraph 58” for “paragraph 52”.

Regulation 8 amends regulation 9 of the principal Regulations (United Kingdom branches of companies not resident in the United Kingdom which maintain equalisation reserves by virtue of equalisation reserves rules) by substituting “permanent establishment” for “branch” and “company tax return” for “return under section 11 of the Management Act”.

Regulation 9 amends regulation 10 of the principal Regulations (double taxation relief) by substituting “permanent establishment” and “permanent establishments” for “branch” and “branches” respectively.

Regulation 10 makes a consequential amendment by removing the reference to regulation 5 which is omitted by these Regulations.

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