
STATUTORY INSTRUMENTS

2006 No. 3270

CORPORATION TAX

The Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006

Made - - - - 7th December 2006
Laid before House of Commons
- - - - 8th December 2006
Coming into force - - 31st December 2006

The Treasury make the following Order in exercise of the powers conferred upon them by section 431A(1) and (3) of the Income and Corporation Taxes Act 1988(1) and section 46 of the Finance Act 2004(2).

Citation, commencement and effect

1.—(1) This Order may be cited as the Insurance Companies (Corporation Tax Acts) (Miscellaneous Amendments) Order 2006 and comes into force on 31st December 2006.

(2) This Order has effect in relation to periods of account ending on or after 31st December 2006.

Amendment of the Income and Corporation Taxes Act 1988

2. The Income and Corporation Taxes Act 1988 is amended in accordance with articles 3 to 8.

3. In section 76(8)(c) (expenses of insurance companies) (3) for “Integrated Prudential Sourcebook” substitute “Insurance Prudential Sourcebook”.

4.—(1) Amend section 431 (interpretative provisions relating to insurance companies) as follows.

(2) In subsection (2)(4)—

(a) after the definition of “free assets amount”(5) insert—

(1) 1988 c. 1.
(2) 2004 c. 12.
(3) Paragraph (c) of subsection (8) was inserted by section 42 of, and paragraphs 1(1) and (2) of Schedule 9 to, the Finance (No.2) Act 2005 (c. 22).
(4) The definitions of “liabilities” and “value” were inserted by section 42 of, and paragraphs 2(1), (3) and (5) of Schedule 9 to, the Finance (No.2) Act 2005.
(5) This definition was inserted by article 3(2)(a) of S.I. 2005/3465 and re-enacted by paragraph 1 of Schedule 11 to the Finance Act 2006 (c. 25).

- ““General Prudential Sourcebook” means the General Prudential Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000(6);”;
- (b) in the definition of “insurance company” at the end add “but does not include an insurance special purpose vehicle;”;
- (c) after the definition of “insurance company” insert—
- ““the Insurance Prudential Sourcebook” means the Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000;
- “insurance special purpose vehicle” means any undertaking which assumes risks from insurance or reinsurance undertakings and which fully funds its exposure to such risks through the proceeds of a debt issue or some other financing mechanism where the repayment rights of the providers of such debt or other financing mechanism are subordinated to the reinsurance obligations of the undertaking;”;
- (d) omit the definition of “the Integrated Prudential Sourcebook”;
- (e) in the definition of “liabilities”—
- (i) in paragraph (a) for “chapter 7.3 of the Integrated Prudential Sourcebook” substitute “section 1.2 of the Insurance Prudential Sourcebook”;
- (ii) in paragraph (b) for “chapter 1.3 of that Sourcebook” substitute “section 1.3 of the General Prudential Sourcebook”; and
- (f) in the definition of “value” for “chapter 1.3,” onwards substitute—
- “section 1.3 of the General Prudential Sourcebook, as read with section 2.1 of the Insurance Prudential Sourcebook;”.
- (3) In subsection (2ZC)(d)(7)—
- (a) for “shareholder’s” substitute “shareholders”;
- (b) for “transferor” substitute “transferee”.
- 5.** In section 432A(8B) (apportionment of income and gains)(8) in the definition of “inherited estate” for “Integrated Prudential Sourcebook” substitute “Insurance Prudential Sourcebook”.
- 6.** In section 444AC (transfer of business: excess of assets or liabilities)(9)—
- (a) in subsections (2), (2A) and (5) for “the element of the transferee’s line 31 figure representing the transferor’s long-term insurance fund” substitute “the transferee’s line 31 amount in relation to the transfer”;
- (b) omit subsection (3).

(6) 2000 c. 8.

(7) Subsection (2ZC) was inserted by section 170 and paragraph 22 of Schedule 33 to the Finance Act 2003 (c. 14), relevantly amended (for periods of account beginning on or after 1st January 2005 and ending before 1st October 2006) by article 3(4) of S.I. 2005/3465: the amendment made by article 3(4) was re-enacted (with permanent effect) by paragraph 1(1) of Schedule 11 to the Finance Act 2006.

(8) Subsection (8B) was substituted (with new subsections (8) and (8A)) for the previous subsection (8) by article 5(5) (for periods of account beginning on or after 1st January 2005 and ending before 1st October 2006) by article 3(4) of S.I. 2005/3465: the amendment made by article 5(5) was re-enacted (with permanent effect) by paragraph 1(1) of Schedule 11 to the Finance Act 2006.

(9) Section 444AC was inserted by paragraph 20 of Schedule 33 to the Finance Act 2003, and relevantly amended by article 5(1) of S.I. 2004/3266, paragraph 7 of Schedule 9 to the Finance Act 2005 (c. 7) and paragraph 3 of Schedule 11 to the Finance Act 2006.

7. In section 444AD(4)(b) (transfer of business: modification of section 83(2B))(10) for “the element of the transferee’s line 31 figure” substitute “the transferee’s line 31 amount in relation to the transfer”.

8. In section 755A (treatment of chargeable profits and creditable tax apportioned to company carrying on life assurance business)(11)—

(a) after subsection (4) insert—

“(4A) In any case where—

(a) paragraph 4 of Schedule 26 to this Act applies to a dividend received by the UK company, and

(b) but for this subsection, subsection (4) of section 804B of this Act would apply to that dividend,

the amount of credit for foreign tax in respect of that dividend shall be treated, for the purposes of that section, as wholly attributable to basic life assurance and general annuity business.”;

(b) in subsection (8) omit “or 2”; and

(c) omit subsection (9).

Amendment of the Finance Act 1989

9. In the Finance Act 1989(12)—

(a) in section 83YA(11) (changes in value of assets brought into account: non-profit companies)(13) in the definition of “with-profits fund”, and in section 83A(6)(14), for “Integrated Prudential Sourcebook” substitute “Insurance Prudential Sourcebook”; and

(b) in section 88(3) for “section 76(5)” substitute “section 76(7)”.

Amendment of the Finance Act 1998

10. In section 42(5) of the Finance Act 1998(15) (which concerns the computation of profits of insurance companies chargeable to Case I or II of Schedule D) for “companies carrying on life insurance” substitute—

“insurance companies (within the meaning of Chapter 1 of Part 12 of the Taxes Act 1988) in relation to their life assurance business”.

Amendment of the Finance Act 2002

11. In Schedule 26 to the Finance Act 2002 (loan relationships and derivative contracts) (16)—

(a) in paragraph 4(2A)(b)(17) for “Rule 4.3.5 of the Integrated Prudential Sourcebook” substitute “Rule 3.2.5 of the Insurance Prudential Sourcebook;

(b) in paragraph 12(1)(18)—

(10) Section 444AD was inserted by paragraph 20 of Schedule 33 to the Finance Act 2003 and relevantly amended by article 6 of S.I. 2004/3266.

(11) Section 755A was inserted by section 113 and paragraph 13 of Schedule 17 to the Finance Act 1998 (c. 36).

(12) 1989 c. 26.

(13) This section was inserted by section 86 and paragraph 7(1) of Schedule 11 to the Finance Act 2006.

(14) This subsection was inserted by section 42 and paragraph 13(1) and (5) of Schedule 9 to the Finance (No. 2) Act 2005.

(15) 1998 c. 36.

(16) 2002 c. 23.

(17) Paragraph 4(2A) was lastly substituted by article 6(3) of S.I. 2006/3269.

(18) Paragraph 12(1) is substituted by article 9(3) of S.I. 2006/3269.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (i) after the entry relating to a hedging relationship between a relevant contract and an asset or liability insert—
 - “Insurance Prudential Sourcebook (see sub-paragraph (15));” and
- (ii) omit the entry relating to the Integrated Prudential Sourcebook;
- (c) for paragraph 12(15) substitute—
 - “(15) “Insurance Prudential Sourcebook” means the Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.”.

7th December 2006

Dave Watts
Frank Roy
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends various life insurance tax provisions as a consequence of changes made by the Financial Services Authority (“FSA”) to their Handbook, and in particular to the creation of the Prudential Sourcebook for Insurers (“INSPRU”) out of much of the material currently in the Integrated Prudential Sourcebook. It also gives effect to changes introduced by the EC reinsurance directive (No.2005/68/EC) in relation to insurance special purpose vehicles. It further deals with tax relief for controlled foreign companies where such tax is partly attributable to basic life assurance and general annuity business and partly to other categories of business.

Article 1 provides for citation and commencement.

Article 2 introduces the changes made by articles 3 to 8 to the Income and Corporation Taxes Act 1988 (c. 1).

Articles 3, 4(2)(c) (d) and (f), 5, 9(a) and 11 amend provisions of the Income and Corporation Taxes Act 1988 (c. 1), the Finance Act 1989 (c. 26) and the Finance Act 2002 (c. 23) which refer to the Integrated Prudential Sourcebook consequent upon its replacement by INSPRU, which the Order calls the Insurance Prudential Sourcebook, in order to avoid confusion with the Interim Prudential Sourcebook for Insurers which remains in force, and relevant, for the taxation of companies carrying on insurance business. All the Sourcebooks are made by the Financial Services Authority under the Financial Services and Markets Act 2000 (c. 8).

Article 4 also inserts a definition of the General Prudential Sourcebook, and makes minor drafting corrections. The General Prudential Sourcebook is a new Sourcebook created out of material in the Integrated Prudential Sourcebook.

Articles 6, 7 and 9(b) make minor drafting corrections to tax legislation which was enacted in consequence of previous exercises by the FSA of their powers to amend the Interim Prudential Sourcebook for Insurers.

Article 8 prevents insufficient relief being given for foreign tax in a case where a company carrying on life assurance business receives a dividend which is paid out of profits which have been taxed as a result of the application of the legislation in respect of controlled foreign companies in Chapter 4 of Part 17 of the Income and Corporation Taxes Act 1988 (c. 1).

Article 10 applies section 42 of the Finance Act 1998 (c. 36) to insurance special purpose vehicles thereby allowing their profits to be computed in accordance with generally accepted accounting practice in order to meet the requirements of the EC reinsurance directive (No. 2005/68/EC).

This Order does not impose any new costs on business.