

STATUTORY INSTRUMENTS

1999 No. 881

The Overseas Insurers (Tax Representatives) Regulations 1999

Citation and commencement

1. These Regulations may be cited as the Overseas Insurers (Tax Representatives) Regulations 1999 and shall come into force on 6th April 1999.

Commencement Information

II Reg. 1 in force at 6.4.1999, see [reg. 1](#)

Interpretation

2. In these Regulations—

“the Board” means the Commissioners [^{F1}for Her Majesty’s Revenue and Customs];

^{F2}
...

[^{F3}“EEA state” has the meaning given in Schedule 1 to the Interpretation Act 1978;]

[^{F4}“ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005;]

“the Management Act” means the Taxes Management Act 1970(1);

[^{F5}“notice” means notice given either in writing or in such form and by such means of electronic communications as may be approved by directions given by the Board, and “notify” and “notification” shall be construed accordingly;]

“the relevant duties” has the meaning given for the purposes of section 552B by subsection (2) of that section(2);

^{F6}
...

“the Taxes Act” means the Income and Corporation Taxes Act [^{F7}1988, and a reference to a numbered section, without more, is a reference to the section of the Taxes Act bearing that number.]

F1 Words in [reg. 2](#) substituted (27.10.2008) by [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2008 \(S.I. 2008/2626\)](#), [regs. 1, 3\(a\)](#)

F2 Words in [reg. 2](#) omitted (27.10.2008) by virtue of [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2008 \(S.I. 2008/2626\)](#), [regs. 1, 3\(b\)](#)

F3 Words in [reg. 2](#) substituted (27.10.2008) by [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2008 \(S.I. 2008/2626\)](#), [regs. 1, 3\(c\)](#)

F4 Words in [reg. 2](#) inserted (27.10.2008) by [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2008 \(S.I. 2008/2626\)](#), [regs. 1, 3\(d\)](#)

(1) 1970 c. 9.

(2) Section 552B was inserted by section 87 of the Finance Act 1998.

- F5** Words in [reg. 2](#) substituted (with effect in accordance with [reg. 1](#) of the amending S.I.) by [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2002 \(S.I. 2002/443\)](#), [regs. 1, 4\(a\)](#)
- F6** Words in [reg. 2](#) omitted (with effect in accordance with [reg. 1](#) of the amending S.I.) by virtue of [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2002 \(S.I. 2002/443\)](#), [regs. 1, 4\(b\)](#)
- F7** Words in [reg. 2](#) substituted (with effect in accordance with [reg. 1](#) of the amending S.I.) by [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2002 \(S.I. 2002/443\)](#), [regs. 1, 4\(c\)](#)

Commencement Information

- I2** [Reg. 2](#) in force at 6.4.1999, see [reg. 1](#)

Designated day

3. The day specified for the purpose of the definition of “the designated day” in subsection (12) of section 552A is 6th April 1999.

Commencement Information

- I3** [Reg. 3](#) in force at 6.4.1999, see [reg. 1](#)

Nomination of tax representative by overseas insurer

4.—(1) A nomination to the Board of a tax representative by an overseas insurer must be in writing and must contain the following information—

- (a) the full name or title under which the overseas insurer is registered in the country in which his principal place of business is situated and the address in that country of that principal place of business;
 - (b) the business address of any branch or agency which the overseas insurer has in the United Kingdom;
 - (c) the name of the person nominated and—
 - (i) if he is an individual, the address of that person’s fixed place of residence in the United Kingdom, or
 - (ii) if he is not an individual, the address of his business establishment in the United Kingdom;
 - (d) the consent of the person nominated that he is willing to secure that the relevant duties are discharged by or on behalf of the overseas insurer signed—
 - (i) if he is an individual, by that individual, or
 - (ii) if he is not an individual, by the proper officer of the company as defined for the purposes of section 108 of the Management Act by subsection (3) of that section in the case of a company and by any partner who is an individual in the case of a partnership;
 - (e) the ^{F8}office of Her Majesty’s Revenue and Customs] to which, and the tax reference under which, the person nominated submits tax returns.
- (2) A nomination which does not contain the information required by paragraph (1) is invalid.

- F8** Words in [reg. 4\(1\)\(e\)](#) substituted (27.10.2008) by [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2008 \(S.I. 2008/2626\)](#), [regs. 1, 4](#)

Commencement Information

14 Reg. 4 in force at 6.4.1999, see [reg. 1](#)

Board's decision on nomination

5.—(1) Within the period of thirty days after receipt of a nomination the Board must give notice to the overseas insurer and the person nominated that they—

- (a) approve the person nominated by the overseas insurer as his tax representative; or
- (b) refuse to approve the person nominated by the overseas insurer as his tax representative on one or more of the grounds specified in sub-paragraphs (a), (b) and (c) of paragraph (4); or
- (c) require the overseas insurer or the person nominated or both of them to supply within the period of thirty days after the date of the notice such further information as may be reasonably required before the Board can be satisfied that the person nominated is a fit and proper person to be a tax representative.

(2) A notice under sub-paragraph (c) of paragraph (1) must specify the information that the Board require.

(3) Where the overseas insurer or the person nominated, or both of them, supplies information pursuant to a notice under sub-paragraph (c) of paragraph (1), the Board must within the period of thirty days after receiving the information—

- (a) give notice to the overseas insurer and the person nominated—
 - (i) that they approve the person nominated, or
 - (ii) that they refuse to approve the person nominated, stating on which of the grounds specified in sub-paragraphs (a), (b) and (c) of paragraph (4) they rely, or
- (b) give a further notice under sub-paragraph (c) of paragraph (1).

(4) The grounds on which the Board may refuse to approve the person nominated by the overseas insurer as his tax representative are that—

- (a) he does not satisfy the requirements of subsection (7) of section 552A;
- (b) they have reason to believe that he cannot or will not secure that the relevant duties are properly discharged by or on behalf of the overseas insurer;
- (c) information which was specified by a notice given under sub-paragraph (c) of paragraph (1) has not been supplied.

(5) If at any time there is a change in the information required by regulation 4, or in the further information required by paragraph (1)(c) of this regulation, the overseas insurer must notify the Board of that change.

(6) Where the Board have refused to approve the person nominated, and subject to paragraph (5) of regulation 13, the overseas insurer must nominate another person to be his tax representative within the period of three months after the date of the notice of that refusal.

(7) Where the overseas insurer nominates another person in accordance with paragraph (6) that nomination must contain the information required by regulation 4 and paragraphs (1) to (4) of this regulation apply to that nomination in the same way that they applied to the original nomination.

(8) Where the Board approve the person nominated the date of his appointment is the date on which notice was given under paragraph (1) or (3).

Commencement Information

I5 Reg. 5 in force at 6.4.1999, see [reg. 1](#)

Termination by the Board of appointment of person nominated

6.—(1) The Board may at any time give notice to both the overseas insurer and the person nominated that they have decided to withdraw the approval which they have given to the person nominated on the grounds that—

- (a) he no longer satisfies the requirements of subsection (7) of section 552A; or
- (b) they have reason to believe that he cannot or will not secure that the relevant duties are properly discharged by or on behalf of the overseas insurer; or
- (c) they have reason to believe that he has failed to secure that relevant duties have been properly discharged by or on behalf of the overseas insurer.

(2) Where the Board have given notice of their decision to withdraw their approval under paragraph (1) of a person nominated—

- (a) that person continues to be the tax representative of the overseas insurer until they give notice of their approval of the nomination of another person or themselves appoint another person in his place;
- (b) subject to paragraph (5) of regulation 13, the overseas insurer must nominate another person to be his tax representative within the period of three months after the date on which the Board gave notice of their decision; and
- (c) any such nomination must contain the information required by regulation 4 and the Board must give their decision on that nomination in accordance with regulation 5.

Commencement Information

I6 Reg. 6 in force at 6.4.1999, see [reg. 1](#)

Termination by overseas insurer of appointment of person nominated

7.—(1) The overseas insurer may at any time after the Board have approved the person nominated by him as his tax representative give notice to the Board that he no longer wishes that person to be his tax representative.

(2) Where notice is given by the overseas insurer under paragraph (1), the appointment of the person nominated continues until such time as the Board approve the nomination of another person in his place.

(3) At the same time as the Board give notice of their decision approving the nomination of another person they must give notice to the person originally nominated that this appointment ceased on the date of that notice.

Commencement Information

I7 Reg. 7 in force at 6.4.1999, see [reg. 1](#)

Termination by person nominated of his appointment

8.—(1) The person nominated may at any time after the Board have approved him as the tax representative of the overseas insurer give notice to the Board and to the overseas insurer that he no longer wishes to be the overseas insurer's tax representative and in that event the overseas insurer must nominate another person to be his tax representative within the period of three months after the date of that notice.

(2) Where the overseas insurer nominates another person in accordance with paragraph (1), that nomination must contain the information required by regulation 4 and the Board must give their decision on that nomination in accordance with regulation 5.

(3) At the same time as the Board give notice of their decision approving the nomination of another person they must give notice to the person originally nominated that his appointment ceased on the date of that notice.

Commencement Information

I8 Reg. 8 in force at 6.4.1999, see [reg. 1](#)

Termination of appointment on bankruptcy or death or on dissolution or winding-up of a company or partnership

9.—(1) Where the person nominated by an overseas insurer is an individual who becomes bankrupt, or in Scotland his estate is sequestrated, or makes any arrangement or composition with his creditors generally or dies, or is a company or a partnership which is dissolved or wound up, the appointment of that person ceases and the overseas insurer must nominate another person to be his tax representative within the period of three months after the event in question.

(2) Any such nomination must contain the information required by regulation 4 and the Board must give their decision on that nomination in accordance with regulation 5.

Commencement Information

I9 Reg. 9 in force at 6.4.1999, see [reg. 1](#)

Appointment by the Board of an overseas insurer's tax representative

10.—(1) In circumstances where the overseas insurer has failed—

- (a) to nominate a person to be his tax representative in accordance with subsection (6) of section 552A; or
- (b) following the refusal of the Board to approve a person nominated by him, to nominate another person to be his tax representative in accordance with paragraph (6) of regulation 5; or
- (c) following the withdrawal by the Board of their approval of a person nominated, to nominate another person to be his tax representative in accordance with paragraph (2)(b) of regulation 6; or
- (d) following the notification by a person nominated under paragraph (1) of regulation 8 that he no longer wishes to be the overseas insurer's tax representative or on the occurrence of one of the events described in paragraph (1) of regulation 9, to nominate another person in accordance with the paragraph in question; or

- (e) following the giving of a notice by the Board in accordance with paragraph (3) of regulation 11, to nominate a person to be his tax representative in accordance with paragraph (4) of that regulation; or
- (f) following—
- (i) the refusal of the Board to agree to release him from the requirement that there be a tax representative, or
 - (ii) the disclosure to the Board of information with respect to relevant insurances ceasing to be a criminal offence under the law of the EEA [^{F9}state] in which he is resident [^{F10}or, if he is resident in Gibraltar, under the law of Gibraltar], or
 - (iii) notification by him to the Board that the total amount or value of gross premiums paid under relevant insurances is £1 million or more, or
 - (iv) the giving of a notice by the Board of their intention to withdraw from their agreement to release him from the requirement that there be a tax representative,
- to nominate a person to be his tax representative in accordance with paragraph (9) of regulation 12; or
- (g) to notify the Board that the total amount or value of gross premiums paid under relevant insurances is £1 million or more; or
- (h) following the termination of the appointment of a person appointed under this paragraph, to nominate another person in accordance with paragraph (4) of this regulation; the Board may appoint a person who satisfies the description in paragraph (2) to be the overseas insurer's tax representative.
- (2) A person appointed by the Board to be the tax representative of an overseas insurer must be a person who has a significant business or economic connection with the overseas insurer and may in particular (but without prejudice to the generality of the preceding words) be—
- (a) a company which is connected with the overseas insurer within the meaning of section 839^{F11}... (connected persons); or
 - (b) the branch or agency in the United Kingdom of any such company.
- (3) The Board must give notice of their decision to the person appointed under this regulation and to the overseas insurer and, subject to paragraph (6) of regulation 13, the date of the appointment is the date of the notice.
- (4) The Board may at any time terminate the appointment of the person appointed by them as the tax representative of an overseas insurer by giving notice to the person appointed and to the overseas insurer and in that event the overseas insurer must nominate another person to be his tax representative within the period of three months after the date of that notice.
- (5) The overseas insurer may at any time nominate a person to be his tax representative in place of the person appointed by the Board and, if the Board approve the nomination of that person, at the same time as the Board give notice of their decision approving the nomination they must give notice to the person appointed by them that his appointment ceased on the date of the notice.
- (6) Where the overseas insurer nominates another person in accordance with paragraph (4) or (5), that nomination must contain the information required by regulation 4 and the Board must give their decision on that nomination in accordance with regulation 5.

F9 Word in [reg. 10\(1\)\(f\)\(ii\)](#) substituted (27.10.2008) by [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2008 \(S.I. 2008/2626\)](#), regs. 1, 5

F10 Words in [reg. 10\(1\)\(f\)\(ii\)](#) inserted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **25(2)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

F11 Words in [reg. 10\(2\)\(a\)](#) omitted (with effect in accordance with [reg. 1](#) of the amending S.I.) by virtue of [The Overseas Insurers \(Tax Representatives\) \(Amendment\) Regulations 2002 \(S.I. 2002/443\)](#), [regs. 1, 5](#)

Commencement Information

I10 Reg. 10 in force at 6.4.1999, see [reg. 1](#)

Other arrangements

11.—(1) An overseas insurer may make other arrangements with the Board for the purpose of securing the discharge by him or on his behalf of the relevant duties.

(2) Where such arrangements have been made with the Board by the overseas insurer, section 552A is to be regarded as never having applied to the overseas insurer so long as those arrangements remain in force.

(3) If the Board have reason to believe that any arrangements which have been made do not secure the discharge by the overseas insurer or on his behalf of the relevant duties, they may give notice to the overseas insurer that those arrangements are no longer in force with effect from the date of the notice.

(4) Where notice is given by the Board in accordance with paragraph (3)—

- (a) subject to paragraph (5) of regulation 13, the overseas insurer must nominate a person to be his tax representative within the period of three months after the date of the notice;
- (b) that nomination must contain the information required by regulation 4; and
- (c) the Board must give their decision on that nomination in accordance with regulation 5.

Commencement Information

I11 Reg. 11 in force at 6.4.1999, see [reg. 1](#)

Release of overseas insurer from requirement to nominate a tax representative

12.—(1) The Board may agree to release an overseas insurer to whom section 552A applies from the requirement that there must be a tax representative where—

(a) the overseas insurer is resident in

[^{F12}(i)] an EEA [^{F13}state] and the disclosure by him to the Board of information with respect to holders of relevant insurances is a criminal offence under the law of that State and was such an offence on 17th March 1998; or

[^{F14}(ii)] Gibraltar and the disclosure by him to the Board of information with respect to holders of relevant insurances is a criminal offence under the law of Gibraltar and was such an offence on 17th March 1998; or]

(b) subject to the condition specified in paragraph (2), at any time after section 552A first applies to the overseas insurer the total amount or value of the gross premiums paid under the relevant insurances referred to in paragraph (b) of subsection (4) of that section is nil or a negligible amount; or

(c) subject to paragraph (5), the overseas insurer enters into an undertaking—

(i) in relation to relevant insurances referred to in paragraph (3), in the terms set out in Part II of the Schedule;

(ii) in relation to relevant insurances referred to in paragraph (4), in the terms set out in Part III of the Schedule.

(2) The condition specified in this paragraph is that the overseas insurer gives notice of the fact to the Board forthwith if, at any time following the agreement to release the overseas insurer from the requirement that there must be a tax representative, the total amount or value of the gross premiums paid under the relevant insurances referred to in paragraph (b) of subsection (4) of section 552A is £1 million or more.

(3) The relevant insurances referred to in this paragraph are—

- (a) policies of life insurance issued in respect of insurances made before 6th April 2000;
- (b) contracts for life annuities made before 6th April 2000;
- (c) capital redemption policies where the contract was effected before 6th April 2000.

(4) The relevant insurances referred to in this paragraph are—

- (a) policies of life insurance issued in respect of insurances made on or after 6th April 2000;
- (b) contracts for life annuities made on or after 6th April 2000;
- (c) capital redemption policies where the contract was effected on or after 6th April 2000.

(5) The Board may at any time give notice to the overseas insurer of their decision to withdraw from their agreement to release him from the requirement that there be a tax representative where that agreement has been given in the circumstances described in sub-paragraph (c) of paragraph (1).

(6) An application by an overseas insurer to be released from the requirement that there must be a tax representative must be by notice to the Board specifying which of the circumstances described in sub-paragraphs (a), (b) and (c) of paragraph (1) apply to his case and the Board must, within the period of thirty days after the receipt of the notice of any such application, give notice to the overseas insurer that they—

- (a) agree to release him from the requirement that there be a tax representative, or
- (b) refuse to agree to release him from that requirement, or
- (c) require him to supply within the period of thirty days after the date of that notice such information as may be reasonably required before they can be satisfied that he comes within the relevant circumstances.

(7) A notice under sub-paragraph (c) of paragraph (6) must specify the information which the Board require.

(8) Where the overseas insurer supplies information pursuant to a notice under sub-paragraph (c) of paragraph (6), the Board must within the period of thirty days after receiving the information—

- (a) give notice to the insurer that they agree or refuse to agree to release him from the requirement that there be a tax representative, or
- (b) give a further notice under sub-paragraph (c) of paragraph (6).

(9) Where—

- (a) the Board give notice that they refuse to agree to release the overseas insurer from the requirement that there be a tax representative, or
- (b) it ceases to be a criminal offence under the law of the EEA [^{F15}state] in which the overseas insurer is resident [^{F16}, or, if he is resident in Gibraltar, under the law of Gibraltar,] for him to disclose to the Board information with respect to the holders of relevant insurances, or
- (c) the overseas insurer gives notice to the Board in accordance with the condition in paragraph (2) that the total amount or value of the gross premiums paid under relevant insurances is £1 million or more, or

(d) the Board give notice to the overseas insurer of their decision to withdraw from their agreement to release him from the requirement that there be a tax representative, and subject to paragraph (5) of regulation 13, the overseas insurer must nominate a person to be his tax representative within the period of three months after the date of the notice or the date when disclosure to the Board ceased to be a criminal offence, as the case may be.

(10) Where the overseas insurer nominates a person to be his tax representative in accordance with paragraph (9), that nomination must contain the information required by regulation 4 and the Board must give their decision in accordance with regulation 5.

- F12** Words in reg. 12(1)(a) renumbered as reg. 12(1)(a)(i) (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **25(3)(a)(i)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Word in reg. 12(1)(a) substituted (27.10.2008) by The Overseas Insurers (Tax Representatives) (Amendment) Regulations 2008 (S.I. 2008/2626), regs. 1, **6**
- F14** Reg. 12(1)(a)(ii) inserted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **25(3)(a)(ii)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Word in reg. 12(9)(b) substituted (27.10.2008) by The Overseas Insurers (Tax Representatives) (Amendment) Regulations 2008 (S.I. 2008/2626), regs. 1, **6**
- F16** Words in reg. 12(9)(b) inserted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **25(3)(b)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I12** Reg. 12 in force at 6.4.1999, see **reg. 1**

Appeals against decisions of the Board

- 13.—**(1) An overseas insurer to whom notice has been given of a decision of the Board—
- (a) refusing to approve a person nominated by him as his tax representative,
 - (b) withdrawing their approval of a person nominated by him as his tax representative,
 - (c) appointing a person to be his tax representative,
 - (d) that arrangements made under regulation 11 are no longer in force,
 - (e) refusing to agree to release him from the requirement that there be a tax representative, or
 - (f) to withdraw from their agreement to release him from the requirement that there be a tax representative,

may appeal against the decision contained in that notice by notice given to the Board within the period of thirty days after the date of the notice of the decision in question.

(2) A person to whom notice has been given of a decision of the Board appointing him to be the tax representative of an overseas insurer under regulation 10 may appeal against the decision contained in that notice within the period of thirty days after the date of the notice of that decision.

^{F17}(3)

(4) The like provisions as are contained in Part V of the Management Act (appeals and other proceedings) ^{F18}... apply to an appeal under this regulation and the [^{F19}tribunal, on an appeal notified to it, shall] confirm the decision contained in the notice unless ^{F20}... satisfied that it ought to be quashed.

(5) Where an overseas insurer appeals against a decision of the Board referred to in subparagraph (a), (b), (d), (e) or (f) of paragraph (1), and the decision of the Board is confirmed on appeal, the period of three months within which he must nominate another person, or a person, as

his tax representative does not begin until such time as there is no possibility of a further appeal against that decision.

(6) Where an overseas insurer appeals against a decision of the Board appointing a person to be his tax representative, or the person appointed by the Board to be the tax representative of an overseas insurer appeals against the decision of the Board appointing him, and the decision of the Board is confirmed on appeal, the date of the appointment of that person is the first date on which there is no possibility of a further appeal against that decision.

(7) Where an overseas insurer appeals against a decision of the Board referred to in subparagraph (a) of paragraph (1) and the decision of the Board is quashed on appeal, the date of the appointment of the person nominated as the tax representative of the overseas insurer is the first date on which there is no possibility of a further appeal against the decision quashing the decision of the Board.

- F17** Reg. 13(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 58(2)**
- F18** Words in reg. 13(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 58(3)(a)**
- F19** Words in reg. 13(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 58(3)(b)**
- F20** Words in reg. 13(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 58(3)(c)**

Commencement Information

- I13** Reg. 13 in force at 6.4.1999, see [reg. 1](#)

S C T Matheson
Tim Flesher
Two of the Commissioners of Inland Revenue

Changes to legislation:

There are currently no known outstanding effects for the The Overseas Insurers (Tax Representatives) Regulations 1999.