

**2003 No. 1828**

**INCOME TAX**

**The Insurance Companies (Taxation of Reinsurance Business)  
(Amendment) Regulations 2003**

<i>Made</i> - - - -	<i>16th July 2003</i>
<i>Laid before the House of Commons</i>	<i>17th July 2003</i>
<i>Coming into force</i> - -	<i>7th August 2003</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by sections 431C(1), 439A and 442A(2) to (6) of the Income and Corporation Taxes Act 1988(a) and paragraph 58 of Schedule 8 to the Finance Act 1995, hereby make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Insurance Companies (Taxation of Reinsurance Business) (Amendment) Regulations 2003 and shall come into force on 7th August 2003.

(2) Regulation 3 has effect in relation to accounting periods ending in the financial year 2003 and subsequent financial years.

(3) Regulation 4 has effect in relation to any policy or contract for any life assurance business made on or after 22nd August 2000.

(4) Regulation 5 has effect in relation to transfers of reinsurance arrangements taking place on or after 1st January 2003.

**Amendments to the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995**

2. The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995(b) are amended as follows.

**Amendments to regulation 5**

3. In regulation 5(2) (prescribed rates of tax relating to calculation of investment return in second and subsequent accounting periods other than final accounting period)(c)—

- (a) in sub-paragraph (b) after “1996” insert “and ending before the financial year 2003”, and
- (b) after sub-paragraph (c) add—

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(a) 1988 c. 1. Section 431C was inserted by paragraph 2, section 439A by paragraph 26, and section 442A by paragraph 34, of Schedule 8 to the Finance Act 1995 (c. 4). Section 442A was amended by paragraph 23 of Schedule 33, and Part 3(12) of Schedule 43, to the Finance Act 2003 (c. 14).

(b) S.I. 1995/1730, relevantly amended by S.I. 1996/1621.

(c) Regulation 5(2) was substituted by regulation 4 of S.I. 1996/1621.

- “(d) as respects an accounting period commencing in or after the financial year 2003, the rate applicable in accordance with section 88(1) of the Finance Act 1989(a);
- (e) as respects an accounting period part of which falls in the financial year 2002 (“the 2002 part”) and part in the financial year 2003 (“the 2003 part”), the rate applicable in accordance with section 88A(1) of the Finance Act 1989(b) in relation to the proportion of the amount of the investment return attributable to the 2002 part, and the rate applicable in accordance with section 88(1) of that Act in relation to the proportion of the amount of the investment return attributable to the 2003 part.”.

#### **Amendments to regulation 11**

4. In regulation 11 (exclusion of certain business from section 431C)(c)—
  - (a) in paragraph (b) for the words from “of any” to “431D(1)(b)” substitute “overseas life assurance business within the meaning given by section 431D(1)”, and
  - (b) in paragraph (c)(ii) for the words from “of any” to “431D(1)(b)” substitute “which is overseas life assurance business within the meaning given by section 431D(1)”.

#### **New regulation 13**

5. After regulation 12 add—

##### **“Transfers of reinsurance arrangements effected by novation or insurance business transfer schemes**

**13.—**(1) Where a transfer of a reinsurance arrangement from one insurance company (“the transferor”) to another (“the transferee”) is effected by novation or an insurance business transfer scheme, these Regulations shall apply in relation to the reinsurance arrangement concerned as follows.

(2) Regulation 3 shall not apply.

(3) For the purposes of regulations 4 to 7, an accounting period of the transferor shall be treated as ending with the day of the transfer and a new accounting period of the transferee shall be treated as beginning with that day but—

- (a) the new accounting period of the transferee so treated as beginning shall not be treated as the first accounting period during which the reinsurance arrangement concerned is in force; and
- (b) the accounting period of the transferor which is so treated as ending shall not be treated as the final accounting period during which the reinsurance arrangement concerned is in force.

(4) For the purposes of regulation 5, 6 and 9, the references in regulations 5(1), 6(3) and 9(6) respectively to the cedant company shall be treated as including (as well as the transferee)—

- (a) the transferor; and
- (b) any insurance company from which the reinsurance arrangement concerned was transferred on an earlier transfer effected by novation or an insurance business transfer scheme.

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(a) 1989 c. 26. Section 88(1) was amended by section 45(1) of the Finance Act 1990 (c. 29) and paragraph 13(2) of Schedule 33, and Part 3(12) of Schedule 43, to the Finance Act 2003.

(b) Section 88A was inserted by paragraph 26(2) of Schedule 6 to the Finance Act 1996 (c. 8) and was repealed by paragraph 13(3) of Schedule 33, and Part 3(12) of Schedule 43, to the Finance Act 2003.

(c) Regulation 11 was relevantly amended by regulation 5(a) of S.I. 1996/1621.

(5) For the purposes of regulation 5, the reference in paragraph (1) of that regulation to previous accounting periods shall be treated as including (as well as the previous accounting periods of the transferee)—

- (a) previous accounting periods of the transferor; and
- (b) previous accounting periods of any insurance company from which the reinsurance arrangement concerned was transferred on an earlier transfer effected by novation or an insurance business transfer scheme.

(6) For the purposes of regulation 6, the reference in paragraph (1) of that regulation to the amounts of the investment returns in earlier accounting periods shall be treated as including (as well as the amounts of the investment returns in earlier accounting periods of the transferee)—

- (a) the amounts of the investment returns in earlier accounting periods of the transferor; and
- (b) the amounts of the investment returns in earlier accounting periods of any insurance company from which the reinsurance arrangement concerned was transferred on an earlier transfer effected by novation or an insurance business transfer scheme.

(7) The following questions shall be determined in respect of the transferor as the cedant company before the transfer and then, as a separate matter, in respect of the transferee as the cedant company after the transfer—

- (a) whether the reinsurance arrangement concerned falls within the description prescribed by regulation 9(2);
- (b) whether, in relation to the reinsurance arrangement concerned, any of the circumstances set out in regulations 11(a) and 12 exist.

(8) In this regulation, “insurance business transfer scheme” has the meaning given by section 431(2) of the Taxes Act<sup>(a)</sup>.”.

16th July 2003

*Ann Chant*  
*Dave Hartnett*  
Two of the Commissioners of Inland Revenue

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<sup>(a)</sup> The reference is to section 431(2) of the Income and Corporation Taxes Act 1988 which was relevantly amended by article 26(3) of S.I. 2001/3629.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730) (“the principal Regulations”). The principal Regulations make provision for the purposes of section 442A of the Income and Corporation Taxes Act 1988 (c. 1) (“the Taxes Act”) in relation to the calculation of the investment return on an insurance policy or annuity contract which is the subject of a reinsurance arrangement. The main amendments are in consequence of amendments made to the legislation governing the taxation of insurance companies by Schedule 33 to the Finance Act 2003 (c. 14) (“Schedule 33”).

Regulation 1 provides for citation, commencement and effect. Authority for the retrospective effect of certain of the amendments is given by paragraph 58 of Schedule 8 to the Finance Act 1995 (c. 4).

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends regulation 5(2) (prescribed rates of tax relating to calculation of investment return in second and subsequent accounting periods other than final accounting period). These amendments are in consequence of amendments made to sections 88 and 88A of the Finance Act 1989 (c. 26) by paragraph 13(2) and (3) of Schedule 33.

Regulation 4 amends regulation 11 (exclusion of certain business from section 431C). These amendments are in consequence of amendments made to section 431D of the Taxes Act by section 108 of the Finance Act 2000 (c. 17).

Regulation 5 adds a new regulation 13 in the principal Regulations which sets out how they are to apply where a reinsurance arrangement is transferred under an insurance business transfer scheme or by novation. These amendments are in consequence of amendments made to section 442A of the Taxes Act by paragraph 23 of Schedule 33.

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