
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the General Insurance Reserves (Tax) Regulations 2001 ([S.I 2001/1757](#): “the principal Regulations”). The principal effect is to clarify how liabilities, in respect of which technical provision may be made for tax purposes, are to be treated.

Regulation 1 provides for the citation, commencement and effect of the Regulations and regulation 2 for interpretation.

Regulation 3 introduces the amendments to the principal Regulations.

Regulation 4 amends regulation 2 of the principal Regulations, inserting a definition of “corporate general insurer” and a provision dealing with the construction of references to “Rules”.

Regulation 5 amends regulation 3 of the principal Regulations, which contains the main rules on computation of the amounts of reserves under section 107 of the Finance Act 2000 (“section 107”).

Regulation 6 amends regulation 4 of the principal Regulations extending the circumstances in which regulation 4(2) applies. It amends paragraph (1) so as to substitute new sub-paragraphs (ab) and (b) for the existing (b), and inserts a new paragraph (1A). The effect of the amendments is to apply paragraph (2) of the regulation to a transfer—

- (a) which would constitute an insurance business transfer scheme if the transferee were within the European Union;
- (b) which is effected in accordance with an authorisation granted outside the United Kingdom for the purposes of article 12 of Council Directive [92/49/EC](#), or
- (c) in which the transferor and transferee are connected.

Regulation 6 also adds a new paragraph (2A) to clarify the operation of the Regulations in respect of technical provisions made and taken into account where there is a transfer of business.

Regulation 7(1) substitutes a new regulation 5 of the principal Regulations specifying rules to determine which currencies are to be used in calculations required under those Regulations. Paragraph (2) makes transitional provision in respect of the substitution.

Regulation 8 amends regulation 6 of the principal Regulations, restructuring the existing text and adding a new paragraph (2). The effect is that a company is only excluded by virtue of sub-paragraphs (c) and (d) of paragraph (1) if, at the time a provisional liquidator is appointed the company is insolvent or, in the case of a scheme or arrangement falling within sub-paragraph (d) the company would be insolvent but for the scheme or arrangement.

Regulation 9 amends regulation 7 of the principal Regulations, which contains adaptations of regulations 3 to 5 in relation to underwriting members, in consequence of the other amendments made by these Regulations.

Regulation 10 amends regulation 8 of the principal Regulations to make it clear that an election by a controlled foreign company under section 107 may be made on its behalf by the UK resident by whom it is controlled. It also specifies the content of an election under section 107(4).

Regulation 11 adds a new regulation 10 to the principal Regulations. The new regulation modifies the concept of “the first earlier period of account” for the purposes of regulations 2 to 9 of the principal Regulations where—

- (a) they first apply to a company on or after 5th December 2003 by reason of its—

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- (i) becoming a controlled foreign company or
- (ii) becoming subject to corporation tax,
- (b) a company which is already subject to corporation tax in respect of its general insurance business is charged to tax under Case I of Schedule D in respect of that business for the first time for a period of account beginning on or after 5th December 2003;
- (c) a controlled foreign company in relation to which—
 - (i) an apportionment under section 747(3) falls for the first time to be made regarding, or
 - (ii) section 748(1)(a) applies for the first time for, a period of account ending on or after 5th December 2003; or
- (d) the company ceases to be excluded from their operation on 5th December 2003 because of the amendments made to regulation 6 of the principal Regulations by regulation 8 of this instrument.

The new regulation 10 of the principal Regulations also provides for the making of elections under section 107(4) in respect of the original provisions of the period of account preceding that during which the company in question first becomes subject to the principal Regulations.