

EXPLANATORY MEMORANDUM TO
THE INSURANCE COMPANIES (TAXATION OF REINSURANCE BUSINESS)
REGULATIONS 2008

2008 No. 1944

1. This explanatory memorandum has been prepared by HM Revenue and Customs on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 This instrument (the “2008 Regulations”) amends the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 (S.I. 1995/1730: the “principal Regulations”) to update them in consequence of Finance Act (“FA”) 2008 and other recent changes to the corporation tax legislation relating to companies carrying on life assurance business (“the life assurance CT provisions”).

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 These Regulations have effect in relation to accounting periods beginning on or after 1st January 2008: and are accordingly capable of having retrospective effect in certain circumstances. Authority for the retrospective effect made by these Regulations is conferred by paragraph 58 of Schedule 8 to the Finance Act 1995.

3.2 The explanatory note to this Instrument explains that:

“A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.”

This is because the accepted Government practice is that no IA will be published for HMRC and HMT tax measures for which:

- the total effect of the changes across all UK business is less than £100,000 of administrative burden costs/savings and/or £3m of compliance cost in total; and
- the Department’s Better Regulation and Policy team has confirmed that
 - there are no disproportionate impacts on any business or sector; and
 - there are no other issues which might make publication of an IA advisable.

This is such a measure.

HMRC are working with BERR to ensure that the next edition of the Statutory Instrument Practice reflects these changes.”

4. Legislative Background

- 4.1 The principal Regulations set out a scheme of taxation, fleshing out the rules in section 442A of the Income and Corporation Taxes Act 1988, in a case where a company carrying on life assurance business enters into a contract of reinsurance in relation to its basic life assurance and general annuity business.
- 4.2 The principal Regulations refer to other parts of the life assurance CT provisions. Those provisions are frequently amended, not only by annual Finance Acts but by other statutory instruments. This instrument amends the principal Regulations as a result of changes in Finance Act 2008 and 2007 and of earlier provisions.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The principal Regulations prevent the avoidance of tax by entering into certain types of reinsurance contracts. The 2008 Regulations ensure the principal Regulations are up to date so that they function correctly.
- 7.2 A draft of the 2008 Regulations has been circulated to appropriate bodies and persons within the insurance industry and their advisers.
- 7.3 Guidance on the changes will be incorporated in HMRC's Life Assurance Manual.

8. Impact

- 8.1 A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.
- 8.2 There is no impact on the public sector.

9. Contact

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