

2008 No. 2626

INCOME TAX

**The Overseas Insurers (Tax Representatives) (Amendment)
Regulations 2008**

<i>Made</i>	- - - -	<i>6th October 2008</i>
<i>Laid before the House of Commons</i>		<i>6th October 2008</i>
<i>Coming into force</i>	- -	<i>27th October 2008</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 552A(7), (9) and (10) of the Income and Corporation Taxes Act 1988(a) and now vested in them(b).

Citation and commencement

1. These Regulations may be cited as the Overseas Insurers (Tax Representatives) (Amendment) Regulations 2008 and shall come into force on 27th October 2008.

Amendment of the Overseas Insurers (Tax Representatives) Regulations 1999

2. The Overseas Insurers (Tax Representatives) Regulations 1999(c) are amended as follows.

Amendment of regulation 2

3. In regulation 2 (interpretation)—

- (a) in the definition of “the Board” for “of Inland Revenue” substitute “for Her Majesty’s Revenue and Customs”;
- (b) omit the definition of “EEA Agreement”;
- (c) for the definition of “EEA State” substitute—
 ““EEA state” has the meaning given in Schedule 1 to the Interpretation Act 1978(d);”;
 and

(a) 1988 c. 1; section 552A was inserted by section 87 of the Finance Act 1998 (c. 36) and amended by paragraph 224 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5) and by paragraph 6 of Schedule 14 to the Finance Act 2008 (c. 9).

(b) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that in so far as it is appropriate in consequence of section 5 a reference in an enactment, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty’s Revenue and Customs.

(c) 1999/881, amended by S.I. 2001/2726, 2002/443 and 2004/3272.

(d) The definition of “EEA state” was inserted into Schedule 1 to the Interpretation Act 1978 by section 26(1) of the Legislative and Regulatory Reform Act 2006.

- (d) after the definition of “EEA state” (as substituted by sub-paragraph (c) above) insert—
““ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005(a);”.

Amendment of regulation 4

4. In paragraph (1)(e) of regulation 4 (notification of tax representative by overseas insurer) for “Inland Revenue office” substitute “office of Her Majesty’s Revenue and Customs”.

Amendment of regulation 10

5. In paragraph (1)(f)(ii) of regulation 10 (appointment by the Board of an overseas insurer’s tax representative) for “State” substitute “state”.

Amendment of regulation 12

6. In paragraphs (1)(a) and (9)(b) of regulation 12 (release of overseas insurer from requirement to nominate a tax representative) for “State” substitute “state”.

Amendment of the Schedule: general

7.—(1) Amend the Schedule as follows.

(2) In paragraph 1—

- (a) in the definition of “basic rate limit” for “section 1(3)(a) of the Taxes Act” substitute “section 20(2) of the Income Tax Act 2007”(b);
- (b) omit the definition of “financial year”;
- (c) in the definition of “gain”(c) for “section 541, 543, 545 or 546C” substitute “Chapter 9 of Part 4 of ITTOIA 2005”;
- (d) omit the definition of “inspector”;
- (e) omit the definition of “year of assessment”; and
- (f) at the end insert—

““tax year” has the meaning given by section 4(2) of the Income Tax Act 2007.”.

(3) Omit paragraph 2.

(4) In paragraph 3—

- (a) for “year of assessment” substitute “tax year” (in both places);
- (b) omit “or where the policy holder is a company each financial year.”;
- (c) for “inspector” substitute “Board”; and
- (d) omit “or financial year”.

(5) In paragraph 4—

- (a) for “Chapter II of Part XIII of the Taxes Act” substitute “Chapter 9 of Part 4 of ITTOIA 2005”; and
- (b) for sub-paragraph (d) substitute—

“(d) by reason of which the aggregate sum payable, or other benefits to be conferred, by the overseas insurer exceeds twice the basic rate limit for the tax year in which it occurs.”.

(6) In paragraph 5—

(a) 2005 c. 5.
(b) 2007 c. 3.
(c) The definition of “gain” was amended by S.I. 2001/2726 and 2002/443.

- (a) for “the year of assessment in which it occurs” substitute “the tax year in which it occurs”;
 - (b) omit “or for the year of assessment corresponding to the financial year in which it occurs, as the case may be,”;
 - (c) for “that year of assessment” substitute “that tax year”; and
 - (d) omit “or that financial year”.
- (7) In paragraph 7(b)—
- (a) for “year of assessment” substitute “tax year”;
 - (b) omit “, or where the policy holder is a company each financial year,”; and
 - (c) for “inspector” substitute “Board”.
- (8) For paragraph 8(a) substitute—
- “8.** For the purpose of this undertaking a relevant event is a chargeable event within the meaning of Chapter 9 of Part 4 of ITTOIA 2005 in respect of which an insurer is under an obligation to deliver a certificate under section 552.
- 8A.** For the purposes of this Part of this Schedule, in the determination of the amount of a gain in connection with a policy or contract, no account is to be taken of the effect of section 541A of ITTOIA 2005(b).”.
- (9) In paragraph 9—
- (a) for “in the year of assessment or financial year” substitute “in the tax year”;
 - (b) for “that year of assessment or for the year of assessment corresponding to that financial year” substitute “that tax year”; and
 - (c) for sub-paragraph (c) substitute—
 - “(c) both gains arise in the same tax year.”.
- (10) In paragraph 10(c)—
- (a) in sub-paragraph (e), for “550(3), apart from section 553(3)” substitute “536, apart from section 536(7), of ITTOIA 2005”; and
 - (b) in sub-paragraph (f)—
 - (i) omit “or lower”, and
 - (ii) for “547(5)(a), apart from section 553(8)” substitute “530, apart from section 528, of ITTOIA 2005”.

3rd October 2008
6th October 2008

Mike Eland
Dave Hartnett

Two of the Commissioners for Her Majesty’s Revenue and Customs

(a) Paragraph 8 was substituted by S.I. 2002/443.
(b) Section 541A was inserted by section 29(3) of the Finance Act 2007 (c. 11).
(c) Paragraph 10 was amended by S.I. 2002/443 and 2004/3272.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Overseas Insurers (Tax Representatives) Regulations 1999 (S.I. 1999/881 amended by S.I. 2001/2726, 2002/443 and 2004/3272) (“the principal Regulations”). The treatment of gains made by companies on or from investments in life insurance contracts was altered by Schedule 13 to the Finance Act 2008 (“FA 2008”), which brought the treatment of such gains into the loan relationships regime within Chapter 2 of Part 4 of the Finance Act 1996 (c. 8). Schedule 14 to FA 2008 made consequential changes including paragraph 3 and 7 of Schedule 14 which repealed the provisions of Chapter II of Part XIII (except section 552 to 552B) of the Income and Corporation Taxes Act 1988 (“ICTA”). These Regulations make amendments consequential to the changes made by Schedules 13 and 14 to FA 2008. These Regulations also make changes which update references to provisions of ICTA in the principal Regulations with corresponding rewritten provisions of the Income Tax (Trading and Other Income) Act 2005 (“ITTOIA”) and update references following changes made by the Commissioners for Revenue and Customs Act 2005 (“CRCA 2005”) and the Finance Act 2007 (“FA 2007”).

Regulations 1 provide for citation and commencement of these Regulations.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends definitions in regulation 2 (interpretation) of the principal Regulations. It amends the definition of “EEA State” so that the definition follows the definition in the Interpretation Act 1978, which would not otherwise apply to the principal Regulations, making the definition ambulatory. The definition of “EEA Agreement” is omitted in consequence of the amendment of the definition of “EEA State”.

Regulations 4 and 5 make amendments consequential on the change to the definition of “EEA State”.

Regulations 6 and 7 make further consequential amendments following changes made by ITTOIA, CRCA 2005, FA 2007 and FA 2008.

A full impact assessment has not been produced for this instrument as a no impact on the private or voluntary sectors is foreseen.

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£4.00