

**EXPLANATORY MEMORANDUM TO  
THE INSURANCE COMPANIES (TAXATION OF REINSURANCE BUSINESS)  
(AMENDMENT) (NO. 2) REGULATIONS 2008**

**2008 No. 2670**

**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. This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Description**

This instrument amends the Insurance Companies (Taxation of Reinsurance Business) Regulations (S.I. 1995/1730: the “1995 Regulations”) to remove the ability of an officer of HMRC to make a determination of what is just and reasonable in certain unusual situations.

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

None

**4. Legislative Background**

The 1995 Regulations impose a charge to tax on insurance companies carrying on certain types of life assurance business. Regulations 6 and 7 of the 1995 Regulations explain how the charge to tax is calculated. For the most part the rate of return on assets shown in the company’s return to the Financial Services Authority is used, but if the company does not make such a return the regulations provide for an inspector to determine a just and reasonable rate. Regulation 7 also provides for an appeal procedure to Special Commissioners of Income Tax.

**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 No cases have yet occurred of an officer making a determination, and no use has ever been made of the appeals procedure. With the advent of a new appeals system to the Tax Chamber of the Tribunal established by the Tribunals, Courts and Enforcement Act 2007, the opportunity is being taken to streamline the legislation and to remove the officer’s discretion and the appeal procedure.

- 7.2 A draft of these 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 no 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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