STATUTORY INSTRUMENTS

2017 No. 1271

CORPORATION TAX
INCOME TAX

The Risk Transformation (Tax) Regulations 2017

Made - - - - 12th December 2017

Coming into force in accordance with regulation 1(1)

The Treasury, in exercise of the powers conferred by section 183 of the Finance Act 2016(**1**), make the following Regulations.

A draft of this instrument was laid before and approved by a resolution of the House of Commons in accordance with section 183(9) and (10) of the Finance Act 2016.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Risk Transformation (Tax) Regulations 2017 and come into force three days after the day on which they are made.

(2) These Regulations have effect—

(a) for the purposes of corporation tax, for accounting periods beginning on or after that date, and

(b) for the purposes of income tax, for payments made on or after that date.

Interpretation

2. In these Regulations—

"insurance risk transformation" means the activity specified in article 13A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**2**);

"insurance risk transformation investments" means the investments issued for the purpose of carrying out insurance risk transformation;

"protected cell company" is a company incorporated under Part 4 of the Risk Transformation Regulations 2017(**3**).

(**1**) 2016 c. 24.
(**2**) S.I. 2001/544, article 13A was inserted by regulation 5 of the Risk Transformation Regulations 2017 (S.I. 2017/1212).
(**3**) S.I. 2017/1212.

Qualifying transformer vehicle

3.—(1) A qualifying transformer vehicle is a transformer vehicle(**4**) which—

(a) is a company limited by shares,

(b) carries out the activity of insurance risk transformation where substantially all of that activity relates to business other than basic life assurance and general annuity business, and

(c) is authorised under Part 4A of the Financial Services and Markets Act 2000(**5**) to carry out insurance risk transformation.

(2) In paragraph (1)(b), "basic life assurance and general annuity business" has the same meaning as in Part 2 of the Finance Act 2012(**6**).

Corporation tax

4.—(1) No liability to corporation tax arises in respect of the profits arising from the activity of insurance risk transformation carried out by a qualifying transformer vehicle.

(2) For the purposes of paragraph (1), the following are not treated as an activity of insurance risk transformation—

(a) administrative or management activities, or

(b) subject to paragraph (3), holding investments in excess of the minimum amount reasonably required to satisfy the fully funded requirement in relation to the company or, in the case of a protected cell company, the cell.

(3) Paragraph (2)(b) does not apply in relation to investments which were reasonably required to satisfy the minimum fully funded requirement in relation to a risk assumed under a contract of insurance until the expiration of 90 days from the date on which all liabilities under that contract have been satisfied.

(4) For the purposes of this regulation, "the fully funded requirement" is the requirement imposed by Articles 319 and 326 of the Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), or the equivalent requirement set out in rules made by the Prudential Regulation Authority(**7**).

Income tax

5. The duty to deduct a sum representing income tax under section 874 of ITA 2007(**8**) does not apply to the payment of interest made to investors in relation to insurance risk transformation investments.

Removal of special tax treatment

6.—(1) If condition A (set out in regulation 7) or B (set out in regulation 8) is met, regulations 4 and 5 do not apply in relation to profits arising or payments made in the accounting period in which the condition is met, or treated as met, or in any subsequent accounting period.

(**4**) "Transformer vehicle" is defined in section 183(11) of the Finance Act 2016.
(**5**) 2000 c. 8; Part 4A was inserted by section 11(2) of the Financial Services Act 2012 (c. 21) and relevantly amended by S.I. 2017/1212.
(**6**) 2012 c. 14; "basic life and general annuity business" is defined in section 57 of that Act.
(**7**) Articles 319 and 326 of the Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) apply to transformer vehicles which are special purpose vehicles within the meaning given by Article 13(26) of the Directive 2009/138/EC. Regulation 8 of S.I. 2017/**** imposes an obligation on the Prudential Regulation Authority to make equivalent rules for transformer vehicles which are not special purpose vehicles.
(**8**) 2007 c. 3.