

**EXPLANATORY MEMORANDUM TO  
THE GENERAL INSURERS' TECHNICAL PROVISIONS (APPROPRIATE  
AMOUNT) (TAX) REGULATIONS 2009**

**2009 No. 1926**

**1.** This explanatory memorandum has been prepared by HM Revenue & Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

**2. Purpose of the instruments**

2.1 These Regulations support primary legislation by specifying an "appropriate amount" of technical provisions for a general insurance company which may potentially limit the amount of tax relief available in respect of amounts known as "technical provisions", which include, for example, amounts set aside to meet an insurer's liabilities in respect of future claims.

2.2 In the context of the Lloyd's insurance market, the equivalent to technical provisions is known as "reinsurance to close". These Regulations also specify an "appropriate amount" of technical provisions for members of Lloyd's underwriting syndicates.

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

None

**4. Legislative Context**

4.1 Paragraph 1 of Schedule 11 to the Finance Act 2007 provides that in computing the profits or losses of a general insurer for a period of account the amount of "technical provisions" stated in the accounts of the insurer is taken into account. The effect of this is that any amount added to the technical provisions is permitted as a deduction in computing the profits of a period so reducing the amount of tax otherwise due from the general insurer. However, the amount of the technical provisions so brought into account must not exceed an amount referred to in paragraph 1 as the "appropriate amount", which is an amount determined in accordance with regulations.

4.2 Schedule 11 also applies for the purposes of determining the profits or losses of a member of a Lloyd's underwriting syndicate with the effect that the limitation in paragraph 1 on the amount of technical provisions brought into account also applies in the context of a member of a Lloyd's underwriting syndicate.

4.3 Technical provisions include a number of elements but notably includes amounts set aside to meet the estimated cost of future payments of claims made to a general insurer. In the context of a member of a Lloyd's underwriting syndicate technical provisions will in most cases equate to amounts known as "reinsurance to close".

4.4 These Regulations make provision enabling the appropriate amount to be determined in the case of general insurers and also in the case of members of Lloyd's underwriting syndicates.

## **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

- *What is being done and why*

7.1 Company law and accounting principles applying to general insurers focus on the adequacy of their technical provisions, to ensure there are sufficient assets to pay claims. For tax purposes, it is also appropriate to ensure that the provisions are not excessive, to avoid potential excessive relief. The same principles also apply to Lloyd's underwriting syndicates.

7.2 These Regulations support the primary legislation found in Schedule 11 of the Finance Act 2007 by providing a mechanism to determine an appropriate amount of technical provisions that is both adequate and not excessive.

7.3 The Regulations achieve this by requiring the general insurer or the Lloyd's underwriting syndicate to confirm that the technical provisions in its accounts are supported by the opinion of a suitably skilled person, usually an actuary, to the effect that the provisions are both adequate and not excessive. If no such opinion can be given, the Regulations provide that a standard method to determine the appropriate amount will apply instead.

7.4 Technical provisions of UK general insurers add up to many billions of pounds and significant tax is at risk if the amount of the technical provisions brought into account for tax purposes is left entirely dependent on insurance company law and the related accounting principles.

- *Consolidation*

7.5 This instrument does not amend any other instrument.

## **8. Consultation outcome**

8.1 Extensive consultation, over a two year period, has been conducted with representatives of the UK insurance industry via the principal trade body, the Association of British Insurers (ABI), with representatives of the Lloyd's insurance

market, and through publication of draft Regulations on the website of HM Revenue & Customs.

8.2 Consensus was against prescribing specific numerical methods, and the approach adopted therefore seeks to allow as much freedom as possible to the individual insurer to choose their own method subject to safeguards.

## **9. Guidance**

9.1 Guidance on the operation of the relief will be reflected in HMRC's General Insurance Manual.

## **10. Impact**

10.1 The impact of this instrument on business, charities or voluntary bodies is negligible.

10.2 The impact of this instrument on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument as it has a negligible impact on business, charities or the voluntary sectors.

## **11. Regulating small business**

The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 These Regulations will be monitored through dialogue with HMRC's customer relations managers responsible for the insurers and an appraisal of the outcome of related enquiries.

12.2 In addition, dialogue will be maintained with the ABI and other interested parties in relation to their views on the operation of these Regulations.

## **13. Contact**

Victor Baker at HM Revenue & Customs Tel: 020 7147 2616 or email: victor.j.baker@hmrc.gsi.gov.uk can answer any queries regarding this instrument.