

**2008 No. 606**

**INHERITANCE TAX**

**The Inheritance Tax (Delivery of Accounts) (Excepted Settlements) Regulations 2008**

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

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 256(1)(a) of the Inheritance Tax Act 1984(a), after consultation with the Lord Chancellor, the Scottish Ministers and the Lord Chief Justice of Northern Ireland in accordance with section 256(3A)(b).

**Citation, commencement and effect**

1. These Regulations may be cited as the Inheritance Tax (Delivery of Accounts) (Excepted Settlements) Regulations 2008, shall come into force on 6th April 2008 and shall have effect in relation to chargeable events occurring on or after 6th April 2007.

**Interpretation**

2.—(1) In these Regulations—

“the 1984 Act” means the Inheritance Tax Act 1984;

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“a chargeable event” means an occasion on which tax is chargeable under section 64 (charge at ten-year anniversary), section 65 (charge at other times) or section 71E (charge to tax on property to which section 71D applies)(c);

“an excepted settlement” has the meaning given in regulation 4;

“the IHT threshold” means the lower limit shown in the Table in Schedule 1 to the 1984 Act applicable on the occasion of the chargeable event;

“qualifying interest in possession” has the meaning given in section 59;

“related settlement” has the meaning given in section 62;

“settlement” has the meaning given in section 43;

“settlor” has the meaning given in section 44;

“trustee” has the meaning given in section 45;

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(a) 1984 c. 51.

(b) Subsection (3A) was inserted by section 293(6) of the Finance Act 2004 (c. 12). Subsections (3A) and (3B) were substituted for subsection (3A) by paragraphs 175 and 176 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).

(c) Sections 71A to 71H were inserted by paragraph 1 of Schedule 20 to the Finance Act 2006 (c. 25).

“value” means value for the purposes of tax.

(2) In these Regulations, a reference to a section is a reference to the section of the 1984 Act bearing that number.

### **Accounts**

3.—(1) No person is required to deliver an account under section 216 of the property comprised in an excepted settlement unless the Commissioners so require by notice in writing addressed to that person.

(2) If in reliance on these Regulations a person has not delivered an account and it is discovered at any time that the settlement is not an excepted settlement, the delivery to the Commissioners within six months of that time of an account of the property comprised in that settlement shall satisfy any requirement to deliver an account imposed on that person.

### **Excepted settlement**

4.—(1) An excepted settlement means a settlement in which no qualifying interest in possession subsists on an occasion of a chargeable event on or after 6th April 2007 in the circumstances in paragraph (2) or (3).

(2) The circumstances are that—

- (a) throughout the existence of the settlement, cash is the only property comprised in the settlement;
- (b) after making the settlement, the settlor provided no further property which became comprised in the settlement;
- (c) the trustees of the settlement are resident in the United Kingdom throughout the existence of the settlement;
- (d) the gross value of the settled property throughout the existence of the settlement does not exceed £1,000; and
- (e) there are no related settlements.

(3) The circumstances are that—

- (a) the settlor is domiciled in the United Kingdom at the time the settlement was made and throughout the existence of the settlement until either the chargeable event or the death of the settlor, whichever is earlier;
- (b) the trustees of the settlement are resident in the United Kingdom throughout the existence of the settlement;
- (c) there are no related settlements; and
- (d) the relevant condition contained in paragraph (4), (6), (7) or (8) is met.

(4) On the occasion of a chargeable event under section 64, the condition is that the value transferred by a chargeable transfer of the description specified in section 66(3) does not exceed 80% of the IHT threshold.

(5) Where, in reliance on these Regulations, no person was required to deliver an account under section 216 of the property comprised in the settlement on an occasion of a chargeable event under section 65 in respect of the settlement in the ten years before the chargeable event in paragraph (4), the amounts on which any charges to tax were imposed under section 65 shall, for the purpose of determining the value transferred by a chargeable transfer of the description specified in section 66(3), be without deduction for liabilities or reliefs contained in the 1984 Act.

(6) On the occasion of a chargeable event under section 65 preceding the first ten-year anniversary after the settlement's commencement, the condition is that the value transferred by a chargeable transfer of the description specified in section 68(4) does not exceed 80% of the IHT threshold.

(7) On the occasion of a chargeable event under section 65 following one or more ten-year anniversaries after the settlement's commencement, the condition is that the value transferred by a

chargeable transfer of the description specified in section 66(3), taking into account section 69, does not exceed 80% of the IHT threshold.

(8) On the occasion of a chargeable event under section 71E by reason of the happening of an event within section 71F(2), the condition is that the value transferred by a chargeable transfer of the description specified in section 71F(8) does not exceed 80% of the IHT threshold.

(9) For the purposes of this regulation—

- (a) trustees of a settlement shall be regarded as resident in the United Kingdom if the general administration of the settlement is ordinarily carried on in the United Kingdom and the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are for the time being resident in the United Kingdom; and
- (b) in determining value for the purposes of paragraph (4), (6), (7) or (8) disregard any liabilities or reliefs contained in the 1984 Act.

### **Discharge of trustees and property from tax**

5.—(1) Paragraph (2) shall apply to an excepted settlement within regulation 4(2).

(2) The trustees of the settlement shall, on the expiration of the period of six months beginning with the date of the chargeable event, be discharged from any claim for tax on the occasion of the chargeable event and attributable to the value of the property comprised in the excepted settlement and any Inland Revenue charge for that tax shall then be extinguished unless, within that period, the Commissioners issue a notice requiring an account of that property.

(3) This regulation is subject to regulation 6.

6. Regulation 5 does not—

- (a) discharge any person from tax in the case of fraud or failure to disclose material facts; or
- (b) affect the liability to tax of any persons other than the trustees of the settlement, or any tax that may be payable if the settlement is not an excepted settlement.

### **Transfers reported late**

7. Where no account of an excepted settlement is required by the Commissioners, an account of that settlement shall, for the purposes of section 264(8) (delivery of account to be treated as payment where tax rate nil), be treated as having been delivered twelve months after the end of the month in which the chargeable event occurred.

### **Revocation**

8. The Inheritance Tax (Delivery of Accounts) (Excepted Settlements) Regulations 2002(a) are revoked in relation to an occasion of a chargeable event on or after 6th April 2007.

*Mike Hanson*  
*Mike Eland*

6th March 2008

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

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(a) S. I. 2002/1732.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations replace the Inheritance Tax (Delivery of Accounts) (Excepted Settlements) Regulations 2002 (S.I. 2002/1732) (“the 2002 Regulations”) in relation to chargeable events occurring on or after 6th April 2007. The 2002 Regulations and these Regulations make provision in relation to the delivery of accounts and other information for inheritance tax purposes. These Regulations make some new and different provisions, these are noted below.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 interprets some of the terms used in the Regulations

Regulation 3 provides that a person is not required to deliver an account for inheritance tax purposes under section 216 of the Inheritance Tax Act 1984 (c. 51) (“the 1984 Act”) of property comprised in a class of trusts where a chargeable event occurs on or after 6th April 2007. These trusts are defined as excepted settlements.

Regulation 4 defines an excepted settlement. There are five categories of excepted settlement, all requiring there to be no qualifying interest in possession subsisting in the settled property, these are as follows. The first category is a settlement where the settled property can comprise only cash, the trustees must be resident in the United Kingdom, the settlor must not have provided any additions to the settled property following the commencement of the settlement or have created any other settlements on the same day and the value of the settled property at the time of the chargeable event must not exceed £1,000.

In relation to the other categories there are general requirements applying to all categories and a specific requirement (“the condition”). The general requirements are that the settlor is domiciled at the commencement of the settlement and thereafter until the chargeable event (or his death, if earlier), the trustees must be resident in the United Kingdom throughout the existence of the settlement and there must be no related settlements. The specific requirement is that the value transferred by the relevant notional chargeable transfer under the 1984 Act does not exceed 80% of the inheritance tax threshold for the year in which the chargeable event occurs, ignoring for the purpose of determining the value any liabilities, exemptions or reliefs that would otherwise be deductible under the 1984 Act. These other categories are as follows.

The second category is a settlement where there is a chargeable event on or after 6th April 2007 under section 64 (charge at ten-year anniversary). The condition limits the value transferred by the notional chargeable transfer described in section 66(3).

The third category is a settlement where there is a chargeable event on or after 6th April 2007 under section 65 (charge at other times) preceding the first ten-year anniversary of the settlement. The condition limits the value transferred by the notional chargeable transfer described in section 68(4).

The fourth category is a settlement where there is a chargeable event on or after 6th April 2007 under section 65 following one or more ten-year anniversary of the settlement. The condition limits the value transferred by the notional chargeable transfer described in section 66(3), taking into account section 69.

The fifth category is a settlement where there is a chargeable event on or after 6th April 2007 under section 71E (charge to tax on property in an Age 18-to-25 trust) by reason of an event within section 71F(2). The condition limits the value transferred by the notional chargeable transfer described in section 71F(8).

Regulations 5 and 6 provide for the discharge of trustees and property from tax in relation to property comprised in an excepted settlement in the first category.

Regulation 7 makes provision for excepted settlements in relation to transfers reported late under section 264 of the 1984 Act.

Regulation 8 revokes the Inheritance Tax (Delivery of Accounts) (Excepted Settlements) Regulations 2002 (S.I. 2002/1732) in relation to chargeable events occurring on or after 6th April 2007.

These Regulations do not impose new costs on business or charities.

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STATUTORY INSTRUMENTS

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Settlements) Regulations 2008

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