

2014 No. 489

INCOME TAX

The Income and Corporation Taxes (Electronic Communications)(Amendment) Regulations 2014

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| <i>Made</i> - - - - | <i>4th March 2014</i> |
| <i>Laid before the House of Commons</i> | <i>6th March 2014</i> |
| <i>Coming into force</i> - - | <i>27th March 2014</i> |

These Regulations are made by the Commissioners for Her Majesty's Revenue and Customs in exercise of the powers conferred by section 132 of the Finance Act 1999(a), and now exercisable by them(b).

Citation and commencement

1. These Regulations may be cited as the Income and Corporation Taxes (Electronic Communications)(Amendment) Regulations 2014 and come into force on 27th March 2014.

Amendment of the Income and Corporation Taxes (Electronic Communications) Regulations 2003

2. The Income and Corporation Taxes (Electronic Communications) Regulations 2003(c) are amended as follows.

Interpretation

3. In regulation 1(2), after the definition of "official computer system"—

(a) omit "and";

(b) insert—

“secure mailbox” means a facility or feature which—

(a) forms part of an official computer system, and

(b) can be accessed by an individual permitted to use electronic communications by an authorisation given by means of a direction by the Board(d); and”.

(a) 1999 c. 16.

(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) ("CRCA").

(c) S.I. 2003/282; amended by S.I. 2005/3338, S.I. 2009/3218 and S.I. 2010/2942 and Part 10(1) of Schedule 1 to the Statute Law (Repeals) Act 2013 (c. 2).

(d) Regulation 1(2) of S.I. 2003/282 abbreviates "the Commissioners of Inland Revenue" to "the Board". This must now be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs, as stipulated by section 50(1) of CRCA.

Scope

4. In regulation 2(1)(a)—

- (a) in paragraph (i)—
 - (i) after “8A,” insert “8B(a),”;
 - (ii) after “9,” insert “9ZA, 9ZB(b),”;
 - (iii) after “12AA,” insert “12AAA(c),”;
 - (iv) after “12AB,” insert “12ABA, 12ABB(d),”;
 - (v) after “12AE,” insert “28A, 28B, 28C, 30B, 59C(e),”;
 - (vi) for “59DA or 59E” substitute “59DA, 59E or 100(f)”;
- (b) in paragraph (iii) after “,” omit “or”;
- (c) in paragraph (iv) for “; and” substitute “,”;
- (d) after paragraph (iv) insert—
 - “(v) paragraph 13 of Schedule 24 to the Finance Act 2007(g),
 - (vi) paragraph 1 or 46 of Schedule 36 to the Finance Act 2008(h), or
 - (vii) paragraph 17A, 17B or 18 of Schedule 55, or paragraph 11 of Schedule 56, to the Finance Act 2009(i); and”.

Use of electronic communications

5. After regulation 3(1) insert—

“(1ZA) The Board may specify by specific or general direction the manner in which consent may be provided and withdrawn, including the time from which consent and withdrawal of consent is to take effect.”.

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- (a) Regulation 1(2) of S.I. 2003/282 abbreviates the Taxes Management Act 1970 (c. 9) to “the Management Act”. Section 8B of the Management Act was inserted by paragraph 3 of Schedule 51 to the Finance Act 2013 (c. 29).
 - (b) Section 9ZA of the Management Act was inserted by paragraph 2 of Schedule 29 to the Finance Act 2001 (c. 9) and amended by section 91(2) of the Finance Act 2007 (c. 11). Section 9ZB of the Management Act was inserted by paragraph 2 of Schedule 29 to the Finance Act 2001 and amended by section 119(1) of the Finance Act 2008 (c. 9).
 - (c) Section 12AAA of the Management Act was inserted by paragraph 4 of Schedule 51 to the Finance Act 2013.
 - (d) Section 12ABA of the Management Act was inserted by paragraph 3(2) of Schedule 29 to the Finance Act 2001 and amended by section 91(4) of the Finance Act 2007. Section 12ABB was inserted by paragraph 3(2) of Schedule 29 to the Finance Act 2001 and amended by section 119(2) of the Finance Act 2008.
 - (e) Section 28A of the Management Act was substituted by paragraph 8 of Schedule 29 to the Finance Act 2001 and was amended by S.I. 2009/56. Section 28B was substituted by paragraph 9 of Schedule 29 to the Finance Act 2001 and was amended by S.I. 2009/56. Section 28C was inserted by section 190 of the Finance Act 1994 (c. 9) and amended by section 125 of, and Part V(6) of Schedule 41 to, the Finance Act 1996 (c. 8); paragraph 17 of Schedule 29 to the Finance Act 2001; section 91(5) of the Finance Act 2007; and paragraphs 1 and 2 of Schedule 39 to the Finance Act 2008. Section 30B was inserted by paragraph 6 of Schedule 19 to the Finance Act 1994 and amended by section 115(5) of the Finance Act 1995 (c. 4); paragraph 14 of Schedule 19 to the Finance Act 1998 (c. 36); paragraph 24 of Schedule 29 to the Finance Act 2001 and paragraphs 1 and 4 of Schedule 39 to the Finance Act 2008. Section 59C was inserted by section 194 of the Finance Act 1994, amended by S.I. 2009/5, S.I. 2010/530 and later repealed by S.I. 2011/702 with effect from 1 April 2011. This repeal has no effect in relation to a return or other document which is required to be made or delivered to Her Majesty’s Revenue and Customs (“HMRC”) or an amount of tax which is payable in relation to the tax year 2009/10 or any previous tax year.
 - (f) Section 100 of the Management Act was substituted by section 167 of the Finance Act 1989 (c. 26) and amended by paragraph 3(2) of Schedule 11 to the Finance Act 1990 (c. 29); S.I. 1994/1813; paragraph 38 of Schedule 19 to the Finance Act 1998; section 315(2) of the Finance Act 2004 (c. 12); paragraphs 65 and 74 of Schedule 36 to the Finance Act 2008; paragraph 13(2) of Schedule 57 to the Finance Act 2009 (c. 10); and S.I. 2011/702.
 - (g) 2007 c. 11. Paragraph 13 of Schedule 24 was amended by paragraphs 1 and 12A of Schedule 40 to the Finance Act 2008; paragraph 5 of Schedule 57 to the Finance Act 2009 and paragraph 1 of Schedule 50 to the Finance Act 2013 (c. 29).
 - (h) 2008 c. 9. Paragraph 46 of Schedule 36 was relevantly amended by paragraph 17 of Schedule 47 to the Finance Act 2009.
 - (i) 2009 c. 10. Schedule 55 was brought into force on 6 April 2011 under S.I. 2011/702 in relation to a return or other document which is required to be made or delivered to HMRC in relation to the tax year 2010/11 or subsequent years and falls within item 1, 2 or 3 of the Table in paragraph 1 of that Schedule. Paragraphs 17A and 17B of Schedule 55 were inserted by paragraph 8 of Schedule 51 to the Finance Act 2013. Paragraph 18 of Schedule 55 was relevantly amended by paragraphs 1 and 10 of Schedule 10 to the Finance (No 3) Act 2010 (c. 33). Schedule 56 was also brought into force on 6 April 2011 under S.I. 2011/702 in relation to an amount of tax which is payable in relation to the tax year 2010/11 or subsequent years and falls within item 1, 12, 18 or 19 of the Table in paragraph 1 of that Schedule or, in so far as the tax falls within item 1 of the Table, item 17, 23 or 24 of that Table. Paragraph 11 of Schedule 56 was relevantly amended by paragraphs 1 and 9 of Schedule 11 to the Finance (No 3) Act 2010.

6. In regulation 3(1A) for the words “Paragraph (1) does” substitute “Paragraphs (1) and (1ZA) do”.

Effect of delivering information by means of electronic communications

7. In regulation 5—

- (a) in paragraph (1) after “the Taxes Act” insert “, the relevant Finance Acts”;
- (b) after paragraph (4) insert—

“(5) For the purposes of this Part, information which is delivered by means of electronic communications includes information delivered to a secure mailbox.

(6) For the purposes of paragraph (1) “the relevant Finance Acts” means the Finance Act 2007, the Finance Act 2008 or the Finance Act 2009.”.

*Ruth Owen
Simon Bowles*

4th March 2014

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under regulation 3(1) of the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282) (“the Electronic Communications Regulations 2003”) the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) are permitted to use electronic communications for the purposes mentioned in regulation 2(1) if the consent of the recipient has been provided and has not subsequently been withdrawn. Regulation 5(1) establishes a presumption of effective delivery in respect of information delivered by electronic communications if all the prescribed conditions relating to the use of electronic communications are satisfied.

These Regulations amend the Electronic Communications Regulations 2003 with the following effect.

A new definition of ‘secure mailbox’ is inserted into regulation 1 of the Electronic Communications Regulations 2003.

The list of specified statutory provisions to which the Electronic Communications Regulations 2003 applies is extended to include: sections 8B (withdrawal by HMRC of notice under section 8 or 8A), 9ZA (amendment of personal or trustee return by taxpayer), 9ZB (correction of personal or trustee return by Revenue), 12AAA (withdrawal by HMRC of notice under section 12AA), 12ABA (amendment of partnership return by taxpayer), 12ABB (correction of partnership return by Revenue), 28A (completion of enquiry into personal or trustees return), 28B (completion of enquiry into a partnership return), 28C (determination of tax where no return delivered), 30B (amendment of partnership statement where loss of tax discovered), 59C (surcharges on unpaid income tax and capital gains tax)(a), and 100 (determination of penalties by officer of Board) of the Taxes Management Act 1970 (c. 9); paragraph 13 of Schedule 24 to the Finance Act 2007 (c. 11)(penalties for errors); paragraphs 1 and 46 of Schedule 36 to the Finance Act 2008 (c. 9) (information and inspection powers); paragraphs 17A, 17B and 18 of Schedule 55 (penalty for failure to make returns etc) and paragraph 11 of Schedule 56 (penalty for failure to make payments on time) to the Finance Act 2009 (c. 10).

(a) In so far as section 59C of the Taxes Management Act 1970 remains in force in respect of the tax year 2009/10 and earlier years.

The Commissioners may issue a specific or general direction to provide a mechanism for a taxpayer to provide their consent to the Commissioners delivering information by the means of electronic communications and when such consent, or withdrawal of consent, shall take effect. This amendment does not apply to information delivered in respect of a company tax return.

The presumption of effective delivery applies to information delivered by the Commissioners to a secure mailbox if the conditions which relate to the use of the secure mailbox are satisfied.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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