
STATUTORY INSTRUMENTS

1992 No. 3286

TAXES

**The Finance Act 1986 (Stamp Duty and Stamp
Duty Reserve Tax) (Amendment) Regulations 1992**

Made - - - - 23rd December 1992
*Laid before the House of
Commons* - - - - 23rd December 1992
Coming into force - - 1st January 1993

The Treasury, in exercise of the powers conferred on them by sections 81(5) and (6) and 89(5) of the Finance Act 1986(1), hereby make the following Regulations:

1.—(1) These Regulations may be cited as the Finance Act 1986 (Stamp Duty and Stamp Duty Reserve Tax) (Amendment) Regulations 1992 and shall come into force on 1st January 1993.

(2) The day specified in these Regulations for the purpose of regulations under subsection (5) of section 81 of the Finance Act 1986 in accordance with subsection (6) of that section is 1st January 1993.

2. For subsection (3) of section 81 of the Finance Act 1986(2) there shall be substituted the following subsection—

“(3) For the purposes of this section a person is a market maker in stock of a particular kind—

(a) if he—

(i) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell stock of that kind at a price specified by him, and

(ii) is recognised as doing so by the Council of The Stock Exchange; or

(b) if—

(i) he is an authorised person under Chapter III of Part I of the Financial Services Act 1986(3),

(1) 1986 c. 41. Section 81 was prospectively repealed by Part VI of Schedule 19 to the Finance Act 1990 (c. 29), and section 89 together with the remainder of Part IV of the Finance Act 1986 was prospectively repealed by Part VII of Schedule 19 to the Finance Act 1990.

(2) Subsection (3) was previously substituted by S.I. 1988/654.

(3) 1986 c. 60.

- (ii) he carried out the transaction in the course of his business as a dealer in investments, within the meaning of paragraph 12 of Schedule 1 to the Financial Services Act 1986⁽⁴⁾, as a principal and in circumstances where that paragraph was applicable for the purposes of that Act,
 - (iii) he did not carry out the transaction in the course of any activities which fall within paragraph 14 or 16 of Schedule 1 to the Financial Services Act 1986, and
 - (iv) the stock was not at the time the transaction was carried out dealt in on a recognised investment exchange; or
- (c) if—
- (i) that person is a European institution, within the meaning of regulation 3 of the Banking Coordination (Second Council Directive) Regulations 1992⁽⁵⁾, which carries on investment business, within the meaning of section 1(2) of the Financial Services Act 1986, in the United Kingdom,
 - (ii) the transaction was carried out by the institution as a principal in the course of its investment business,
 - (iii) the transaction was not carried out in the course of any activities which fall within paragraph 14 or 16 of Schedule 1 to the Financial Services Act 1986, and
 - (iv) the stock was not at the time the transaction was carried out dealt in on a recognised investment exchange.”.

3. For subsection (3) of section 89 of the Finance Act 1986⁽⁶⁾ there shall be substituted the following subsection—

“(3) For the purposes of this section a person is a market maker in securities of a particular kind—

- (a) if he—
 - (i) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and
 - (ii) is recognised as doing so by the Council of The Stock Exchange; or
- (b) if—
 - (i) he is an authorised person under Chapter III of Part I of the Financial Services Act 1986,
 - (ii) he makes the agreement in the course of his business as a dealer in investments, within the meaning of paragraph 12 of Schedule 1 to the Financial Services Act 1986, as a principal and in circumstances where that paragraph is applicable for the purposes of that Act,
 - (iii) he does not make the agreement in the course of any activities which fall within paragraph 14 or 16 of Schedule 1 to the Financial Services Act 1986, and
 - (iv) the securities are not at the time the agreement is made dealt in on a recognised investment exchange within the meaning of the Financial Services Act 1986; or

⁽⁴⁾ The note to paragraph 12 of Schedule 1 was added by [S.I. 1988/803](#).

⁽⁵⁾ [S.I. 1992/3218](#).

⁽⁶⁾ Subsection (3) was previously substituted by [S.I. 1988/654](#).

(c) if—

- (i) that person is a European institution, within the meaning of regulation 3 of the Banking Coordination (Second Council Directive) Regulations 1992, which carries on investment business, within the meaning of section 1(2) of the Financial Services Act 1986, in the United Kingdom,
- (ii) the agreement is made by the institution as a principal in the course of its investment business,
- (iii) the agreement is not made in the course of any activities which fall within paragraph 14 or 16 of Schedule 1 to the Financial Services Act 1986, and
- (iv) the securities are not at the time the agreement is made dealt in on a recognised investment exchange within the meaning of the Financial Services Act 1986.”.

4. The Finance Act 1986 (Stamp Duty and Stamp Duty Reserve Tax) (Amendment) Regulations 1988(7) are hereby revoked.

23rd December 1992

Tim Wood
Norman Lamont
Two of the Lords Commissioners of Her
Majesty’s Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend, with effect from 1st January 1993, the exemptions from stamp duty and stamp duty reserve tax for market makers in stock and securities contained in sections 81 and 89 of the Finance Act 1986 to European institutions within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218) (“the 1992 Regulations”) which carry on certain investment business in the United Kingdom.

The 1992 Regulations come into force on 1st January 1993 and give effect to the Second Council Directive 89/646/EEC on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (OJNo. L386, 30.12.89, p.1). Under the terms of the Directive, credit institutions incorporated in a member state and certain of their subsidiaries may conduct a wide range of banking and other financial services throughout the Community. This necessitates the widening of the exemption from stamp duty and stamp duty reserve tax for market makers in stock and securities to include such institutions and subsidiaries conducting financial services in the United Kingdom.

Sections 81(3) and 89(3) of the Finance Act 1986 contain definitions of “market maker” for the purposes of exemption from stamp duty and stamp duty reserve tax respectively. Sections 81(5) and 89(5) of the 1986 Act enable the Treasury by regulations to provide that for sections 81(3) and 89(3) there shall be substituted subsections containing different definitions of “market maker” for the purposes of those sections.

The Finance Act 1986 (Stamp Duty and Stamp Duty Reserve Tax) (Amendment) Regulations 1988 (S.I. 1988/654) (“the 1988 Regulations”) substituted subsections which extended the definitions of “market maker” to include an “authorised person” under Chapter III of Part I of the Financial Services Act 1986 in certain circumstances.

The present Regulations substitute subsections which, with effect from 1st January 1993, further extend the definitions of “market maker” to European institutions carrying on investment business in the United Kingdom in certain circumstances. The Regulations also revoke the 1988 Regulations which are superseded by these Regulations.

In relation to both stamp duty (by virtue of section 85(5) of the Finance Act 1986) and stamp duty reserve tax (by virtue of section 89(3)(b)(iv) and (3)(c)(iv) of that Act as substituted by these Regulations), a “recognised investment exchange” means such an exchange within the meaning of the Financial Services Act 1986.

Regulation 1 provides for citation and commencement.

Regulation 2 substitutes a new subsection (3) of section 81, and regulation 3 a new subsection (3) of section 89 of the Finance Act 1986 for the subsections substituted by the 1988 Regulations.

Regulation 4 revokes the 1988 Regulations.