
STATUTORY INSTRUMENTS

1997 No. 2430

TAXES

The Stamp Duty Reserve Tax (Amendment) Regulations 1997

<i>Made</i>	- - - -	<i>8th October 1997</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th October 1997</i>
<i>Coming into force</i>	- -	<i>20th October 1997</i>

The Treasury, in exercise of the powers conferred on them by section 98 of the Finance Act 1986⁽¹⁾, hereby make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Stamp Duty Reserve Tax (Amendment) Regulations 1997, shall come into force on 20th October 1997, and shall have effect with respect to any relevant transaction entered into on or after that date.

Interpretation

2. In these Regulations—

“the Management Act” means the Taxes Management Act 1970⁽²⁾;

“the principal Regulations” means the Stamp Duty Reserve Tax Regulations 1986⁽³⁾;

“regulation” means a regulation of the principal Regulations;

“relevant transaction” has the meaning given by regulation 2 of the principal Regulations;

“the Schedule” means the Schedule to the principal Regulations.

Amendments to the principal Regulations (other than the Schedule)

3. In regulation 2—

(a) for the definition of “accountable date” there shall be substituted the following definition—

(1) 1986 c. 41; section 98 was amended by section 195 of the Finance Act 1996 (c. 8). Section 98, together with the remainder of Part IV of the Finance Act 1986, was repealed by sections 110 and 111(1) of, and Part VII of Schedule 19 to, the Finance Act 1990 (c. 29) with effect from a day to be appointed.

(2) 1970 c. 9.

(3) S.I. 1986/1711; relevant amending instruments are S.I. 1988/835, 1993/3110 and 1994/1813.

““accountable date” means—

- (a) in relation to a relevant transaction—
 - (i) in connection with which securities are transferred by means of a relevant system operated by the operator of that system, or
 - (ii) which is reported by means of a relevant system to a recognised self-regulating organisation, a recognised professional body or an exchange by the operator of that system in a case where the securities to which the transaction relates are not transferred by means of a relevant system, or
 - (iii) which is reported, otherwise than by means of a relevant system, to an exchange, in a case where the securities to which the transaction relates are not transferred by means of a relevant system,

the date agreed between the Board and the operator or, if no such date is agreed, the date which is the fourteenth day following the date of the relevant transaction,

- (b) in relation to interest on overdue tax arising in connection with a relevant transaction which, by virtue of a party to that transaction being a participant in a relevant system, or a member of an exchange, could have been, but was not, reported to a recognised self-regulating organisation, a recognised professional body or an exchange by means of that system, or to an exchange otherwise than by means of a relevant system, the date which is the fourteenth day following the date of the relevant transaction, and
- (c) in relation to a relevant transaction to which neither paragraph (a) nor paragraph (b) applies, the date which is the seventh day of the month following the month in which the charge to tax occasioned by the relevant transaction is incurred;”;

- (b) for sub-paragraphs (i) and (ii) of paragraph (a) of the definition of “accountable person”(4) there shall be substituted the following sub-paragraphs—

- “(i) if the person mentioned as B in section 87(1) is a member of an exchange, or if a member of an exchange is acting as an agent for B who is not such a member, that member, and failing that
- (ii) if the person mentioned as A in section 87(1) is a member of an exchange, or if a member of an exchange is acting as an agent for A who is not such a member, that member, and failing that”;

- (c) after the definition of “barrister” there shall be inserted the following definitions—

““the Board” means the Commissioners of Inland Revenue;

“EEA regulated market” means a market of a kind described in paragraphs (a) and (b) of article 2 of the Financial Services Act 1986 (EEA Regulated Markets) (Exemption) Order 1995(5);

“exchange” means—

- (a) a recognised investment exchange within the meaning given by section 207(1) of the Financial Services Act 1986(6), or
- (b) an EEA regulated market;”;

- (d) the definitions of “broker and dealer” and “market maker” shall be omitted;

(4) Amended by S.I. 1988/835.

(5) S.I. 1995/3273.

(6) 1986 c. 60.

- (e) after the definition of “notice” there shall be inserted the following definition—
- ““operator” means—
- (a) a person approved by the Treasury under the Treasury Regulations as Operator of a relevant system;
 - (b) subject to paragraph (c), where a relevant transaction is reported to an exchange otherwise than by means of a relevant system, the operator of that exchange or, if there is no such operator, that exchange;
 - (c) where a relevant transaction is reported to more than one exchange otherwise than by means of a relevant system, the operator of the exchange of which the party who is the accountable person in relation to that transaction is a member or, if there is no such operator, that exchange;”;
- (f) in the definition of “qualified dealer”(7)—
- (i) for the words “market maker or broker and dealer” there shall be substituted the words “member of an exchange”;
 - (ii) for paragraph (c) there shall be substituted—
 - “(c) is authorised under a legislative provision of the government of a territory outside the United Kingdom to carry on investment business, or
 - (d) while not required to be authorised to do so, carries on investment business;”;
- (g) after the definition of “qualified dealer” there shall be inserted the following definitions—
- ““recognised professional body” and “recognised self-regulating organisation” have the meanings given by section 207(1) of the Financial Services Act 1986;
- “relevant system” has the meaning given by regulation 2(1) of the Treasury Regulations;”;
- (h) after the definition of “tax” there shall be added the following definition—
- ““the Treasury Regulations” means the Uncertificated Securities Regulations 1995(8).”

4. In regulation 4(1) after the word “where” there shall be inserted the words “the tax in question has been accounted for by the operator under regulation 4A or where”.

5. After regulation 4 there shall be inserted the following regulation—

“4A.—(1) An operator, except where different arrangements are authorised in writing by the Board, shall on or before the accountable date—

- (a) give notice to the Board of each charge to tax arising—
 - (i) in respect of a relevant transaction in connection with which securities are transferred by means of a relevant system operated by him, or
 - (ii) in respect of a relevant transaction that is reported to a recognised self-regulating organisation, a recognised professional body or an exchange by means of a relevant system operated by him, or
 - (iii) in respect of a relevant transaction that is reported otherwise than by means of a relevant system to an exchange in relation to which he is the operator, or (as the case may be) which itself is the operator, in a case where the

(7) Substituted by S.I. 1988/835.

(8) S.I. 1995/3272.

securities to which the transaction relates are not transferred by means of a relevant system, and

(b) pay the tax due.

(2) A notice under this regulation shall be in such form as the Board may prescribe or authorise and shall contain such information as they may reasonably require for the purposes of the Act.

(3) The Board may, by notification in writing to an operator, impose such requirements, conditions or procedures as they consider necessary for the purposes of these Regulations.”

6. In regulation 6—

(a) in paragraph (1) after the words “accountable person” there shall be inserted the words “or, having regard to regulation 4A(1), the operator”;

(b) in paragraph (4)(a) after the words “regulation 4” there shall be inserted the words “or 4A”.

7. In regulation 7—

(a) after the words “accountable person” there shall be inserted the words “or an operator”;

(b) after the words “regulation 4” there shall be inserted the words “or 4A”.

8. In regulation 8(9), paragraphs (4A) and 4B), where they secondly occur, shall be renumbered as paragraphs (4C) and (4D) respectively of that regulation.

9. In regulation 13(10)—

(a) in paragraph (1) there shall be added at the end the words “or 4A”;

(b) in paragraph (2) after the words “regulation 4” there shall be inserted the words “or 4A”.

10. In regulation 15(1)—

(a) after the words “accountable person” there shall be inserted the words “or operator”;

(b) after the word “whenever” there shall be inserted the words “and wherever”.

Amendments to Part I of the Schedule

11.—(1) The Table in Part I of the Schedule (which applies the provisions of the Management Act specified in the first column of that Table subject to any modification specified in the second column of that Table) shall be amended as follows.

(2) For the entry relating to section 25(4)(11) there shall be substituted the following entry—

“(4) For the words “stock exchange in the United Kingdom, other than a market maker,” substitute “recognised investment exchange or a market of the kind described in paragraphs (a) and (b) of article 2 of the Financial Services Act 1986 (EEA Regulated Markets) (Exemption) Order 1995 (“EEA regulated market”).”

(3) In the entry to section 25(5) for the words ““The Stock Exchange”” there shall be substituted the words ““a recognised investment exchange or an EEA regulated market””.

(4) For the entries relating to section 93(12) there shall be substituted the following entries—

“93.—(1) For the words “where” to “with the notice” substitute “where any person (the taxpayer) fails to give a notice which he is required to give under regulation 4 or 4A of the Stamp Duty Reserve Tax Regulations 1986”.

(9) Amended by S.I. 1993/3110 and 1994/1813.

(10) Amended by S.I. 1993/3110.

(11) Section 25(4) was amended by paragraph 7(1) of Schedule 18 to the Finance Act 1986.

(12) Section 93 was substituted by paragraph 25 of Schedule 19 to the Finance Act 1994 (c. 9).

(2) —

(3) Omit the words “General or”.

(5) For the words “to (4)” substitute “and (3)”; and for the words from “if” to the end substitute “if the failure by the taxpayer to give the notice continues after the end of a period of one year beginning on the last day on which the notice should have been given, he shall be liable to a penalty of an amount not exceeding the amount of the tax which he should have paid by the date by which he should have given the notice”.

(6) —.”

(5) For the entry relating to section 95(1)(13) there shall be substituted the following entry—

“95.—(1) In paragraph (a) for the word “delivers” substitute “gives”; and for the words from “return” to “Act)” substitute “notice under regulation 4 or 4A of the Stamp Duty Reserve Tax Regulations 1986”; in paragraph (b) omit the word “return,”; for the words “in connection with” substitute “in, or in connection with,”; omit the words “for any allowance, deduction or relief”; and for the words “income tax or capital gains” substitute “stamp duty reserve”; omit paragraph (c) and the word “or” immediately preceding it.”

(6) In the entry relating to section 98(14) for the words “regulation 4” there shall be substituted the words “regulations 4 and 4A”.

(7) In the entry relating to section 99(15) after the words “regulation 4” there shall be inserted the words “or 4A”.

Amendments to Part II of the Schedule

12.—(1) Part II of the Schedule (which restates the provisions of the Management Act specified in Part I of the Schedule as modified where appropriate) shall be amended as follows.

(2) For subsections (4) and (5) of section 25 (as modified) there shall be substituted the following subsections—

“(4) A member of a recognised investment exchange or a market of the kind described in paragraphs (a) and (b) of article 2 of the Financial Services Act 1986 (EEA Regulated Markets) (Exemption) Order 1995 (“EEA regulated market”) may be required to make a return giving particulars of any transactions effected by him in the course of his business in the period specified in the notice requiring the return and giving particulars of—

- (a) the parties to the transactions,
- (b) the number or amount of the shares or securities dealt with in the respective transactions, and
- (c) the amount or value of the consideration.

(5) A person (other than a member of a recognised investment exchange or an EEA regulated market) who acts as an agent or broker in the United Kingdom in transactions in shares or securities may be required to make a return giving particulars of any such transactions effected by him in the period specified in the notice, and giving particulars of—

- (a) the parties to the transactions,
- (b) the number or amount of the shares or securities dealt with in the respective transactions, and

(13) Section 95 was amended by section 163(1)(a) of the Finance Act 1989 (c. 26) and Part VIII of Schedule 14 to the Finance Act 1988 (c. 39).

(14) The entry relating to section 98 was substituted by regulation 7(9) of S.I. 1993/s110 and amended by regulation 31(4) of S.I. 1994/1813.

(15) The entry relating to section 99 was substituted by regulation 7(10) of S.I. 1993/3110.

(c) the amount or value of the consideration.”

(3) For section 93 (as modified) there shall be substituted the following section—

“93. — Failure to give notice for stamp duty reserve tax.”

(1) This section applies where any person (the taxpayer) fails to give a notice which he is required to give under regulation 4 or 4A of the Stamp Duty Reserve Tax Regulations 1986.

(2) The taxpayer shall be liable to a penalty which shall be £100.

(3) If, on an application made to them by an officer of the Board, the Special Commissioners so direct, the taxpayer shall be liable to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which he is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed).

(5) Without prejudice to any penalties under subsections (2) and (3) above, if the failure by the taxpayer to give the notice continues after the end of a period of one year beginning on the last day on which the notice should have been given, he shall be liable to a penalty of an amount not exceeding the amount of the tax which he should have paid by the date by which he should have given the notice.

(6) No penalty shall be imposed under subsection (3) above in respect of a failure at any time after the failure has been remedied.

(4) For subsection (1) of section 95 (as modified) there shall be substituted the following subsection—

“(1) Where a person fraudulently or negligently—

(a) gives any incorrect notice under regulation 4 or 4A of the Stamp Duty Reserve Tax Regulations 1986, or

(b) makes any incorrect statement or declaration in, or in connection with, any claim in respect of stamp duty reserve tax,

he shall be liable to a penalty not exceeding the amount of the difference specified in subsection (2) below.”

(5) In the Table in section 98 (as modified) for the words “regulation 4” there shall be substituted the words “regulations 4 and 4A”.

(6) In section 99 (as modified) after the words “regulation 4” there shall be inserted the words “or 4A”.

8th October 1997

Jim Dowd
Graham Allen
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 amend the Stamp Duty Reserve Tax Regulations 1986 (S.I.1986/1711) (“the principal Regulations”).

Apart from an amendment of a drafting nature, the amendments reflect recent developments in market structure in connection with share transfers on investment exchanges. The amendments also reflect the introduction of an alternative system of share transfers known as CREST, by means of which the transfer is effected electronically rather than by a paper document. The amendments ensure that the operator of CREST or a similar electronic system, and the operator of a recognised investment exchange or EEA regulated market of which a party to an electronic transfer is a member, is liable to collect and pay stamp duty reserve tax (“SDRT”) incurred in connection with chargeable transactions.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 amends existing, and inserts new, definitions (including a definition of “operator”) in regulation 2 of the principal Regulations.

Regulation 4 amends regulation 4(1) of the principal Regulations (liability of “accountable person”) in consequence of the new regulation 4A inserted by regulation 5.

Regulation 5 inserts a new regulation 4A in the principal Regulations relating to the accountability for SDRT of the operator of an electronic share transfer system or of a recognised investment exchange or EEA regulated market (“the operator”).

Regulations 6, 7, 9 and 10 amend regulations 6, 7, 13 and 15 of the principal Regulations in consequence of the accountability for SDRT of the operator.

Regulation 8 makes an amendment of a drafting nature to regulation 8 of the principal Regulations.

Regulations 11 and 12 amend sections 25, 93, 95, 98 and 99 of the Taxes Management Act 1970 in consequence of the accountability for SDRT of the operator.