

2003 No. 2172

INCOME TAX

**The Finance Act 1995, Section 127(12) (Designated
Transactions) Regulations 2003**

Made - - - - - *21st August 2003*

Laid before the House of Commons *22nd August 2003*

Coming into force - - - *12th September 2003*

The Treasury, in exercise of the powers conferred upon then by section 127(12)(c) of the Finance Act 1995(a), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Finance Act 1995, Section 127(12) (Designated Transactions) Regulations 2003 and shall come into force on 12th September 2003.

Designated transaction

2.—(1) In this regulation “section 127(12)” means section 127(12) of the Finance Act 1995 (meaning of “investment transaction” for the purposes of determining whether person capable of being the UK representative of a non-resident taxpayer).

(2) For the purposes of section 127(12) a transaction falling within paragraph (3) is designated.

(3) A transaction falls within this paragraph if it is a contract, not otherwise falling within section 127(12), whose terms—

(a) provide that—

(i) after setting off their obligations to each other under the contract, a cash payment is to be made by one party to the other in respect of the excess, if any, or

(ii) each party is liable to make to the other party one or more cash payments in respect of that party’s obligations to the other under the contract, and

(b) do not provide for the delivery of any property other than currency.

This is subject to the following qualification.

(4) A transaction does not fall within paragraph (3) if it is—

(a) a contract which relates to land;

(b) a contract of insurance; or

(a) 1995 c. 4. There is an amendment to section 127 which is not relevant for present purposes.

- (c) a contract effected in the course of capital redemption business within the meaning of section 458 of the Income and Corporation Taxes Act 1988(a).

Joan Ryan

Jim Murph

21st August 2003

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 126 of the Finance Act 1995 (c. 4) imposes obligations in relation to income tax and capital gains tax on the UK representative of a non-resident taxpayer. Section 127 sets out circumstances in which a person is not to be regarded as such a representative.

These Regulations designate some swap contracts as investment transactions for the purposes of section 127. The effect is to extend the exemption for investment managers from the regime imposed under section 126.

Regulation 1 provides for the citation and commencement of the Regulations.

Regulation 2 designates certain swap transactions for the purposes of section 127.

(a) 1988 c. 1. Relevant amendments to section 458 were made by Schedule 33 to the Finance Act 1996, and article 31 of S.I. 2001/3629.

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