
STATUTORY INSTRUMENTS

2003 No. 2173

INCOME TAX

The Finance Act 2003, Schedule 26, Paragraph
3(3) (Designated Transactions) Regulations 2003

<i>Made</i>	- - - -	<i>21st August 2003</i>
<i>Laid before the House of Commons</i>	- - - -	<i>22nd August 2003</i>
<i>Coming into force</i>	- -	<i>12th September 2003</i>

The Treasury, in exercise of the powers conferred upon them by paragraph 3(3)(c) of Schedule 26 to the Finance Act 2003(1) hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Finance Act 2003, Schedule 26 Paragraph 3(3) (Designated Transactions) Regulations 2003 and shall come into force on 12th September 2003.

Designated transaction

2.—(1) In these Regulations “paragraph 3(3)” means paragraph 3(3) of Schedule 26 to the Finance Act 2003 (meaning of “investment transaction” for the purposes of determining whether a person is an agent of independent status in respect of investment transactions).

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

(3) A transaction falls within this paragraph if it is a contract, not otherwise falling within paragraph 3(3), 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—

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- (a) a contract which relates to land;
- (b) a contract of insurance; or
- (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⁽²⁾.

21st August 2003

Joan Ryan
Jim Murphy
Two of the Lords Commissioners of Her
Majesty's Treasury

(2) 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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 150 of the Finance Act 2003 (c. 14) imposes obligations in relation to corporation tax on the UK representative of a non-resident company. Section 148 of that Act explains the concept of permanent establishment for the purposes of the Tax Acts. Paragraph 3 of Schedule 26 sets out circumstances in which an investment manager is not to be regarded as a UK representative but as an independent agent.

These Regulations designate some financial swap contracts as investment transactions for the purposes of paragraph 3 of Schedule 26. The effect is to extend the scope for regarding investment managers as independent agents for the purposes of paragraph 3 of Schedule 26.

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

Regulation 2 designates some swap contracts for the purposes of paragraph 3 of Schedule 26.