

2003 No.3297

TAXES

The Reporting of Savings Income Information Regulations 2003

Made - - - - 16th December 2003

Laid before the House of Commons 17th December 2003

Coming into force in accordance with regulation 1(2)

The Treasury, in exercise of the powers conferred upon them by section 199 of the Finance Act 2003(a), make the following Regulations:

PART 1

Introductory Provisions

Citation and commencement

1.—(1) These Regulations may be cited as the Reporting of Savings Income Information Regulations 2003.

(2) These Regulations shall come into force on such date, being not earlier than 1st January 2005, as is determined by the Treasury and specified by notices in the London, Edinburgh and Belfast Gazettes.

Interpretation

2.—(1) In these Regulations—

“the Savings Directive” means Council Directive 2003/48/EC of 3rd June 2003 on taxation of savings income in the form of interest payments(b) and a reference without more to an Article is a reference to that Article of Council Directive 2003/48/EC;

“the Securities Directive” means Directive 2001/34/EC of 28th May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities as amended(c);

(a) 2003 c. 14.

(b) OJ No. L157, 26.06.2003, p.38.

(c) OJ No. L184, 06.07.2001, p.1, amended by Directive 2003/6/EC of the European Parliament and of the Council (OJ No. L96, 12.04.2003, p.16).

“the UCITS Directive” means Council Directive 85/611/EEC of 20th December 1985 on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities as amended(a).

(2) In these Regulations—

“agent” means paying agent or receiving agent as appropriate;

“economic operator” is a person established in another member State who makes savings income payments in the course of his business or profession;

“money debt” is a debt arising from a transaction for the lending of money and which falls to be, or may be, settled—

(a) by the payment of money; or

(b) by the transfer of a right to settlement under a debt which is itself a money debt, subject to the qualification in regulation 17;

“paying agent” has the meaning given in regulation 3;

“a prescribed territory” is another member State;

“receiving agent” has the meaning given in regulation 6;

“relevant payee” has the meaning given in regulation 7;

“resident” and “residence” shall be construed in accordance with regulation 9;

“residual entity” has the meaning given in regulation 4;

“savings income” has the meaning given in regulation 8;

“third country” means a territory other than a member State;

“UCITS” means an undertaking for collective investment in transferable securities within the UCITS Directive.

(3) For the purposes of these Regulations a person makes savings income payments to another person if the person—

(a) makes payments of savings income to another person, or

(b) secures the payment of savings income for the other person.

Meaning of paying agent

3. A paying agent is a person who—

(a) is established in the United Kingdom;

(b) makes savings income payments in the course of his business or profession; and

(c) makes those payments—

(i) for the immediate benefit of a relevant payee; or

(ii) to a residual entity established in a prescribed territory.

Here a “person” includes any officer in any public office or in any government department and any savings income payments made by such a person will be treated as if the payment were made in the course of that person’s business or profession.

Meaning of residual entity

4.—(1) Subject to paragraph (2) a residual entity is an entity established in a member State other than an entity —

(a) OJ No. L375, 31.12.1985, p.3, amended by Council Directive 88/220/EEC (OJ No. L100, 19.04.1988, p.31), European Parliament and Council Directive 95/26/EC (OJ No. L168, 18.07.1995, p.7), European Parliament and Council Directive 2000/64/EC (OJ No. L290, 17.11.2000, p.27), European Parliament and Council Directive 2001/107/EC (OJ No. L41, 13.02.2002, p.20), European Parliament and Council Directive 2001/108/EC (OJ No. L41, 13.02.2002, p.35).

- (a) which is a legal person;
- (b) the profits of which are taxed under the general arrangements for business taxation; or
- (c) which is a UCITS authorised in accordance with the UCITS Directive.

(2) In paragraph (1)(a) a legal person excludes —

- (a) in Finland, avoin yhtiö (Ay) and kommandiittiyhtiö (Ky)/ öppet bolag and kommanditbolag; and
- (b) in Sweden, handelsbolag (HB) and kommanditbolag (KB).

(3) A paying agent shall regard an entity as a residual entity unless the paying agent has reason to believe, on the basis of official evidence produced by the entity to the paying agent, that subparagraph (a), (b) or (c) of paragraph (1) applies.

An entity which presents to the paying agent or economic operator a certificate issued by the member State in which that entity is established to the effect that it is to be treated as if it were a UCITS authorised in accordance with the UCITS Directive shall be treated as such for the purposes of this regulation.

Election by an entity to be treated as a UCITS

5.—(1) An entity established in the United Kingdom may obtain a certificate to the effect that it is to be treated as a UCITS authorised in accordance with the UCITS Directive for the purposes of the Savings Directive in accordance with this regulation.

(2) A notice requesting the issue of a certificate shall be given to the Inland Revenue by or on behalf of the entity.

(3) The notice shall include the following information —

- (a) the name and address of the entity;
- (b) where the notice is given on behalf of the entity, the name, address and position of the person giving notice;
- (c) a statement that —
 - (i) the entity is established in the United Kingdom;
 - (ii) the entity is not a legal person;
 - (iii) the entity's profits are not taxed under the general arrangements for business taxation;
 - (iv) the entity is not a UCITS authorised in accordance with the UCITS Directive; and
 - (v) the entity elects to be treated as if it were a UCITS authorised in accordance with the UCITS Directive for the purposes of the Savings Directive; and
- (d) a signed and dated declaration by the person giving notice to the effect that it is to the best of his knowledge correct and complete.

(4) The Inland Revenue will issue a certificate to that entity confirming that it is to be treated as if it were a UCITS authorised in accordance with the UCITS Directive for the purposes of the Savings Directive and that certificate shall have effect from the date specified in that certificate.

Meaning of receiving agent

6. A receiving agent is an entity —

- (a) which is a residual entity;
- (b) which is established in the United Kingdom; and
- (c) to which a savings income payment is made for the benefit of a relevant payee by a person established in a member State in the course of his business or profession.

Meaning of relevant payee

7.—(1) The agent shall regard a person as a relevant payee if he is an individual —

- (a) resident in a prescribed territory; and
- (b) who has received a savings income payment or for whom a savings income payment has been secured,

unless he provides evidence to the agent that the payment is not received or secured for his own benefit because of one of the reasons listed in paragraph (2).

(2) The reasons referred to in paragraph (1) are that the individual —

- (a) is acting as paying agent or an economic operator;
- (b) acts on behalf of a residual entity;
- (c) acts on behalf of an entity —
 - (i) which is a legal person;
 - (ii) the profits of which are taxed under the general arrangements for business taxation;
 - (iii) which is a UCITS authorised in accordance with the UCITS Directive; or
 - (iv) which is treated as being a UCITS in accordance with the UCITS Directive for the purposes of the Savings Directive by virtue of Article 4(3); or
- (d) acts on behalf of another individual for whose benefit the payment is received or secured.

(3) An individual who provides evidence that he is acting on behalf of a residual entity must in addition provide the name and address of that residual entity to the agent.

(4) An individual who provides evidence that he acts on behalf of another individual must in addition provide the agent with the name and address, and where appropriate the tax identification number or date and place of birth, of that individual. The individual providing the evidence must obtain and verify this information in accordance with regulation 9.

(5) If the agent has information which suggests that the individual who receives a savings income payment or for whom a savings income payment is secured may not be the relevant payee for the reason referred to in paragraph (2)(d), then paragraph (6) applies.

(6) The agent must take reasonable steps to establish who is the relevant payee and if the agent is unable to identify the relevant payee, he shall treat the individual who receives a savings income payment or for whom a savings income payment is secured as the relevant payee.

Meaning of savings income

8.—(1) Subject to paragraphs (3) to (6) and (8) savings income is —

- (a) interest;
- (b) interest accrued or capitalised at the sale, refund or redemption of a money debt;
- (c) income distributed by a collective investment fund which is derived directly or indirectly, via other collective investment funds or residual entities, from interest;
- (d) income realised upon the sale, refund or redemption of shares or units in a collective investment fund if that fund invests directly or indirectly, via other collective investment funds or residual entities, more than 40% of its assets in money debts.

(2) In paragraph (1) “interest”—

- (a) includes—
 - (i) prizes attaching to money debts (including premium bonds);
 - (ii) premiums and discounts derived from money debts;
 - (iii) any dividend derived from shares (including permanent interest bearing shares) in a building society; and
 - (iv) any share interest paid by a registered industrial and provident society; and

- (b) excludes —
 - (i) any interest which is not related to a money debt; and
 - (ii) penalty charges for late payment.

(3) In respect of savings income described in paragraph (1)(b), where an agent has no information concerning the amount of interest which is accrued or capitalised at the sale, refund or redemption of a money debt the total amount of the proceeds of the sale, redemption or refund is savings income.

(4) In respect of savings income described in paragraphs (1)(c), where an agent has no information concerning the proportion of income which derives from interest the total amount of the income is savings income.

(5) In respect of savings income described in paragraphs (1)(c) and (d), subject to paragraph (9)

- (a) where a collective investment fund established in the United Kingdom has invested 15% or less of its assets directly or indirectly, via other collective investment funds or residual entities, in money debts there is no savings income;
- (b) where a collective investment fund —
 - (i) is established in another member State which has derogated from paragraphs (1)(c) and (d) of Article 6 in accordance with Article 6(6); and
 - (ii) the collective investment fund has invested 15% or less of its assets in money debts in accordance with the law of that member State in the application of that derogation, there is no savings income.

(6) In respect of savings income described in paragraph (1)(d)—

- (a) where an agent has no information concerning the percentage of assets invested in money debts or in shares or units in collective investment funds, that percentage shall be considered to be more than 40%;
- (b) where the agent cannot determine the amount of income realised by the relevant payee, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

(7) From 1st January 2011 paragraphs (1)(d) and (6)(a) shall have the effect with the substitution of “25%” for “40%”.

(8) Subject to paragraph (9) —

- (a) where a residual entity established in the United Kingdom invests 15% or less of its assets directly or indirectly, via collective investment funds or other residual entities, in money debts there is no savings income;
- (b) where a residual entity —
 - (i) is established in another member State which has derogated from paragraphs (1)(c) and (d) of Article 6 in accordance with Article 6(6); and
 - (ii) the residual entity has invested 15% or less of its assets in money debts in accordance with the law of that member State in the application of that derogation, there is no savings income.

(9) In the application of paragraphs (5) and (8), where the agent cannot ascertain whether or not the collective investment fund or residual entity, as appropriate, has invested 15% or less of its assets in money debts in accordance with those provisions, there is savings income.

(10) The percentages referred to in this regulation shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the collective investment fund or residual entity concerned and, failing which, by reference to the actual composition of the assets of the collective investment fund or residual entity.

(11) In this regulation a collective investment fund is—

- (a) a UCITS authorised in accordance with the UCITS Directive;

- (b) an entity which is treated as being a UCITS authorised in accordance with the UCITS Directive for the purposes of the Savings Directive by virtue of Article 4(3); or
- (c) an undertaking for collective investment established outside the Community.

This is subject to the following qualification.

If a collective investment fund provides arrangements for separate pooling of the contributions of the participants and the profits or income out of which payments are to be made to them and under which participants are entitled to exchange rights in one pool for rights in another, each separate pool shall be treated as a separate collective investment fund.

(12) In this regulation—

“building society” means a building society within the meaning of the Building Societies Act 1986(a);

“permanent interest bearing shares” has the meaning given in section 117(11) of the Taxation of Chargeable Gains Act 1992(b);

“registered industrial and provident society” has the meaning given in section 486(12) of the Income and Corporation Taxes Act 1988 as extended by section 486(9) of that Act; and

“share interest” has the meaning given in section 486(12) of the Income and Corporation Taxes Act 1988(c).

PART 2

Information to be obtained, verified and reported

Identity and residence of relevant payees

9.—(1) Where —

- (a) a paying agent makes a savings income payment to an individual whom he believes to be a relevant payee, or
- (b) a receiving agent receives or secures a savings income payment for an individual whom he believes to be a relevant payee,

the agent must establish the identity and country of residence of that individual in accordance with this regulation.

(2) Subject to the conditions set out in this regulation, for the purposes of this regulation the country of residence means the country where the individual has his permanent address.

(3) Where contractual relations between the agent and the individual are entered into before 1st January 2004 the agent must verify the name, address and country of residence of the individual by using the information at its disposal, including information obtained pursuant to the Money Laundering Regulations 1993 and the Money Laundering Regulations 2001(d).

(4) Where contractual relations between the agent and the individual are entered into, or transactions are carried out in the absence of contractual relations, on or after 1st January 2004, the agent shall obtain and verify—

- (a) the name, address and the tax identification number allocated by the member State of residence for tax purposes or, if it is not available, the date and place of birth of the individual in accordance with paragraphs (5) to (7); and
- (b) the country of residence of the individual in accordance with paragraphs (8) and (9).

(a) 1986 c.53.

(b) 1992 c.12. Section 117(11) was amended by the Financial Services and Markets Act 2000 (Consequential Amendments)(Taxes) Order 2001 (S.I. 2001/3629).

(c) 1988 c.1.

(d) S.I. 1993/1933 and S.I. 2001/3641. Both these Regulations will be revoked and replaced by the Money Laundering Regulations 2003 (S.I. 2003/3075) on 1st March 2004.

(5) The information in paragraph (4)(a) shall be verified by the presentation by the individual of his passport or official identity card to the agent.

(6) If the address does not appear on that passport or official identity card, it shall be verified by the presentation by the individual of any other documentary proof of identity to the agent.

(7) If the tax identification number is not mentioned on the passport, official identity card or any other documentary proof of identity presented by the individual, the agent shall instead verify the individual's date and place of birth on the basis of his passport or official identity card.

(8) Subject to paragraph (9), the country of residence of the individual shall be determined on the basis of his address verified in accordance with paragraphs (5) and (6).

(9) Where the individual declares his country of residence to be in a third country—

(a) if he presents a passport or official identity card issued by a member State, the agent shall establish the country of residence by means of a certificate of residence for tax purposes issued by the competent authority of the third country which the individual claims to be his country of residence;

(b) if the individual fails to present such a certificate, the member State that issued the passport or other official identity document shall be considered to be the country of residence.

(10) The individual may present a certified copy of any of the documents referred to in this regulation.

Here “certified copy” means a copy certified or otherwise authenticated in such manner as would make it admissible in evidence in proceedings before a court.

(11) In this regulation —

“competent authority” means the competent authority for the purposes of bilateral or multilateral tax conventions or, failing that, such other authority as is competent to issue certificates of residence for tax purposes;

“other documentary proof of identity” includes certificates of residence for tax purposes.

Information to be reported to the Inland Revenue by paying agents making payments to relevant payees

10.—(1) When a paying agent makes a savings income payment for the immediate benefit of a relevant payee the information prescribed by paragraph (2) must be reported by the paying agent to the Inland Revenue in accordance with regulations 14 and 15.

(2) The information prescribed is—

(a) the name and address of the paying agent;

(b) the name, address and country of residence of the relevant payee established in accordance with regulation 9;

(c) where contractual relations between the relevant payee and the paying agent were entered into, or transactions are carried out in the absence of contractual relations, on or after 1st January 2004, the tax identification number, or if it is not available, the relevant payee's date and place of birth, established in accordance with regulation 9;

(d) the account number of the relevant payee or, where there is none, identification of the money debt or other instrument giving rise to the savings income;

(e) the amount and category of the savings income payments made to the relevant payee in accordance with regulation 13 and the currency in which they were paid.

Information to be reported to the Inland Revenue by paying agents making payments to residual entities

11.—(1) When a paying agent makes a savings income payment to a residual entity established in a prescribed territory the information prescribed by paragraph (2) must be reported by the paying agent to the Inland Revenue in accordance with regulations 14 and 15.

(2) The information prescribed is—

- (a) the name and address of the paying agent;
- (b) the name and address of the residual entity (including the territory in which it is established); and
- (c) the total amount and category of the savings income payments made to the residual entity in accordance with regulation 13 and the currency in which they were paid.

Information to be reported to the Inland Revenue by receiving agents

12.—(1) When a receiving agent receives or secures savings income the information prescribed by paragraph (2), in respect of each relevant payee the savings income is attributable to, must be reported by the receiving agent to the Inland Revenue in accordance with regulations 14 and 15.

(2) The information prescribed is—

- (a) a statement that the savings income has been received or secured by the receiving agent in his capacity as such;
- (b) the name and address of the receiving agent;
- (c) the name, address and country of residence of the relevant payee established in accordance with regulation 9;
- (d) where contractual relations between the relevant payee and the receiving agent were entered into, or transactions are carried out in the absence of contractual relations, on or after 1st January 2004, the tax identification number, or if it is not available, the relevant payee's date and place of birth, established in accordance with regulation 9;
- (e) the account number of the relevant payee or, where there is none, identification of the money debt or other instrument giving rise to the savings income;
- (f) the amount and category of the savings income received or secured by the receiving agent in accordance with regulation 13 and the currency in which it was paid.

The amount of savings income to be reported to the Inland Revenue

13.—(1) The information concerning the savings income prescribed by paragraph (2) must be reported by the agent to the Inland Revenue.

(2) The agent shall identify under which of the following three categories he is reporting the savings income and where the savings income is of the type prescribed by —

- (a) regulation 8(1)(a), report the amount of savings income;
- (b) sub-paragraph (b) or (d) of regulation 8(1), report either the amount of savings income or the full amount of the proceeds from the sale, redemption or refund;
- (c) regulation 8(1)(c), report either the amount of savings income or the full amount of the distribution.

(3) Where the agent has reported savings income under sub-paragraph (a) or (c) of paragraph (2) no further report of the same savings income is required under sub-paragraph (b) of that paragraph.

PART 3

Reporting the information

Paying and receiving agents to notify the Inland Revenue of reportable payments

14.—(1) An agent who must report information to the Inland Revenue in accordance with these Regulations must notify the Inland Revenue in writing that he needs to make a report within 14 days of the end of the tax year in which—

- (a) in the case of a paying agent, the savings income payment was made, or
- (b) in the case of a receiving agent, the savings income was secured or received,

unless the agent has already received a notice under regulation 15 from the Inland Revenue in respect of that tax year.

(2) An agent who fails to comply with paragraph (1) is liable to a penalty not exceeding £3000 determined in accordance with section 100 of the Taxes Management Act 1970(a).

(3) Sections 100A, 100B, 102, 103(4) and 118(2) of the Taxes Management Act 1970(b) apply to a penalty determined in accordance with paragraph (2).

Reports by paying and receiving agents to the Inland Revenue

15.—(1) The Inland Revenue must send a notice to—

- (a) an agent who has notified the Inland Revenue in accordance with regulation 14(1);
- (b) any person the Inland Revenue considers should have notified it in accordance with regulation 14(1) but has not done so; and
- (c) any person who has notified the Inland Revenue in accordance with regulation 14(1) in respect of a previous tax year, unless—
 - (i) the person has informed the Inland Revenue; or
 - (ii) an officer of the Inland Revenue has reasonable grounds to believe, that he is no longer an agent.

(2) The notice must specify —

- (a) the information prescribed by these Regulations which must be reported;
- (b) the tax year in respect of which the report must be made and that the report must be in respect of all savings income payments for that tax year;
- (c) the form in which the report must be made;
- (d) the address to which the report must be delivered; and
- (e) the date by which the report must be delivered which shall be a date no earlier than 30 days after the date of the notice.

(3) For the report for the tax year in which the commencement date falls, the reference to the tax year in paragraph (2)(b) means the period beginning on the commencement date and ending at the end of the tax year in which the commencement date falls.

Here “commencement date” is the date specified in the notices under regulation 1(2).

(4) The notice may be combined with a notice issued under section 17 or 18, or under both of those sections, of the Taxes Management Act 1970(a).

(a) 1970 c.9. Section 100 was substituted by section 167 of the Finance Act 1989 (c.26) and amended by the Finance Act 1990 (c.29), the General and Special Commissioners (Amendment of Enactments) Regulations 1994 (S.I. 1994/1813), the Finance Act 1998 (c.36) and the Finance Act 2001 (c.9).

(b) 1970 c.9. Sections 100A, 100B and 103 were substituted, and section 102 amended, by the Finance Act 1989 (c.26). Section 100B was amended by the General and Special Commissioners (Amendment of Enactments) Regulations 1994 (S.I. 1994/1813), the Finance Act 1994 (c.9) and the Finance Act 1995 (c.4). Section 118(2) was amended by the Finance Act 1970 (c.24) and the Finance (No. 2) Act 1987 (c.51).

(5) The agent or person, as appropriate, must make and deliver the report in accordance with the requirements specified in the notice.

(6) Paragraph (5) applies regardless of whether any savings income is reportable in accordance with these Regulations.

PART 4

Audit

Audit and related issues

16.—(1) An officer of the Inland Revenue may by notice require an agent, or a person who appears to the Revenue to be an agent, to furnish them within such time, not being less than 14 days, as may be provided by the notice, such information (including copies of any relevant books, documents or other records) as they may reasonably require for the purposes of determining whether information contained in a report under these Regulations by that agent or person, as appropriate, was correct and complete.

(2) An agent or person, as appropriate, required to make and deliver a report under these Regulations shall, whenever required to do so within the period specified in paragraph (4)(c), make available for inspection by an officer of the Inland Revenue, at such time as that officer may reasonably require, all such copies of books, documents or other records in his possession or under his control as may be required by an officer of the Inland Revenue under paragraph (1).

(3) An agent or person, as appropriate, required to make and deliver a report under these Regulations shall retain, for the period specified in paragraph (4), all such books, documents and other records copies of which he may be required to make available for inspection under paragraph (2). These documents include copies of the documents presented by relevant payees in accordance with regulation 9.

(4) The period specified is —

- (a) in relation to information concerning the identity and country of residence of a relevant payee the period of two years beginning immediately after the end of the tax year in which transactions between the relevant payee and paying agent cease;
- (b) in relation to the official evidence referred to in regulation 4(3) the period of two years beginning immediately after the end of the tax year in which transactions between the residual entity and paying agent cease; and
- (c) in relation to information concerning savings income the period of two years beginning immediately after the end of the tax year to which the notice referred to in regulation 15(1) relates.

(5) Paragraphs (3) and (4) are without prejudice to the following provisions—

- (i) regulations 11(7) and 15(2) of the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990**(b)**;
- (ii) regulation 12(2) of the Income Tax (Deposit-takers) (Interest Payments) Regulations 1990**(c)**;
- (iii) regulation 8 of the Income Tax (Deposit-takers) (Non-residents) Regulations 1992**(d)**;

(a) 1970 c.9. Section 17 was amended by the Finance Act 1988 (c.36), the Finance Act 1990 (c.29), the Finance (No.2) Act 1992 (c.48), the Finance Act 1996 (c.8) and the Finance Act 2000 (c.17). Section 18 was amended by the Finance Act 1988 (c.36), the Income and Corporation Taxes Act 1988 (c.9), the Finance Act 1990 (c.29) and the Finance Act 2000 (c.17).

(b) S.I. 1990/2231, as amended by the Income Tax (Building Societies)(Dividends and Interest)(Amendment) Regulations 2001 (S.I. 2001/404).

(c) S.I. 1990/2232.

(d) S.I. 1992/14.

- (iv) regulation 9 of the Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 2003^(a) including that regulation as modified by regulation 28(8) of the Open-ended Investment Companies (Tax) Regulations 1997^(b).

(6) Subject to paragraph (7), information obtained by the Inland Revenue under this Regulation—

- (a) shall not be used for the purpose of ascertaining the tax liability (if any) of any person other than—
 - (i) a person beneficially entitled to a payment to whom the information obtained relates, and
 - (ii) the person by whom the payment was made or received; and
- (b) shall otherwise be used only for the purposes of—
 - (i) these Regulations, unless the notice issued under regulation 15(1) is combined with a notice under section 17 or 18, or both of those sections, of the Taxes Management Act 1970, in which case only for the purposes of these Regulations and with whichever of those sections the notice was combined,
 - (ii) the provisions of Chapter 4 of Part 12 of the Income and Corporation Taxes Act 1988 relating to the deduction of tax from payments by building societies and deposit-takers,
 - (iii) the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990,
 - (iv) the Income Tax (Deposit-takers) (Interest Payments) Regulations 1990, and
 - (v) the Income Tax (Authorised Unit Trusts) (Interest Distributions) Regulations 2003 including these Regulations as modified by the Open-ended Investment Companies (Tax) Regulations 1997.

(7) Paragraph (6) shall not be construed as preventing any disclosure of information under section 182(5) of the Finance Act 1989^(c).

PART 5

Transitional provisions

Transitional provisions – negotiable debt securities

17.—(1) Until 31st December 2010 negotiable debt securities to which paragraph (2) applies shall not be considered to be money debts.

(2) This paragraph applies to negotiable debt securities—

- (a) which were first issued before 1st March 2001; or
- (b) for which the original prospectus was approved before that date by—
 - (i) the competent authority within the meaning of the Securities Directive; or
 - (ii) the responsible authorities in third countries,

provided that no further issues of such negotiable debt securities are made on or after 1st March 2002.

(3) Where a further issue is made on or after 1st March 2002 of negotiable debt securities described in paragraphs (2)(a) and (b) issued by a Government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in the Schedule, the

^(a) S.I. 2003/1830.

^(b) S.I. 1997/1154, as amended by the Open-ended Investment Companies (Tax)(Amendment) Regulations 2003 (S.I. 2003/1831).

^(c) 1989 c.26. Section 182(5) was amended by the Tax Credits Act 1999 (c.10).

entire issue of such security, consisting of the original issue and any further issue, shall be considered a money debt.

(4) If a further issue is made on or after 1st March 2002 of a negotiable debt security described in paragraphs (2)(a) and (b) issued by a person not referred to in paragraph (3), such further issue shall be considered a money debt.

(5) Where an agent cannot ascertain whether paragraphs (2) to (4) apply the entire issue of the negotiable debt security shall be considered a money debt.

(6) A negotiable debt security is a security that can be transferred from one creditor to another without the approval of the debtor.

John Heppell

Jim Murphy

16th December 2003

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE

Regulation 17(3)

Negotiable debt securities: entities referred to in regulation 17(3)

For the purposes of regulation 17(3), an entity is “a related entity acting as a public authority or whose role is recognised by an international treaty” if it is listed in Table 1 or Table 2 below or it is situated in a third country and meets the following criteria—

- (a) the entity is clearly considered to be a public entity according to the national criteria;
- (b) such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government;
- (c) such public entity is a large and regular issuer of debt; and
- (d) the State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

Table 1

Entities within the European Union

<i>Member State</i>	<i>Entity</i>
Belgium	Vlaams Gewest (Flemish Region) Région wallonne (Walloon Region) Région bruxelloise/Brussels Gewest (Brussels Region) Communauté française (French Community) Vlaamse Gemeenschap (Flemish Community) Deutschsprachige Gemeinschaft (German-speaking Community)
France	La Caisse d’amortissement de la dette sociale (CADES) (Social Debt Redemption Fund) L’Agence française de développement (AFD) (French Development Agency) Réseau Ferré de France (RFF) (French Rail Network) Caisse Nationale des Autoroutes (CNA) (National Motorways Fund) Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance) Charbonnages de France (CDF) (French Coal Board) Entreprise minière et chimique (EMC) (Mining and Chemicals Company)
Greece	Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation) Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation) Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)

<i>Member State</i>	<i>Entity</i>
Italy	Regions Provinces Municipalities Cassa Depositi e Prestiti (Deposits and Loans Fund)
Portugal	Região Autónoma de Madeira (Autonomous Region of Madeira) Região Autónoma dos Açores (Autonomous Region of Azores) Municipalities
Spain	Xunta de Galicia (Regional Executive of Galicia) Junta de Andalucía (Regional Executive of Andalusia) Junta de Extremadura (Regional Executive of Extremadura) Junta de Castilla-La Mancha (Regional Executive of Castilla-La Mancha) Junta de Castilla-León (Regional Executive of Castilla-León) Gobierno Foral de Navarra (Regional Government of Navarre) Govern de les Illes Balears (Government of the Balearic Islands) Generalitat de Catalunya (Autonomous Government of Catalonia) Generalitat de Valencia (Autonomous Government of Valencia) Diputación General de Aragón (Regional Council of Aragon) Gobierno de las Islas Canarias (Government of the Canary Islands) Gobierno de Murcia (Government of Murcia) Gobierno de Madrid (Government of Madrid)

<i>Member State</i>	<i>Entity</i>
Spain (continued)	Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country) Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa) Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya) Diputación Foral de Alava (Regional Council of Alava) Ayuntamiento de Madrid (City Council of Madrid) Ayuntamiento de Barcelona (City Council of Barcelona) Cabildo Insular de Gran Canaria (Island Council of Gran Canaria) Cabildo Insular de Tenerife (Island Council of Tenerife) Instituto de Crédito Oficial (Public Credit Institution) Instituto Catalán de Finanzas (Finance Institution of Catalonia) Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Table 2

International entities

European Bank for Reconstruction and Development
European Investment Bank
Asian Development Bank
African Development Bank
World Bank/IBRD/IMF
International Finance Corporation
Inter-American Development Bank
Council of Europe Social Development Fund
Euratom
European Community
Corporación Andina de Fomento (CAF) (Andean Development Corporation)
Eurofima
European Coal and Steel Community
Nordic Investment Bank
Caribbean Development Bank

Note: The provisions of regulation 17 are without prejudice to any international obligations that member States may have entered into with respect to the international entities listed in Table 2.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement part of Council Directive 2003/48/EC of 3rd June 2003 on taxation of savings income in the form of interest payments (“the Directive”), namely Articles 1 to 8, 15 and 17. The Regulations require information to be reported to the Inland Revenue about savings income paid to, or secured for, an individual resident in another member State in the course of a business or profession. The same is required in respect of some entities resident in other member States.

Article 17(1) requires that regulations implementing the Directive be adopted and published before 1st January 2004.

Article 17 of the Directive also provides for its commencement. Article 17(2) provides that for the Directive to apply from 1st January 2005 various arrangements between member States and other territories need to apply from that date. In accordance with Article 17(3), the Council will decide at least six months before 1st January 2005, whether this condition will be met. If it decides that it will not, it will adopt a new date on which the Directive will come into force provided that the condition will be met by that date. When the decision has been made the date of the commencement of these Regulations shall be notified in the London, Edinburgh and Belfast Gazettes.

When arrangements between the other territories and member States are in place these Regulations will be amended to implement those arrangements.

Part 1 of these Regulations makes provision for —

- (i) who is required to make a report; “paying agents” and “receiving agents”;
- (ii) in respect of whom a report needs to be made; “relevant payees” and “residual entities”; and
- (iii) what is meant by “savings income”.

Part 1 also sets out how an entity can elect to be treated as if it were a UCITS, authorised in accordance with Council Directive 85/611/EEC, for the purposes of the Directive.

Part 2 of these Regulations makes provision for —

- (i) obtaining and verifying information about the individual who receives the savings income or for whose benefit it is received or secured; and
- (ii) the information which needs to be reported to the Inland Revenue.

Part 3 of these Regulations makes provision for—

- (i) notifying the Inland Revenue that a report needs to be made, and a penalty for failing to notify; and
- (ii) notices to be sent out by the Inland Revenue in respect of the report to be made.

Part 4 of these Regulations makes provision for audits and issues related to audits.

Part 5 of these Regulations contains transitional provisions in respect of negotiable debt securities.

A full regulatory impact assessment and a transposition note have been produced and both are available upon the Inland Revenue website at www.inlandrevenue.gov.uk or from the Inland Revenue, Cross Cutting Policy (telephone number 020 7 438 6333).

£3.00

© Crown copyright 2003

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.
E1754 12/2003 131754 19585

ISBN 0-11-048363-4



9 780110 483634