

2004 No. 2429

TAXES

The Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations 2004

<i>Made</i> - - - -	<i>16th September 2004</i>
<i>Laid before the House of Commons</i>	<i>17th September 2004</i>
<i>Coming into force</i> - -	<i>30th September 2004</i>

The Treasury, in exercise of the powers conferred upon them by section 306(1)(a) and (b) of the Finance Act 2004(a), make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations 2004 and shall come into force on 30th September 2004.

(2) In these Regulations “the principal Regulations” means the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2004(b).

Amendment of the principal Regulations

2. The principal Regulations are amended as follows.

3. At the end of regulation 1 (citation, commencement and interpretation) add—

“(4) For the purposes of these Regulations, a premium fee, in relation to any arrangements, is a fee which is chargeable by virtue of any element of the arrangements (including the way in which they are structured) from which the tax advantage expected to be obtained arises and is a fee—

- (a) the amount of which is to a significant extent attributable to that tax advantage; or
- (b) which is to any extent contingent upon the obtaining of that tax advantage.”.

4. In regulation 2(4)(a) (interaction of Parts 1 and 2 of the Schedule to the principal Regulations) after “the Schedule” insert “other than paragraph 5A,”.

5.—(1) The Schedule to the principal Regulations (arrangements prescribed for the purposes of the Regulations) is amended as follows

(2) In paragraph 1(1) after paragraph (c) add—

“unless they are arrangements that are excluded by paragraph 5A”.

(3) After paragraph 5 insert—

“Excluded arrangements

5A. Arrangements are excluded by this paragraph if both of the following conditions are met.

The first condition is that the arrangements are such that it might reasonably be expected that no promoter, and no person connected with a promoter, of arrangements that are the same as, or substantially similar to, the arrangements in question would be able to obtain a premium fee from a person experienced in receiving services of the type being provided.

The second condition is that the tax advantage expected to be obtained under the arrangements does not arise from any element of the arrangements (including the way in which they are structured) which, disregarding any duty of confidentiality owed to any person, a promoter might reasonably be expected to wish to keep confidential from other promoters.”.

(4) Omit paragraph 8(5).

16th September 2004

John Heppell
Derek Twigg
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2004 (S.I. 2004/1863: “the principal Regulations”). Their main effect is to apply similar tests, to determine whether arrangements connected with employment are notifiable, as already apply in respect of arrangements involving financial products.

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

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends regulation 1 of the principal Regulations by adding a new paragraph (4) which contains a definition of a premium fee for the purposes of the Regulations.

Regulation 4 amends regulation 2(4) of the principal Regulations, making it clear that arrangements which include financial product and are made available in connection with employment and which are excluded from Part 1 of the Schedule by virtue of paragraph 5A may still be notifiable under Part 2 of the Schedule.

Regulation 5 amends the Schedule to the principal Regulations to apply the additional tests in respect of premium fees and novel features (*paragraphs (2) and (3)*). It also makes a consequential amendment (*paragraph (4)*).

These Regulations do not impose new costs on business.

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£3.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1289 9/2004 141289T 19585

ISBN 0-11-049843-7



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