

2005 No. 3230

CORPORATION TAX

INCOME TAX

INHERITANCE TAX

STAMP DUTY

The Tax and Civil Partnership (No. 2) Regulations 2005

Made - - - - - *24th November 2005*

Coming into force - - - - - *5th December 2005*

A draft of this instrument was laid before the House of Commons in accordance with section 103 of the Finance Act 2005^(a) and approved by resolution of that House;

Now, therefore, the Treasury, in exercise of the powers conferred upon them by section 103 of the Finance Act 2005 hereby make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Tax and Civil Partnership (No. 2) Regulations 2005 and shall come into force on 5th December 2005.

The Stamp Duty (Exempt Instruments) Regulations 1987

2.—(1) The Stamp Duty (Exempt Instruments) Regulations 1987^(b) shall be amended as follows.

(2) In the Schedule —

(a) in paragraph D, after “spouse” insert “or civil partner”,

(b) after paragraph G insert —

“GG. The conveyance or transfer of property on and in consideration only of the formation of a civil partnership to a party to the civil partnership (or his nominee) or to trustees to be held on the terms of a settlement made in consideration only of the civil partnership.”, and

(c) in paragraph H —

(i) after “(1)” insert “(1A)”, and

(ii) after “divorce” insert “or dissolution of civil partnership”.

^(a) 2005 (c. 7).
^(b) S.I. 1987/516.

The Personal Equity Plan Regulations 1989

3.—(1) The Personal Equity Plan Regulations 1989(a) shall be amended as follows.

(2) In regulation 5 (general investment rules), in paragraph (2)(b)(ii), after “spouse” insert “or civil partner”.

The Income Tax (Building Societies) (Dividends and Interest) Regulations 1990

4.—(1) The Income Tax (Building Societies) (Dividends and Interest) Regulations 1990(b) shall be amended as follows.

(2) In regulation 5 (certificate of non-liability to tax), in paragraph (2)(b)(v), for “spouse” substitute “spouse, civil partner”.

The Income Tax (Deposit-takers) (Interest Payments) Regulations 1990

5.—(1) The Income Tax (Deposit-takers) (Interest Payments) Regulations 1990(c) shall be amended as follows.

(2) In regulation 5 (certificate of non-liability to tax), in paragraph (1)(b)(v), for “spouse” substitute “spouse, civil partner”.

The Retirement Benefits Schemes (Restriction on Discretion to Approve)(Small Self-administered Schemes) Regulations 1991

6.—(1) The Retirement Benefits Schemes (Restriction on Discretion to Approve)(Small Self-administered Schemes) Regulations 1991(d) shall be amended as follows.

(2) In regulation 2 —

(a) in paragraph (1) —

(i) at the appropriate place insert —

““former civil partner” has the meaning given by section 659D(1A) of the Act;”, and

(ii) in the definition of “scheme member”, in paragraph (b), after “ex-spouse” insert “or former civil partner”, and

(b) in paragraph (4), for “husband or wife”, in every place occurring, substitute “spouse or civil partner”.

(3) In regulation 4(1)(c), in the definition of “A” —

(a) after “widower” insert “or surviving civil partner”, and

(b) after “married” insert “or with whom the member had formed a civil partnership”.

(4) In regulation 7 —

(a) in paragraph (2), in the definition of “C” —

(i) after “widower” insert “or surviving civil partner”, and

(ii) after “married” insert “or with whom the member had formed a civil partnership”, and

(b) in paragraph (3), in the definition of “E” —

(i) after “widower” insert “or surviving civil partner”, and

(ii) after “married” insert “or with whom the member had formed a civil partnership”.

(a) S.I. 1989/469.
(b) S.I. 1990/2231.
(c) S.I. 1990/2232.
(d) S.I. 1991/1614.

The Retirement Benefits Schemes (Restriction on Discretion to Approve)(Additional Voluntary Contributions) Regulations 1993

7.—(1) Regulation 5A to the Retirement Benefits Schemes (Restriction on Discretion to Approve)(Additional Voluntary Contributions) Regulations 1993(a) shall be amended as follows.

- (2) In paragraph (2), after “ex-spouse” insert “or former civil partner”.
- (3) In the opening words of paragraph (3), after “ex-spouse” insert “or former civil partner”.
- (4) In paragraph (5) —
 - (a) after sub-paragraph (a) insert —

“(ab) “former civil partner” has the meaning given by section 659D(1A) of the Taxes Act;”, and
 - (b) in sub-paragraph (b)(ii), after “marriage” insert “or civil partnership”.
- (5) In paragraph (6)(a), after “marriage” insert “or civil partnership”.
- (6) In paragraph (7) —
 - (a) in the opening words, after “ex-spouse’s” insert “or former civil partner’s”, and
 - (b) in sub-paragraph (a) —
 - (i) after “ex-spouse” insert “or former civil partner”, and
 - (ii) after “marriage” insert “or civil partnership”.

The Retirement Benefits Schemes (Information Powers) Regulations 1995

8.—(1) The Retirement Benefits Schemes (Information Powers) Regulations 1995(b) shall be amended as follows.

- (2) In regulation 15 (retention of records), in paragraph (4)(a), after “widower,” insert “surviving civil partner,”.

The Personal Pension Schemes (Tables of Rates of Annuities) Regulations 1996

9.—(1) The Personal Pension Schemes (Tables of Rates of Annuities) Regulations 1996(c) shall be amended as follows.

- (2) In regulation 3, in the opening words, after “widower” insert “or surviving civil partner”.
- (3) In regulation 4(b) —
 - (a) after “marital”, in every place occurring, insert “or civil partnership”, and
 - (b) after “widower” insert “or surviving civil partner”.

The Individual Savings Account Regulations 1998

10.—(1) The Individual Savings Account Regulations 1998(d) shall be amended as follows.

- (2) In regulation 6 (general investment rules), in paragraph (3)(b)(ii), after “spouse” insert “or civil partner”.
- (3) In regulation 10 (qualifying individuals who may invest under an account), in paragraph (2)(d)(iii)(e), after “married to” insert “or in a civil partnership with”.
- (4) In regulation 12 (conditions for application to subscribe to an account) —
 - (a) in paragraph (3) —

(a) S.I. 1993/3016. Regulation 5A was inserted by regulation 4 of S.I. 2000/1088.
(b) S.I. 1995/3103.
(c) S.I. 1996/1311.
(d) S.I. 1998/1870.
(e) Paragraph (iii) was inserted by regulation 5 of S.I. 2001/908.

- (i) in sub-paragraph (f)(iii)(a), after “married to” insert “or in a civil partnership with”, and
- (ii) in the words following sub-paragraph (f)(iii), after “married to” insert “or in a civil partnership with”, and
- (b) in paragraph (12)(b), after “spouse,” insert “civil partner,”.

The Retirement Benefits Schemes (Sharing of Pensions on Divorce or Annulment) Regulations 2000

11.—(1) The Retirement Benefits Schemes (Sharing of Pensions on Divorce or Annulment) Regulations 2000(c) shall be amended as follows.

(2) In regulation 1(1), for “Divorce or Annulment” substitute “the Dissolution or Annulment of a Marriage or Civil Partnership”.

(3) In regulation 2, insert at the appropriate place —

““former civil partner” has the meaning given by section 659D(1A) of the Taxes Act 1988;”.

(4) In regulation 5 —

- (a) in paragraph (2)(b), after “ex-spouse” insert “or former civil partner”,
- (b) in paragraph (4)(b), after “marriage” insert “or civil partnership”,
- (c) in paragraph (5)(a), after “marriage” insert “or civil partnership”, and
- (d) in paragraph (6) —

(i) in the opening words, after “ex-spouse’s” insert “or former civil partner’s”, and

(ii) in paragraph (a) —

(aa) after “ex-spouse” insert “or former civil partner”, and

(bb) after “marriage” insert “or civil partnership”.

(5) In regulation 6(2)(b), after “ex-spouse” insert “or former civil partner”.

(6) In regulation 7(2)(b), after “ex-spouse” insert “or former civil partner”.

(7) In regulation 8(2), in paragraph (c)(i), after “ex-spouse” insert “or former civil partner”.

(8) In the title, for “**Divorce or Annulment**” substitute “**the Dissolution or Annulment of a Marriage or Civil Partnership**”.

The Insurance Companies (Overseas Life Assurance Business) (Excluded Business) Regulations 2000

12.—(1) The Insurance Companies (Overseas Life Assurance Business) (Excluded Business) Regulations 2000(d) shall be amended as follows.

(2) In regulation 7 (circumstances where business not excluded from section 431D), in paragraph (c)(ii), after “widowers,” insert “civil partners, surviving civil partners,”.

The Personal Pension Schemes (Conversion of Retirement Benefits Schemes) Regulations 2001

13.—(1) The Personal Pension Schemes (Conversion of Retirement Benefits Schemes) Regulations 2001(e) shall be amended as follows.

(2) In regulation 6(4), for “husband or wife”, in each place, substitute “spouse or civil partner”.

(a) Sub-paragraph (f) was substituted by regulation 6 of S.I. 2001/908.
 (b) Paragraph (12) was inserted by regulation 5 of S.I. 2002/3158.
 (c) S.I. 2000/1085.
 (d) S.I. 2000/2089.
 (e) S.I. 2001/118.

- (3) In regulation 10, in paragraph (4)(a), after “spouse” insert “or civil partner”.

The Personal Pension Schemes (Transfer Payments) Regulations 2001

14.—(1) The Personal Pension Schemes (Transfer Payments) Regulations 2001(a) shall be amended as follows.

- (2) In regulation 2 —
- (a) in the definition of “dependant” and “surviving spouse”, after ““surviving spouse”” insert “and “surviving civil partner””, and
 - (b) in the definition of “scheme member”, in paragraph (b), after “ex-spouse” insert “or former civil partner”.
- (3) In regulation 4(4), after “spouse” insert “, surviving civil partner”.
- (4) In regulation 10(2), after “spouse”, in every place occurring, insert “or civil partner”.
- (5) In regulation 14(3) —
- (a) in sub-paragraph (c), after “spouse” insert “, surviving civil partner”, and
 - (b) in sub-paragraph (d), after “spouse” insert “, surviving civil partner”.

The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004

15.—(1) The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004(b) shall be amended as follows.

- (2) In regulation 2 —
- (a) in the definition of “spouse and charity transfer”, after “spouse” insert “, civil partner”, and
 - (b) at the appropriate place insert —
““section 131 rights” means the rights of issue under section 131(2) of the Civil Partnership Act 2004;”.
- (3) In regulation 4 —
- (a) in paragraph (3)(f), in the definition B, after “spouse” insert “, civil partner”,
 - (b) for paragraph (4) substitute —
“(4) In Scotland, if legitim or section 131 rights could be claimed which would reduce the value of the spouse, civil partner or charity transfer, the value of B is reduced —
 - (a) to take account of any legitim or section 131 rights claimed, and
 - (b) on the basis that any part of the remaining legitim fund, which has been neither claimed nor renounced at the time of the application for confirmation, will be claimed in full, and
 - (c) on the basis that all section 131 rights, which have been neither claimed nor renounced at the time of the application for confirmation, will be claimed in full.”,
 - (c) in paragraph (6), in sub-paragraph (a) of the definition of “specified exempt transfers”, after “spouses” insert “or civil partners”, and
 - (d) in paragraph (8), after “spouse” insert “, civil partner”.
- (4) In regulation 5 —
- (a) in paragraph (1) —
 - (i) in the opening words, after “spouse” insert “, civil partner”, and
 - (ii) in sub-paragraph (a), after “spouse” insert “or civil partner”,

(a) S.I. 2001/119.
(b) S.I. 2004/2543.

- (b) in paragraph (2), after “spouse”, in every place occurring, insert “or civil partner”, and
- (c) in the heading, after “**Spouse**” insert “, **civil partner**”.

(5) In regulation 6(2) —

- (a) in sub-paragraph (a) —
 - (i) in paragraph (iii), after “marital” insert “or civil partnership”, and
 - (ii) in paragraph (v), after “spouse” insert “or civil partner”, and
- (b) in sub-paragraph (e), after “spouse” insert “, civil partner”.

The Pension Protection Fund (Tax) (2005-06) Regulations 2005

16.—(1) The Pension Protection Fund (Tax) (2005-06) Regulations 2005(a) shall be amended as follows.

(2) In regulation 15(3)(b), after “ex-spouse” insert “or former civil partner”.

Dave Watts
Vernon Coaker

24th November 2005

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) S.I. 2005/1907.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend secondary tax legislation to provide for civil partnerships.

The Civil Partnership Act 2004 (c. 33) comes into force on 5 December 2005. The Act enables same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. A civil partnership may be formed by persons registering as civil partners of each other. In addition persons may be treated as having formed a civil partnership as a result of having registered a relationship overseas which is recognised by the Civil Partnership Act.

These Regulations amend secondary legislation in relation to tax to ensure that civil partners are treated in the same way as spouses; surviving civil partners are treated in the same way as widows and widowers; transactions entered into in consideration of the formation of a civil partnership are treated in the same way as transactions entered into in consideration of marriage; the dissolution or annulment of a civil partnership is treated in the same way as a divorce or the annulment of a marriage; a former civil partner is treated in the same way as an ex-spouse; and civil partnership status is treated equally with marital status.

Related to these Regulations is the Civil Partnership Act 2004 (Relationships Arising Through Civil Partnership) Order 2005 (S.I. 2005/3137) which applies section 246 of the Civil Partnership Act 2004 (interpretation of statutory references to stepchildren etc) to the following secondary legislation amended by these Regulations: S.I. 1990/2231, S.I. 1990/2232 and S.I. 2004/2543.

The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229) amend primary tax legislation to provide for civil partnerships.

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