

**2007 No. 964**

**CORPORATION TAX**

**The Finance Act 2003, Paragraph 3(3) of Schedule 26,  
(Designated Transactions) Regulations 2007**

<i>Made</i>	- - - -	<i>22nd March 2007</i>
<i>Laid before the House of Commons</i>		<i>22nd March 2007</i>
<i>Coming into force</i>	- -	<i>12th April 2007</i>

The Treasury make the following Regulations in exercise of the powers conferred by paragraph 3(3)(c) of Schedule 26 to the Finance Act 2003(a).

**Citation and commencement**

1. These Regulations may be cited as the Finance Act 2003, Paragraph 3(3) of Schedule 26, (Designated Transactions) Regulations 2007 and shall come into force on 12th April 2007.

**Transaction designated as an investment transaction**

2.—(1) A transaction is designated as an investment transaction for the purposes of Schedule 26 to the Finance Act 2003 (non-resident companies: transactions through investment manager and others) if conditions A to C are met.

(2) Condition A is that the transaction is a transaction—

- (a) in Community tradeable emissions allowances, or
- (b) in transferable units issued pursuant to the Kyoto Protocol.

(3) Condition B is that the transaction does not give rise to a chargeable gain falling within section 10B of the Taxation of Chargeable Gains Act 1992(b) (non-resident company with United Kingdom permanent establishment) (and accordingly taken into account for the purposes of section 11(2A) of the Income and Corporation Taxes Act 1988(c) (profits attributable to a permanent establishment)).

(4) Condition C is that the transaction does not otherwise fall within paragraph 3(3).

(5) For the purposes of this regulation—

“Community tradeable emissions allowances” are transferable allowances which relate to the making of emissions of greenhouse gases, and are allocated as part of a system made for the purpose of implementing any Community obligation of the United Kingdom relating to such emissions;

“Kyoto Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change signed at Kyoto on 11th December 1997;

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(a) 2003 c. 14.

(b) 1992 c. 12; section 10B was inserted by section 149(4) of the Finance Act 2003.

(c) 1988 c. 1; section 11(2A) was inserted by section 149(1) of the Finance Act 2003.

“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);

“units” include assigned amount units, certified emission reductions, emission reduction units and removal units.

22nd March 2007

*Claire Ward*  
*Alan Campbell*  
Two of the Lords Commissioners of Her Majesty's Treasury

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 150 of the Finance Act 2003 (c. 14) (non-resident companies: assessment, collection and recovery of corporation tax) imposes obligations on the UK representative of a non-resident company in relation to corporation tax. For this purpose, a permanent establishment of the non-resident company through which it carries on a trade is the UK representative of the non-resident company. The meaning of the expression “permanent establishment” is explained in section 148 of the Finance Act 2003; section 148(3) provides that a company is not regarded as having a permanent establishment in a territory by reason of the fact that it carries on business there through an agent of independent status.

Paragraph 3 of Schedule 26 to the Finance Act 2003 deals with the circumstances in which an investment manager carrying out an investment transaction is regarded as an agent of independent status. The expression “investment transaction” is dealt with in paragraph 3(3) of Schedule 26; paragraph (3)(3)(c) provides that the expression includes such other transactions as the Treasury may by regulations designate. These Regulations designate transactions in Community tradeable emissions allowances and in transferable units issued pursuant to the Kyoto Protocol as investment transactions for the purposes of Schedule 26.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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E0527 3/2007 170527T 19585