2008 No. 605

INHERITANCE TAX

The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008

Made - - - -	*6th March 2008*
Laid before the House of Commons	*6th March 2008*
Coming into force - -	*6th April 2008*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 256(1)(a) of the Inheritance Tax Act 1984(**a**), after consultation with the Lord Chancellor, the Scottish Ministers and the Lord Chief Justice of Northern Ireland in accordance with section 256(3A)(**b**).

Citation, commencement and effect

1. These Regulations may be cited as the Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008 and shall come into force on 6th April 2008.

Interpretation

2.—(1) In these Regulations—

"the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs;

"the 1984 Act" means the Inheritance Tax Act 1984;

"the IHT threshold" means the lower limit shown in the Table in Schedule 1 to the 1984 Act applicable in the year in which the chargeable transfer is made by the transferor;

"the net IHT threshold" means the IHT threshold less the aggregate of the values transferred by all previous chargeable transfers made by the transferor during the seven years preceding the chargeable transfer;

"a specified trust" means one of the following—

(a) a trust of settled property where a person became beneficially entitled to an interest in possession before 22nd March 2006;

(b) a trust for a bereaved minor within section 71A(**c**);

(c) a trust in which there is an immediate post-death interest within section 49A(**d**);

(**a**) 1984 c. 51.
(**b**) Subsection (3A) was inserted by section 293(6) of the Finance Act 2004 (c. 12). Subsections (3A) and (3B) were substituted for subsection (3A) by paragraphs 175 and 176 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).
(**c**) Section 71A was inserted by paragraph 1 of Schedule 20 to the Finance Act 2006 (c. 25).
(**d**) Section 49A was inserted by paragraph 5 of Schedule 20 to the Finance Act 2006.

(d) a trust for a disabled person within section 89, a self-settlement within section 89A(**a**) or a disabled person's interest within section 89B;

(e) a trust in which there is a transitional serial interest within sections 49B to 49E(**b**);

"value" means value for the purpose of tax.

(2) In these Regulations, a reference to a section is a reference to the section of the 1984 Act bearing that number.

Accounts

3.—(1) Save as provided in paragraph (2), no person is required under section 216 to deliver an account of an excepted transfer or an excepted termination unless the Commissioners so require by notice in writing issued to that person.

(2) Paragraph (1) does not apply to—

(a) The duty on trustees to deliver an account under section 216(1)(b) where the transferor dies within seven years of the chargeable transfer;

(b) The duty on trustees and persons to deliver an account under section 216(1)(bb) and (bd)(**c**).

(3) If any person who has not delivered an account in reliance on paragraph (1) discovers at any time that the transfer is not an excepted transfer, or that the termination is not an excepted termination, the delivery to the Commissioners within six months of that time of an account of that transfer or termination shall satisfy any requirement to deliver an account imposed on that person.

Excepted transfers

4.—(1) For the purposes of regulation 3 an excepted transfer means a chargeable transfer made on or after 6th April 2007 which is a disposition made by an individual in the circumstances in paragraph (2) or (3), but not any other transaction that is treated as a disposition for the purposes of inheritance tax.

(2) The circumstances are that—

(a) the value transferred by the chargeable transfer is attributable to either—

(i) cash; or

(ii) quoted shares or securities; and

(b) the value transferred by the chargeable transfer, together with the values transferred by any previous chargeable transfers made by the transferor during the seven years preceding the transfer does not exceed the IHT threshold.

(3) The circumstances are that—

(a) the value transferred by the chargeable transfer, together with the values transferred by any previous chargeable transfers made by the transferor during the seven years preceding the transfer does not exceed 80% of the IHT threshold, and

(b) the value transferred by the transfer of value giving rise to the chargeable transfer does not exceed the net IHT threshold.

(4) For the purpose of paragraph (3)(b), sections 104 (business property relief) and 116 (agricultural property relief) shall not apply in determining the value transferred by the chargeable transfer.

(**a**) Sections 89A and 89B were inserted by paragraph 6 of Schedule 20 to the Finance Act 2006.
(**b**) Sections 49B to 49E were inserted by paragraph 5 of Schedule 20 to the Finance Act 2006.
(**c**) Subsection (1)(bb) was inserted by paragraph 29 of Schedule 19 to the Finance Act 1986 (c. 41). Subsection (1)(bd) was inserted by paragraph 4 of Schedule 7 to the Finance (No.2) Act 1987 (c. 51).

Excepted terminations

5.—(1) An excepted termination is the termination of an interest in possession in the settled property of a specified trust in any of the following circumstances.

(2) The circumstances are that—

(a) the transferor has, in connection with the termination, given to the trustees of the settlement a notice under section 57(3) informing them of the availability of the exemption; and

(b) the value transferred in consequence of the termination does not exceed the amount of the exemption specified in the notice.

(3) The circumstances are that—

(a) the value of the property in which the interest subsisted is attributable to either—

(i) cash; or

(ii) quoted shares or securities; and

(b) the value transferred in consequence of the termination, together with the values transferred by any previous chargeable transfers made by the transferor during the seven years preceding the transfer does not exceed the IHT threshold.

(4) The circumstances are that—

(a) the value transferred in consequence of the termination, together with the values transferred by any previous chargeable transfers made by the transferor during the seven years preceding the termination does not exceed 80% of the IHT threshold; and

(b) the value transferred in consequence of the termination does not exceed the net IHT threshold.

(5) For the purpose of paragraph (4)(b), sections 104 (business property relief) and 116 (agricultural property relief) shall not apply in determining the value transferred in consequence of the termination.

Discharge of trustees from tax

6.—(1) This regulation applies to an excepted termination within regulation 5(2).

(2) The trustees of the settlement shall, at the expiration of the period of six months beginning with the date of the excepted termination, be discharged from any claim for tax attributable to the value of the property in which the interest subsisted unless, within that period, the Commissioners issue a notice requiring an account of that property.

(3) This regulation is subject to regulation 7.

7. Regulation 6 does not—

(a) discharge any person from tax in the case of fraud or failure to disclose material facts; or

(b) affect the liability to tax of any person other than the trustees of the settlement, or tax on any property other than that in which the interest subsisted.

Transfers reported late

8. Where no account of an excepted transfer is required by the Commissioners, an account of that transfer shall, for the purposes of section 264(8) (delivery of account to be treated as payment where tax rate nil), be treated as having been delivered twelve months after the end of the month in which that transfer is made.

Revocation

9. The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Terminations) Regulations 2002(**a**) are revoked in relation to any excepted transfer or excepted termination made on or after 6th April 2007.

Mike Hanson
Mike Eland
6th March 2008 Two of the Commissioners for Her Majesty's Revenue and Customs

(**a**) S. I. 2002/1731.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations replace the Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2002 (S.I. 2002/1731) ("the 2002 Regulations") in relation to lifetime transfers made on or after 6th April 2007. The 2002 Regulations and these Regulations make provision in relation to the delivery of accounts and other information for inheritance tax purposes. These Regulations make some new and different provisions.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 interprets some of the terms used in the Regulations.

Regulation 3 provides that a person is not required to deliver an account for inheritance tax purposes under section 216 of the Inheritance Tax Act 1984 (c. 51) ("the 1984 Act") of an excepted transfer or and excepted termination.

Regulation 4 defines excepted transfer. This is an actual (not deemed) chargeable transfer made by an individual on or after 6th April 2007, where one of two circumstances apply. The first is that the value transferred is attributable to either cash or quoted shares or securities and that value, together with the transferor's chargeable transfers in the previous seven years, does not exceed the threshold for payment of inheritance tax for the year in which the transfer was made ("the inheritance tax threshold"). The second circumstance is that the value of the chargeable transfer, together with the transferor's chargeable transfers in the previous seven years, does not exceed 80% of the inheritance tax threshold, and the value of the transfer of value does not exceed that threshold less the value of the transferor's chargeable transfers in the previous seven years.

Regulation 5 defines excepted termination to mean the termination of an interest in possession in the settled property of a specified trust (separately defined) in one of three circumstances. The first is where the termination is wholly covered by an exemption made available to the trustees. The second is where the value in which the interest subsisted is attributable to either cash or quoted shares or securities, and the value transferred by the termination together with value of the transferor's chargeable transfers in the previous seven years does not exceed the inheritance tax threshold. The third circumstance is where value transferred by the termination, together with the transferor's chargeable transfer in the previous seven years, does not exceed 80% of the inheritance tax threshold, and the value of the transfer of value does not exceed that threshold.

Regulations 6 and 7 provide for the discharge of trustees in relation to an excepted termination within the first set of circumstances.

Regulation 8 makes provision for excepted transfers in relation to transfers reported late under section 264 of the 1984 Act.

Regulation 9 revokes the Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2002 (S. I. 2002/1731) in relation to excepted transfers and terminations made on or after 6th April 2007.

These Regulations do not impose new costs on business or charities.

STATUTORY INSTRUMENTS

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