

2014 No. 3066

INCOME TAX

The Tax Relief for Social Investments (Accreditation of Social Impact Contractor) Regulations 2014

<i>Made</i>	- - - -	<i>17th November 2014</i>
<i>Laid before the House of Commons</i>		<i>18th November 2014</i>
<i>Coming into force</i>	- -	<i>10th December 2014</i>

The Treasury, in exercise of the powers conferred by sections 257JE and 257JF of the Income Tax Act 2007(a), make the following Regulations.

Citation, commencement and interpretation

1. These Regulations may be cited as the Tax Relief for Social Investments (Accreditation of Social Impact Contractor) Regulations 2014 and come into force on 10th December 2014.

2. In these Regulations—

- “defined outcomes” has the meaning given in regulation 3(b),
- “ITA 2007” means the Income Tax Act 2007,
- “notice” means notice in writing.

Criteria for social impact contracts

3.—(1) The criteria that a contract must meet to be a social impact contract are as follows—

- (a) a Contracting Authority must be a party to the contract,
- (b) the contract must set out the outcomes (“the defined outcomes”) that are intended to be achieved under the contract,
- (c) the Minister for the Cabinet Office must be satisfied that the defined outcomes—
 - (i) have a social or environmental purpose, and
 - (ii) satisfy the conditions specified in Part 2B (further conditions for defined outcomes) of the Social Investment Tax Relief – Guidance Concerning the Accreditation of Social Impact Contractors published on behalf of the Minister for the Cabinet Office(b) at the time of the application for accreditation,

(a) 2007 c. 3; sections 257JE and 257JF were inserted by Schedule 11 to the Finance Act 2014 (c. 26).

(b) The Social Investment Tax Relief – Guidance Concerning the Accreditation of Social Impact Contractors was published on behalf of the Minister for the Cabinet Office on 7 November 2014 and is available on the Cabinet Office’s website at <https://www.gov.uk/government/publications/social-investment-tax-relief-accreditation-for-sib-contractors>. For those without computer access, a copy of the guidance material can be obtained without charge by writing to the Centre for Social Impact Bonds, Cabinet Office, 1 Horse Guards Road, London SW1A 2HQ.

- (d) where services are to be provided under the contract, the contract must distinguish between—
 - (i) the services to be provided under the contract, and
 - (ii) the defined outcomes that are intended to be achieved under the contract arising from the provision of those services,
 - (e) the defined outcomes must be capable of being objectively measured, and the method of measurement must be set out in the contract,
 - (f) the contract must provide for the progress towards achieving the defined outcomes to be assessed, on the basis of the method of measurement referred to in paragraph (e), at intervals which the Minister for the Cabinet Office is satisfied are appropriate in relation to the contract, and
 - (g) at least 60% of the total amount of the payments that could be made under the contract by the Contracting Authority to the company seeking accreditation must be conditional on achieving defined outcomes which the Minister for the Cabinet Office is satisfied meet the criteria in paragraphs (c) and (e) above.
- (2) For the purposes of this regulation—
- (a) “Contracting Authority” has the meaning given by regulation 3(1) of the Public Contracts Regulations 2006^(a),
 - (b) a “social or environmental purpose” means one or more of the following purposes—
 - (i) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage,
 - (ii) the relief or prevention of poverty,
 - (iii) the promotion of employment, culture, heritage or sport,
 - (iv) the advancement of training and education,
 - (v) the prevention and reduction of crime,
 - (vi) environmental protection,
 - (vii) the provision of social housing and the relief of homelessness,
 - (viii) the provision of community facilities,
 - (ix) the promotion of social inclusion and cohesion,
 - (x) the advancement of citizenship or community development,
 - (xi) the improvement of physical and mental health,
 - (xii) the provision of long-term care in relation to any infirmity, or
 - (xiii) any other areas that may reasonably be regarded as analogous to any areas falling within any of paragraphs (i) to (xii).

Notification of accreditation or refusal

4. The Minister for the Cabinet Office must give notice to a company of the grant of an accreditation specifying—

- (a) the date of the grant of accreditation,
- (b) the date on which the period of accreditation begins,
- (c) the requirements of accreditation (if any) to be imposed by virtue of section 257JF(1)(b) of ITA 2007, and
- (d) the length of the period of accreditation or how the length is to be determined.

(a) S.I. 2006/5.

5. The Minister for the Cabinet Office must give notice to a company of a refusal to grant an accreditation specifying—

- (a) the date of the refusal, and
- (b) the reasons for the refusal.

Publication of information

6. The Minister for the Cabinet Office may publish from time to time the following information in relation to any accredited social impact contractor—

- (a) the name of the accredited social impact contractor,
- (b) the business address of the accredited social impact contractor,
- (c) the date the accredited social impact contractor was granted accreditation,
- (d) the length of the period of accreditation, and
- (e) an outline of—
 - (i) the defined outcomes, and
 - (ii) the activities of the accredited social impact contractor in carrying out the social impact contract.

Requirements of accreditation

7. An accreditation is conditional on compliance with the following requirements—

- (a) an accredited social impact contractor must be a party to the social impact contract at all times following the entering into of the contract,
- (b) an accredited social impact contractor must give notice to the Minister for the Cabinet Office of—
 - (i) any material change to the social impact contract (including termination of the social impact contract), to the defined outcomes or to the activities of the accredited social impact contractor in carrying out the social impact contract, or
 - (ii) any change to the name of the accredited social impact contractor or to the business address of the accredited social impact contractor,within 30 days of the relevant change,
- (c) an accredited social impact contractor must provide an annual report to the Minister for the Cabinet Office containing such information and in such form as the Minister for the Cabinet Office may reasonably require—
 - (i) within one month of the anniversary of the date of the grant of accreditation, or
 - (ii) on such other date as agreed with the Minister for the Cabinet Office,
- (d) an accredited social impact contractor or any other party to the social impact contract must provide to the Minister for the Cabinet Office such information as the Minister may by notice reasonably require in connection with the Minister's functions under sections 257JD to 257JG of ITA 2007 within such period as may be specified in the notice (such period being no less than 14 days).

Notification of changes to contract and breach of conditions for approval

8.—(1) The social impact contractor must as soon as reasonably possible give notice to the Minister for the Cabinet Office where it fails to comply, or it is likely to fail to comply, with—

- (a) any requirement of accreditation imposed—
 - (i) by virtue of section 257JF(1)(b) of ITA 2007, or
 - (ii) by or under these regulations, or
- (b) a condition in section 257JD(3)(b) or (c) of ITA 2007.

- (2) A notice required under paragraph (1) must—
- (a) specify the circumstances that caused, or are likely to cause, the requirement or condition to cease to be met, or not to be met,
 - (b) so far as possible, state the extent to which the requirement or condition has ceased or will cease to be met, or has not been met, and
 - (c) where the company considers that the requirement or condition is likely to cease to be met or not to be met by or on a date occurring after the date of the notice, specify (if possible) that future date.
- (3) If a notice has been given in respect of circumstances that are likely to cause any requirement or condition to cease to be met or not to be met, no further notice under paragraph (1) is required in relation to those circumstances if any requirement or condition ceases to be met or is not met in, or as a result of, those circumstances.

Withdrawal of accreditation

9.—(1) The Minister for the Cabinet Office may withdraw an accreditation where there is a failure to comply with any requirement of an accreditation.

(2) A withdrawal of an accreditation must be given by notice to the company which is or has been an accredited social impact contractor by the Minister for the Cabinet Office specifying the date from which accreditation is withdrawn (which may be the date of the failure or a later date) and the reasons for the withdrawal.

(3) The company must within 30 days of receiving notice under paragraph (2) of withdrawal of accreditation give notice to each of the investors to which it has issued a compliance certificate in respect of investments made within the specified period stating that accreditation has been or will be withdrawn and specifying the date from which accreditation is withdrawn.

(4) For the purpose of paragraph (3), “specified period” means the three years immediately preceding the date from which accreditation is withdrawn.

Appeals against refusal to grant accreditation or withdrawal of accreditation

10.—(1) An appeal to the tribunal may be brought by a company against—

- (a) a refusal to grant an accreditation,
- (b) the imposition of a requirement under section 257JF(1)(b) of ITA 2007,
- (c) the withdrawal of an accreditation (whether under section 257JD(4) of ITA 2007 or under regulation 9).

(2) Notice of an appeal under this regulation must be given to the Minister for the Cabinet Office within 30 days of the date of the notification of—

- (a) the refusal,
- (b) the imposition of a requirement, or
- (c) the withdrawal.

(3) The notice of appeal must specify the grounds of appeal.

(4) If the tribunal, on an appeal notified to it, allows the appeal, it may—

- (a) in an appeal against a refusal to grant accreditation, direct that the Minister for the Cabinet Office accredit the company within 14 days of its decision,
- (b) in an appeal against the imposition of a requirement under section 257JF(1)(b), direct that the Minister for the Cabinet Office reconsider the decision to impose the requirement, or
- (c) in an appeal against a withdrawal of accreditation, direct that the withdrawal was ineffective.

17th November 2014

Two of the Lords Commissioners for Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 11 to the Finance Act 2014 inserted a new Part 5B into the Income Tax Act 2007 which provides for a tax relief (social investment tax relief) for investments made by individuals in social enterprises, which include companies which are accredited as social impact contractors. These Regulations make provision for the accreditation of such social impact contractors.

Regulation 1 provides for citation and commencement. Regulation 2 provides for interpretation.

Regulation 3 sets out the criteria which a contract must satisfy in order for the contract to be a social impact contract for the purposes of the social investment tax relief. It includes criteria relating to a party to the contract other than the company which is seeking accreditation. It requires that the contract is an outcomes-based contract, where the outcomes under the contract are objectively measurable. At least 60% of the payments under the contract must be outcomes based payments rather than fees for services. It also refers to conditions found in the Social Investment Tax Relief – Guidance Concerning the Accreditation of Social Impact Contractors published by the Minister for the Cabinet Office, which is available on the Cabinet Office's website at <https://www.gov.uk/government/publications/social-investment-tax-relief-accreditation-for-sib-contractors>.

Regulations 4 and 5 provide for notification of the grant of accreditation and refusal to grant accreditation.

Regulation 6 allows for the publication of information relating to an accreditation or accredited contractor.

Regulation 7 provides that an accreditation is conditional on compliance with certain specified requirements.

Regulation 8 requires an accredited social impact contractor to give written notice to the Minister for the Cabinet Office if it has ceased to meet or is likely to cease to meet the requirements for accreditation to continue in force.

Regulation 9 provides for the withdrawal of accreditation.

Regulation 10 provides for appeals against refusals to grant accreditation, imposition of requirements and withdrawals of accreditation.

A Tax Information and Impact Note covering social investment tax relief was published on 10 December 2013 alongside the Autumn Statement and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

£4.25

UK201411181 11/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/3066>

ISBN 978-0-11-112345-4



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