

2015 No. 948

TAXES

**The Tax Avoidance Schemes (Information) (Amendment)
Regulations 2015**

Made - - - - 26th March 2015
Laid before the House of Commons 27th March 2015
Coming into force - - 16th April 2015

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 312(2) and (5), 312A(2), 312A(2A) and 312A(5), 313(1), (3) and (6), 313ZC(5), 313C(1A) and (3)(a), 317(2) and 318(1) of the Finance Act 2004^(a) and now exercisable by them^(b).

Citation and commencement

1. These Regulations may be cited as the Tax Avoidance Schemes (Information) (Amendment) Regulations 2015 and come into force on 16th April 2015.

Amendment of the Tax Avoidance Schemes (Information) Regulations 2012

2. The Tax Avoidance Schemes (Information) Regulations 2012^(c) are amended as follows in regulations 3 to 11.

3.—(1) Regulation 6 (prescribed information under sections 312 and 312A) is amended as follows.

(2) For “(duty of client to notify parties of number)” substitute “and (2A) (duty of client to provide information to parties)”.

(3) In paragraph (d)(ii), after “312A(2)” insert “or (2A)”.

4. In regulation 7 (time for providing information under section 312A), after “312A(2)” insert “or (2A)”.

(a) 2004 c. 12. Sections 312 and 312A were substituted for section 312 by paragraph 4 of Schedule 38 to the Finance Act 2008 (c. 9). Section 312A(2A) was inserted, and section 312A(5) amended, by paragraph [5(2) and (5)] of Schedule 17 to the Finance Act 2015 (c. 11). Section 313(1) was amended, and section 313(5) inserted, by paragraph 5(2) and (4) of Schedule 38 to the Finance Act 2008 and section 313(6) was inserted by paragraph 6 of Schedule 17 to the Finance Act 2015. Section 313ZC was inserted by paragraph [9] of Schedule 17 to the Finance Act 2015. Section 313C was inserted by paragraph 9 of Schedule 17 to the Finance Act 2010 (c.13) and amended by paragraph 12 of Schedule 17 to the Finance Act 2015. Section 317(2) was amended by paragraph 8 of Schedule 17 to the Finance Act 2010. Section 318(1) is cited because of the meaning of “prescribed”.

(b) The functions of the Commissioners of Inland Revenue (“the Board”) were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference in an enactment, instrument or other document to the Commissioners of Inland Revenue, however expressed, shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(c) S.I. 2012/1836. Amended by S.I. 2013/2592. There are other amending instruments but none is relevant.

5. Omit regulation 8 (exemption from duty under section 312A).

6. After regulation 8A(a) (prescribed information under section 312B: information and timing) insert—

“Exemption from duty under section 313

8B. Where an employee receives prescribed information from an employer under section 312A(2) or (2A) in circumstances where the employer has a duty to notify HMRC under section 313ZC in respect of that employee, then no duty arises under section 313(1) in respect of that employee.”

7. In regulation 9 (prescribed cases under section 313(3)(a)), in paragraphs (2), (3), and (4), for “10(4), (7)” substitute “10(7)”.

8. In regulation 10 (prescribed cases under section 313(3)(b)), omit paragraph (4).

9. In regulation 11(3)(d) (prescribed information under section 313(1)), omit “or, in the case of regulation 10(4), an employee of that person.”

10. In regulation 12 (time for providing information under section 313(3)(b)), omit paragraph (3).

11. After regulation 13A(b) (prescribed information under section 313ZB: information and timing) insert—

“Prescribed information under section 313ZC: information and timing

13B.—(1) For the purposes of section 313ZC (duty of employer to notify HMRC of details of employees etc) the prescribed time for providing prescribed information is 14 days after the end of the final tax period in respect of the tax year in which any person first enters into a transaction forming part of the notifiable arrangements and on the same date in each subsequent year until an advantage ceases to apply to the employee and the employer.

In this paragraph, “tax period” has the meaning given in regulation 2(1) (interpretation) of the Income Tax (Pay As You Earn) Regulations 2003.

(2) For the purposes of section 313ZC the prescribed information is—

- (a) the name, address and reference number of the employer;
- (b) the name and any National Insurance Number of the employee;
- (c) the reference number (or, if more than one, any one reference number) allocated by HMRC under section 311 (arrangements to be given reference number) to the notifiable arrangements or proposed notifiable arrangements;
- (d) where the employee obtains or might reasonably be expected to obtain a tax advantage by virtue of the notifiable arrangements, the tax year in which the employee obtains or expects to obtain the tax advantage;
- (e) where a tax advantage is obtained or might reasonably be expected to be obtained only by a person other than the employee by virtue of the notifiable arrangements, confirmation that the employee’s tax advantage is expected to be nil; and
- (f) the name and address of the promoter, and any name given to the notifiable arrangement when it was notified.”

12.—(1) Regulation 15(1) (prescribed information under section 313C: information and timing) is amended as follows—

- (a) after sub-paragraph (a), omit “and”; and

(a) Inserted by regulation 16 of S.I. 2013/2592.

(b) Inserted by regulation 20 of S.I. 2013/2592.

(b) after sub-paragraph (b) insert

“; and (c) the name and address of each person with whom P has made a marketing contact.”

*Nick Lodge
Jim Harra*

26th March 2015

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Tax Avoidance Schemes (Information) Regulations 2012 (S.I. 2012/1836) (“the 2012 Regulations”) to take account of the new obligations introduced into Part 7 of the Finance Act 2004 (c. 12) (the “2004 Act”) by the Finance Act 2015 (c. 11). They change the information that employers must provide to employees and to HMRC in relation to avoidance involving their employees and extend the prescribed information that introducers must provide to HMRC in relation to avoidance to include information relating to persons with whom an introducer has made a marketing contact.

The 2012 Regulations prescribe the information which is to be given to HMRC under Part 7 of the 2004 Act in relation to tax avoidance schemes which are prescribed by the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006 (S.I. 2006/1543).

Regulation 1 provides for citation and commencement.

Regulation 2 introduces the amendments to the 2012 Regulations.

Regulations 3 and 4 make consequential amendments to regulations 6 and 7 of the 2012 Regulations.

Regulation 5 omits regulation 8 (exemption from duty under section 312A) of the 2012 Regulations which removes the duty under section 312A(2) of the 2004 Act in prescribed circumstances.

Regulation 6 inserts new regulation 8B into the 2012 Regulations which removes the duty under section 313(1) of the 2004 Act in prescribed circumstances.

Regulations 7, 8, 9 and 10 omit references to regulation 10(4) in regulations 9, 10, 11 and 12 of the 2012 Regulations. This is as a consequence of the duty imposed on an employer by new section 313ZC of the 2004 Act.

Regulation 11 inserts new regulation 13B into the 2012 Regulations. New regulation 13B prescribes the information and the time by which that information must be provided to HMRC about each employee to whom they have provided information in accordance with section 312A of the 2004 Act.

Regulation 12 amends regulation 15 of the 2012 Regulations by inserting new paragraph (1)(c) which prescribes the requirement to provide the name and address of each person with whom an introducer has made a marketing contact.

A Tax Information and Impact Note covering this instrument was published on the 10th December 2014 alongside the Autumn Statement 2014 and is available on the HMRC website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins> It remains an accurate summary of the impacts that apply to this instrument.

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