

*Draft Order laid before Parliament under section 1(5) of the Equitable Life (Payments) Act 2010,
for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2011 No.

**CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX
INHERITANCE TAX
TAX CREDITS**

The Taxation of Equitable Life (Payments) Order 2011

Made - - - - *******

Coming into force in accordance with article 1(1)

The Treasury make the following Order in exercise of the powers conferred by section 1(3) and (4) of the Equitable Life (Payments) Act 2010(1)

In accordance with section 1(5) of that Act, a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement, effect and interpretation

1.—(1) This Order may be cited as the Taxation of Equitable Life (Payments) Order 2011 and shall come into force on the day after the day on which it is made.

(2) This Order has effect in relation to authorised payments made after the day on which this Order is made.

(3) In this Order “authorised payment” means a payment to which section 1 of the Equitable Life (Payments) Act 2010 applies.

Capital gains tax

2. An authorised payment shall be disregarded for the purposes of capital gains tax.

Corporation tax

3. An authorised payment shall be disregarded for the purposes of the Corporation Tax Acts.

Income tax

4. An authorised payment shall be disregarded for the purposes of the Income Tax Acts.

Inheritance tax

- 5.—(1) For the purposes of the Inheritance Tax Act 1984(2)—
 - (a) in determining the value of a person’s estate immediately before that person’s death, no account shall be taken of any value attributable to a right to, or interest in, an authorised payment made after that person’s death; and
 - (b) in determining the value of relevant property immediately before a ten-year anniversary for the purposes of the charge under section 64(3) of the Inheritance Tax Act 1984, no account shall be taken of any value attributable to a right to, or interest in, an authorised payment made on or after that ten-year anniversary.
- (2) In this article—
 - “estate” has the meaning given by section 272 of the Inheritance Tax Act 1984;
 - “relevant property” has the meaning given by section 58(4) of that Act; and
 - “ten-year anniversary” has the meaning given by section 61 of that Act.

Tax Credits

6. In calculating investment income in accordance with regulation 10 of the Tax Credits (Definition and Calculation of Income) Regulations 2002(5), an authorised payment shall be disregarded.

Date _____

name
name
Two of the Lords Commissioners of Her
Majesty’s Treasury

(2) 1984 c. 51. By virtue of section 100(1) and (2) of the Finance Act 1986 (c. 41), on and after 25th July 1986 the Capital Transfer Tax Act 1984 may be cited as the Inheritance Tax Act 1984, and any reference in that Act to capital transfer tax is to have effect as a reference to inheritance tax, except where the reference relates to a liability to tax arising before 25th July 1986.

(3) Section 64 was amended by article 13 of S.I. 2009/730.

(4) Section 58 was amended by section 203(1) and (3) and Part 3 of Schedule 42 to the Finance Act 2004 (c. 12), paragraphs 18 and 19 of Schedule 20 to the Finance Act 2006 (c. 25), paragraphs 20 and 24 of Schedule 20 to the Finance Act 2007 (c. 11), paragraph 18(1) and (3) of Schedule 29 to the Finance Act 2008 (c. 9) and paragraph 1 of Schedule 14 to the Finance (No. 3) Act 2010 (c. 33).

(5) S.I. 2002/2006; relevant amending instruments are S.I. 2003/732, 2003/2815, 2006/766, 2007/824 and 2010/751.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for payments which the Treasury authorise in cases where persons have been adversely affected by maladministration in the regulation before December 2001 of the Equitable Life Assurance Society. It provides for authorised payments to be disregarded, to the extent described in the Order, for the purposes of liability to tax and entitlement to tax credits.

Article 1 provides for citation and commencement and defines “authorised payment” as a payment to which section 1 of the Equitable Life (Payments) Act 2010 (c. 34) applies.

Articles 2, 3 and 4 provide respectively that an authorised payment is disregarded for the purposes of capital gains tax, the Corporation Tax Acts and the Income Tax Acts.

Article 5 provides that any value attributable to rights to, or interests in, an authorised payment that is made after a person’s death is disregarded in calculating the value of the person’s estate which is subject to inheritance tax on their death, and that such rights or interests are similarly disregarded in calculating the value of relevant property subject to a ten-year anniversary charge for inheritance tax, where an authorised payment is made on or after such anniversary.

Article 6 provides that in calculating investment income for the purposes of entitlement to tax credits an authorised payment shall be disregarded.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.