1990 No. 2361

INCOME TAX

The Tax-exempt Special Savings Account Regulations 1990

Made - - - - - 28th November 1990

Laid before the House of Commons 28th November 1990

Coming into force - - 19th December 1990

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 326C(1) of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

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Citation and commencement

1. These Regulations may be cited as the Tax-exempt Special Savings Account Regulations 1990 and shall come into force on 19th December 1990.

Interpretation

- 2. In these Regulations unless the context otherwise requires-
 - "account" means a deposit account or share account which is a tax-exempt special savings account for the purposes of section 326A of the Taxes Act;
 - "account-holder" means the holder of an account:
 - "the Board" means the Commissioners of Inland Revenue;
 - "notice" means notice in writing and "notify" shall be construed accordingly;
 - "the principal sections" means sections 326A and 326B of the Taxes Act(a);
 - a "society or institution" means a building society or an institution authorised under the Banking Act 1987(b);
 - "the Taxes Act" means the Income and Corporation Taxes Act 1988;
 - "year" means a year beginning with 6th April in any year and ending with 5th April in the following year.

Introductory

- 3. These Regulations-
 - (a) prescribe a condition additional to those set out in section 326A of the Taxes Act which must be satisfied if an account is to be or remain a tax-exempt special savings account;
 - (b) make provision for the giving by the Board to societies and institutions of notices prohibiting them from operating new accounts, including provision about appeals against the giving of notices;
 - (c) require societies and institutions operating or proposing to operate accounts to give information and send documents to the Board and to make documents available for inspection;
 - (d) make provision as to the transfer of accounts from one society or institution to another;
 - (e) generally supplement the provisions of the principal sections.

Additional condition as to transferability

- 4. An account must be transferable from one society or institution to another society or institution which—
 - (a) has notified the Board of its intention to operate accounts.
 - (b) has not ceased, or ceased to be entitled, to operate accounts, and
 - (c) has not been prohibited from operating new accounts by the giving of a prohibition notice which is in force,

but not otherwise, on such terms as may be agreed between the account-holder and any society or institution concerned.

Notification by society or institution of intention to operate accounts

- 5.—(1) A society or institution shall before it begins to operate accounts notify the Board of its intention to do so and as part of that notification shall provide the Board with the information specified in paragraph (2) and a certificate in the terms specified in paragraph (3).
 - (2) The information specified in this paragraph is-
 - (a) the name under which it is incorporated or registered and, if it is not incorporated or registered in the United Kingdom, the State or territory in which it is incorporated or registered;

⁽a) Sections 326A and 326B were inserted by section 28(1) of the Finance Act 1990.

⁽b) 1987 c.22.

- (b) its principal address in the United Kingdom including postcode;
- (c) the tax office to which its accounts are submitted and its reference number there; and
- (d) the date from which it intends to operate accounts.
- (3) The certificate specified in this paragraph is a certificate that the society or institution is a building society or is authorised under the Banking Act 1987 as the case may be.

Conditions for application for an account to be opened

- 6.—(1) An application by an individual for an account to be opened must be made to a society or institution in writing and shall contain the information as to the individual specified in paragraph (2), the declaration by the individual specified in paragraph (3) and the statement specified in paragraph (4).
 - (2) The information specified in this paragraph is-
 - (a) his full name,
 - (b) his permanent address including postcode,
 - (c) his date of birth, and
 - (d) if he has one, his national insurance number.
 - (3) The declaration by the individual specified in this paragraph is that-
 - (a) he is aged 18 or more,
 - (b) he has not made an application for any other account to be opened (with the same or any other society or institution) nor has such an account been opened,
 - (c) he will not make any other application for an account to be opened (with the same or any other society or institution) while he holds the account opened in pursuance of the application,
 - (d) he will not hold the account on behalf of another person, and
 - (e) to the best of his knowledge all information provided in the application is true.
- (4) The statement specified in this paragraph is that false statements made in connection with the application may result in penalties or prosecution.
- (5) A society or institution may not accept an application from an individual if it has reason to believe that he-
 - (a) is not, or might not be entitled to, open an account, or
 - (b) has given untrue information in his application.

Transfer of accounts

- 7.—(1) Subject to paragraph (2), where-
 - (a) arrangements are made by an account-holder to transfer an account from one society or institution ("the transferor") to another society or institution ("the transferee"), or
 - (b) an account is transferred in consequence of the transferor ceasing, or ceasing to be entitled, to operate accounts,

the transfer shall have effect and the account shall not be otherwise affected for the purposes of the principal sections and these Regulations by reason of the transfer.

- (2) The transferor shall within 30 days after the date of transfer give the transferee a notice containing the information specified in paragraph (3) and the declaration specified in paragraph (4) and shall supply the transferee with the original written application made by the account-holder for the account to be opened or a certified copy of that application.
 - (3) The information specified in this paragraph is-
 - (a) as regards the account-holder-
 - (i) his full name,
 - (ii) his permanent address including postcode,
 - (iii) his date of birth, and

- (iv) if he he has one, his national insurance number, and
- (b) as regards the account-
 - (i) the number allocated to that account by the transferor,
 - (ii) the date of transfer,
 - (iii) the date on which the account was opened (whether with the transferor or with any other society or institution which previously operated the account),
 - (iv) the total of all amounts deposited in, or subscribed for shares in connection with, the account since it was opened,
 - (v) the total of all amounts of interest, dividend and bonus paid or credited to the account since it was opened,
 - (vi) the total of all amounts deposited in, or subscribed for shares in connection with, the account in the period beginning with the last anniversary of the opening of the account before the date of transfer and ending with the date of transfer,
 - (vii) the amount of interest, dividend and bonus paid or credited to the account which was not available for withdrawal at the date of transfer, and
 - (viii) the amount which was available for withdrawal at that date.
- (4) The declaration specified in this paragraph is a declaration by the transferor that-
 - (a) the total of all amounts withdrawn from the account in the period beginning with the date on which it was opened and ending with the date of transfer, together with any fee payable to the transferor in connection with the transfer which is to be paid out of the account, does not exceed the total of all amounts of interest, dividend and bonus paid or credited to the account in that period after deducting income tax from each such amount at the basic rate when it was paid or credited;
 - (b) the account-holder has not assigned any rights to the account nor used such rights as security for a loan;
 - (c) the information contained in the notice is to the best of its knowledge correct and that it has fulfilled all its obligations to the account-holder.

Prohibition notices

- 8.—(1) The Board may in the circumstances specified in paragraph (2) give a notice (in this regulation and in regulation 9 referred to as a "prohibition notice") to a society or institution prohibiting the society or institution to which it is given from operating new accounts.
- (2) The circumstances specified in this paragraph are where the Board have reason to believe that the society or institution has failed to comply with any provision of the principal sections or of these Regulations.
 - (3) A prohibition notice shall state-
 - (a) the date from which the society or institution is prohibited from operating new accounts; and
 - (b) the circumstances in which the notice is given.
- (4) A prohibition notice shall remain in force until it is cancelled by a further notice given by the Board to the society or institution withdrawing the prohibition from operating new accounts or it is quashed by the Special Commissioners on appeal.

Appeals against prohibition notices

- 9.—(1) A society or institution to whom a prohibition notice has been given under regulation 8 may appeal against the notice by notice given to the Board within 30 days after the date of the notice of prohibition.
 - (2) The appeal shall be to the Special Commissioners.

(3) The like provisions as are contained in Part V of the Taxes Management Act 1970(a) shall apply to an appeal under this regulation and the Special Commissioners shall on appeal to them confirm the prohibition notice unless they are satisfied that it ought to be quashed.

Society or institution ceasing to act

10. A society or institution shall give notice to the Board and to the account-holder of its intention to cease to operate an account within a reasonable time before it so ceases so that its obligations in relation to the account (including the transfer of the account to another society or institution) can be conveniently discharged at or about the time it ceases to act.

Society or institution ceasing to be entitled to operate accounts

- 11. A society or institution shall cease to be entitled to operate accounts and shall notify the Board forthwith of that fact where-
 - (a) it ceases to be a building society or, as the case may be, to be authorised under the Banking Act 1987(b); or
 - (b) its directors have made a proposal under Part I of the Insolvency Act 1986(c) for a composition in satisfaction of its debts or a scheme of arrangement of its affairs; or
 - (c) an administration order is made in relation to it; or
 - (d) a receiver or manager of its property has been appointed; or
 - (e) a resolution has been passed or a petition has been presented to wind it up.

Return of aggregate information by society or institution

- 12.—(1) A society or institution shall within 30 days after each of the aggregate reporting dates specified in paragraph (2), and after ceasing to or ceasing to be entitled to operate accounts, deliver to the Board a return signed on behalf of the society or institution making it which contains the aggregate information specified in paragraph (3).
- (2) The aggregate reporting dates specified in this paragraph are 31st March, 30th June, 30th September and 31st December in each year that the society or institution operates accounts.
- (3) The aggregate information specified in this paragraph is information relating to the period beginning with 1st January 1991, or the date on which the society or institution first began to operate accounts, and ending with the relevant aggregate reporting date or date of cessation, as to—
 - (a) the total number of accounts opened by the society or institution in that period (including accounts transferred to other societies or institutions but excluding those transferred from other societies or institutions);
 - (b) the total number of accounts closed in that period, whether at the end of the period of five years beginning with the day on which they were opened or on the earlier death of the account-holder;
 - (c) the total number of accounts which ceased to be tax-exempt special savings accounts in that period for any of the reasons mentioned in section 326B(1) of the Taxes Act;
 - (d) the total number of accounts transferred to other societies or institutions in that period;
 - (e) the total amount which in that period was deposited in, or subscribed for shares in connection with, accounts which were being operated by the society or institution at the relevant aggregate reporting date or date of cessation;
 - (f) the total amount of interest, dividends and bonus which in that period was credited to accounts which were being operated by the society or institution at the relevant aggregate reporting date or date of cessation;

⁽a) 1970 c.9.

⁽b) 1987 c.22.

⁽c) 1986 c.45.

- (g) the total amount held in accounts at the relevant aggregate reporting date or date of cessation; and
- (h) the total amount of income tax deducted from interest, dividends and bonus paid or credited to accounts which ceased to be tax-exempt special savings accounts for any of the reasons mentioned in section 326B(1) of the Taxes Act.

Return of individual information by society or institution

- 13.—(1) A society or institution shall within three months after each of the individual reporting dates specified in paragraph (2), and after ceasing to or ceasing to be entitled to operate accounts, deliver to the Board a return signed on behalf of the society or institution making it (or, where the return is made on magnetic tape, accompanied by a certificate signed on behalf of the society or institution as to the contents of the tape) which contains the individual information specified in paragraph (3).
- (2) The individual reporting dates specified in this paragraph are 31st March 1992 and 31st March in each year thereafter.
- (3) The individual information specified in this paragraph is information relating to each account operated in the period beginning with the date on which the society or institution began to operate accounts, or with the day following the previous individual reporting date, whichever is the later, and ending with the relevant individual reporting date or date of cessation, as to-
 - (a) as regards the account-holder-
 - (i) his full name,
 - (ii) his permanent address including postcode,
 - (iii) his date of birth, and
 - (iv) if he has one, his national insurance number, and
 - (b) as regards the account-
 - (i) the number allocated to that account by the society or institution,
 - (ii) the date on which the account was opened (whether with the society or institution making the return or with any other society or institution which previously operated the account),
 - (iii) all amounts deposited in, or subscribed for shares in connection with, the account in the period beginning with the date on which the account was opened and ending with the relevant individual reporting date or date of cessation,
 - (iv) the balance at the relevant individual reporting date or date of cessation,
 - (v) in the case of an account which has closed or has ceased to be a tax-exempt special savings account, the date on which that happened, and
 - (vi) in either of the cases referred to in paragraph (v), whether the account was closed at the end of the period of five years beginning with the day on which the account was opened, or on the earlier death of the account holder, or ceased to be a tax-exempt special savings account for any of the reasons mentioned in section 326B(1) of the Taxes Act, or was transferred to another society or institution.

Records to be kept by society or institution

14. A society or institution shall at all times keep sufficient records in respect of each account that it operates to enable the requirements of the principal sections and of these Regulations to be satisfied and in particular, but without prejudice to the generality of the foregoing, every application under regulation 6 and a record of amounts deposited in, or subscribed in connection with or withdrawn from an account shall be preserved by the society or institution so as to be available for inspection under regulation 16 for a period of two years after the account was closed or ceased to be a tax-exempt special savings account.

Information to be provided to the Board

15. The Board may by notice require any society or institution which operates or which at any time has operated accounts, or any individual who is or has at any time

been an account-holder, within such time (not being less than 14 days) as may be provided by the notice, to furnish them with such information (including copies of or extracts from any relevant books or other records) relating to—

- (a) any account; or
- (b) any account (not being a tax-exempt special savings account) with which they have reason to believe an account is or may be connected within the meaning of section 326A(8) of the Taxes Act;

as they may reasonably require for the purposes of the principal sections or of these Regulations.

Inspection of records by officer of the Board

- 16. The Board may by notice require any society or institution which operates or which at any time has operated accounts, or any individual who is or has at any time been an account-holder, within such time (not being less than 14 days) as may be provided in the notice, to make available for inspection by an officer of the Board authorised for that purpose such documents (including relevant books and other records) as are in that person's possession or under that person's control containing information relating to—
 - (a) any account; or
 - (b) any account (not being a tax-exempt special savings account) with which they have reason to believe an account is or may be connected within the meaning of section 326A(8) of the Taxes Act;

as they may reasonably require for the purposes of the principal sections or of these Regulations.

A J G Isaac R R B Shutler Two of the Commissioners of Inland Revenue

28th November 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 19th December 1990, are made under section 326C(1) of the Income and Corporation Taxes Act 1988. They make provision for tax-exempt special savings accounts ("accounts") in addition to that provided in sections 326A and 326B of that Act. They prescribe an additional condition which must be satisfied by accounts and provide for building societies and institutions authorised under the Banking Act 1987 to notify the Board that they intend to operate accounts, specify the conditions for applications by individuals for such accounts to be opened, provide for societies and institutions to deliver returns in connection with such accounts, for the transfer of such accounts and for societies and institutions to be prohibited from operating new accounts in certain circumstances, and make provision for the circumstances arising when an institution ceases, or ceases to be entitled, to operate accounts.

The Regulations also provide for institutions to keep records relating to accounts, for the provision of information by societies and institutions relating to such accounts, and for the inspection of those records by officers of the Board.

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 is introductory.

Regulation 4 prescribes an additional condition as to transferability of accounts.

Regulation 5 provides for societies and institutions to give notice that they intend to operate accounts.

Regulation 6 provides conditions for individual applications.

Regulation 7 provides for transfers of accounts from one society or institution to another.

Regulation 8 makes provision for the Board to give a notice prohibiting a society or institution from operating any new account in certain circumstances and regulation 9 provides for an appeal against such a notice.

Regulation 10 requires a society or institution to give notice to the Board when ceasing to operate accounts.

Regulation 11 specifies circumstances in which an institution ceases to be entitled to operate accounts.

Regulations 12 and 13 provide for societies and institutions to make returns giving aggregate information about accounts operated by them and returns giving information about individual accounts.

Regulation 14 provides for a society or institution to keep records.

Regulations 15 and 16 empower the Board to obtain information and to inspect records.

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