
STATUTORY INSTRUMENTS

1991 No. 2774

INCOME TAX

The Personal Equity Plan (Amendment No. 2) Regulations 1991

Made - - - - *9th December 1991*
Laid before the House of
Commons - - - - *10th December 1991*
Coming into force - - *1st January 1992*

The Treasury, in exercise of the powers conferred on them by section 333 of the Income and Corporation Taxes Act 1988(1) and section 149D of the Capital Gains Tax Act 1979(2), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal Equity Plan (Amendment No. 2) Regulations 1991 and shall come into force on 1st January 1992.

Interpretation

2. In these Regulations “the principal Regulations” means the Personal Equity Plan Regulations 1989(3) and, unless the context otherwise requires, “regulation” means a regulation of those Regulations.

Amendments to the principal Regulations

3.—(1) In regulation 2(1)(a)–

(a) after the definition of “gains” there shall be inserted–

““general plan” means a plan which is not a single company plan;”

(b) for the definition of a “plan investment” there shall be substituted–

“a “plan investment” is–

(i) in relation to a general plan, an investment under the plan which is a qualifying investment for such a plan within the meaning of regulation 6, and

(1) 1988 c. 1; section 333 was amended by section 70 of the Finance Act 1991 (c. 31).

(2) 1979 c. 14; section 149D was inserted by paragraph 26 of Schedule 29 to the Income and Corporation Taxes Act 1988 and amended by section 116 of the Finance Act 1988 (c. 39).

(3) S.I.1989/469, amended by S.I. 1990/678, 1991/733.

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- (ii) in relation to a single company plan, an investment under the plan which is a qualifying investment for such a plan within the meaning of regulation 6B;”
- (c) after the definition of “recognised stock exchange” there shall be inserted—
 - ““release date” has the meaning given by section 187(2) of the Taxes Act;
 - “savings-related share option scheme” has the meaning given by paragraph 1 of Schedule 9 to the Taxes Act;”
- (d) after the definition of “share” there shall be inserted—
 - ““single company plan” has the meaning given by regulation 4A;”
- (2) In regulation 2(2) for the Table there shall be substituted—

<i>“Term defined</i>	<i>Regulation</i>
Annual claim	20
Designated company	4A(1)(a)
Interim claim	19
Paired shares	6B(4)
Plan	4(1)
Qualifying EC shares	6(2)(aa)
Qualifying individual	7
Qualifying investments for general plans	6
Qualifying investments for single company plans	6B
Subscription limit	4(4).”

- 4.—(1) In regulation 4(1)—
 - (a) before sub-paragraph (a) there shall be inserted—
 - “(aa) that it is either a general plan or a single company plan;”;
 - (b) in sub-paragraph (a) for the word “plan” there shall be substituted the words “general plan, or as the case may be the only single company plan;”;
 - (c) in sub-paragraph (c) after the words “paragraph (2)” there shall be inserted the words “and, in the case of a single company plan, to regulation 4A(2),” and after the words “subscription limit” there shall be inserted the words “, or in the case of a single company plan one half of the subscription limit.”.
- (2) Regulation 4(3)(b) shall be renumbered as paragraph (i) of that sub-paragraph.
- (3) In regulation 4(3)(b)(i)—
 - (a) before the word “that” there shall be inserted the words “in the case of a general plan;”;
 - (b) after the words “in any year” there shall be added the word “, or”.
- (4) After regulation 4(3)(b)(i) there shall be added—
 - “(ii) in the case of a single company plan, that any such sums and the aggregate market value at the date of transfer of any shares transferred to the plan manager or his nominee in accordance with regulation 4A(2) and the individual’s cash subscription to the plan do not together exceed one half of the subscription limit in any year.”

5. After regulation 4 there shall be inserted—

“Special conditions for single company plans

4A.—(1) A single company plan is a plan in respect of which the following conditions must also be fulfilled—

- (a) that only one company (“the designated company”) is designated by the plan manager for the purposes of the plan at any time;
- (b) that, before accepting any subscriptions to the plan or the transfer of any shares to be held under the plan in his name or that of his nominee, the plan manager has notified the Board of his intention to manage single company plans;
- (c) that within 42 days after receipt by the plan manager of either—
 - (i) any amount of the cash subscription to the plan in any year, or
 - (ii) the consideration moneys for the disposal of any shares held under the plan, the whole or substantially the whole of that amount or, where consideration moneys are received following a disposal, of the cash then held under the plan, shall be invested in ordinary shares or qualifying EC shares in the designated company or in paired shares where one of the bodies corporate is the designated company;
- (d) that where the whole or substantially the whole of that amount or that cash, as the case may be, is not so invested within the period specified in sub-paragraph (c), that amount or that cash shall be transferred to the plan investor together with interest thereon within 14 days after the end of that period.

(2) Subject to the conditions prescribed by paragraph (3), a single company plan fulfils the condition in regulation 4(1)(c) if the qualifying individual subscribes to it by the transfer to the plan manager, or a nominee for the plan manager, of shares in the designated company which the qualifying individual has exercised the right to acquire, or which have been appropriated to the qualifying individual, in accordance with the provisions of a savings-related share option scheme or an approved profit-sharing scheme.

(3) The conditions prescribed by this paragraph are—

- (a) in relation to shares which the individual has exercised his right to acquire in accordance with the provisions of a savings-related share option scheme, that the shares are transferred to the plan manager or his nominee before the expiry of the period of 90 days following the exercise of that right;
- (b) in relation to shares appropriated to the individual in accordance with the provisions of an approved profit-sharing scheme, that the shares are transferred to the plan manager or his nominee before the expiry of the period of 90 days following the date when the individual directed the trustees to transfer the ownership of the shares to him or, if earlier, the release date in relation to the shares;
- (c) that the aggregate market value at the date of transfer of any shares transferred to the plan manager or his nominee in accordance with sub-paragraph (a) or (b), any sum payable on such application as is referred to in regulation 4(2A)(a), any sum payable for such an allotment or allocation as is referred to in regulation 4(2A)(b) and the individual’s cash subscription to the plan do not together exceed one half of the subscription limit in any year.

(4) The provisions of these Regulations apply in all other respects, but with any necessary modifications, to single company plans in the same way as they apply to general plans.”

6.—(1) In regulation 5(3) after the word “designated” there shall be inserted the words “as a general plan account or a single company plan account.”

(2) For regulation 5(4) and (5) there shall be substituted—

“(4) Subject to paragraph (5) cash by way of dividends, other rights or proceeds in respect of shares, not being shares in an investment trust, which are held as plan investments may be invested only by way of cash deposit or—

- (a) in the case of a general plan, in other such shares, or
- (b) in the case of a single company plan, in other shares in the designated company or paired shares where one of the companies is the designated company, or in shares which are qualifying investments for single company plans within the meaning of regulation 6B(2) and have been issued by a company which has issued shares representing shares in the designated company.

(5) Cash referred to in paragraph (4)—

- (a) in the case of a general plan, may be invested in an authorised unit trust, in a fund of funds or in an investment trust, satisfying in each case the condition specified in regulation 6(3)(b), provided that immediately after such an investment is made the total market value of plan investments in authorised unit trusts, funds of funds and investment trusts does not exceed one half of the market value of the portfolio; and
- (b) in the case of a single company plan, may also be invested in shares in the designated company, which are not qualifying investments for single company plans within the meaning of regulation 6B(2), where other such shares are already held under the plan by virtue of having been transferred in accordance with regulation 4A(2).”

7.—(1) In regulation 6(1) for the words “(“qualifying investments”)” there shall be substituted the words “(“qualifying investments for general plans”)” and before the word “plan” there shall be inserted the word “general”.

(2) In regulation 6(2)—

- (a) after the word “investments” there shall be inserted the words “for general plans”;
- (b) after sub-paragraph (a) there shall be inserted—
 - “(aa) subject to the conditions specified in paragraph (2A), shares (“qualifying EC shares”) which—
 - (i) have been issued by a company which is incorporated in a member State other than the United Kingdom, and
 - (ii) are officially listed on a recognised stock exchange in a member State;”
- (c) sub-paragraph (ba) shall be omitted;
- (d) in sub-paragraph (c) after the words “qualifying investments” there shall be inserted the words “for general plans” and for the words “sub-paragraph (a) or (b)” there shall be substituted the words “sub-paragraph (a), (aa) or (b)”.

(3) After regulation 6(2) there shall be inserted—

“(2A) The conditions specified in this paragraph are—

- (a) that the shares—
 - (i) form part of the authorised share capital of the company;
 - (ii) carry no preferential rights to dividends or to the property of the company in a liquidation;

- (iii) are not shares which carry no right to share in the profits of the company except a right to dividends of a fixed amount or at a fixed rate per cent. of their nominal value;
 - (iv) are not shares which carry no such right as is mentioned in paragraph (iii) but carry a right to conversion into shares which carry such a right;
 - (v) do not carry fixed, guaranteed or secured rights of redemption; and
- (b) that the company which issued the shares—
- (i) is not an open-ended investment company as defined in section 75(8) of the Financial Services Act 1986(4);
 - (ii) does not derive the principal part of its income from holdings of shares in other companies where each such holding represents 15 per cent. or less by value of the investing company's investments."
- (4) In regulation 6(3)(a) for the words “, investment trusts and paired shares” there shall be substituted the words “and investment trusts”.
- (5) In regulation 6(3)(b)—
- (a) in paragraph (i)—
 - (i) after the words “United Kingdom” there shall be inserted the words “or qualifying EC shares”, and
 - (ii) after the words “such ordinary shares” there shall be substituted the words “or qualifying EC shares”;
 - (b) in paragraph (ii) after the words “United Kingdom” there shall be added the words “or qualifying EC shares”.
- (6) Regulation 6(5) shall be omitted.
8. After regulation 6A there shall be inserted—

“Qualifying investments for single company plans

6B. –

- (1) This regulation specifies the kinds of investments (“qualifying investments for single company plans”) which may be purchased, made or held under a single company plan.
- (2) Qualifying investments for single company plans to which paragraph (1) refers are—
 - (a) where the designated company is a company, not being an investment trust, which satisfies the description specified in regulation 6(2)(a), ordinary shares issued by the designated company and ordinary shares or qualifying EC shares representing those shares;
 - (b) where the designated company is a company which satisfies the conditions specified in regulation 6(2A)(b), qualifying EC shares issued by that company and qualifying EC shares or ordinary shares representing those shares;
 - (c) investments in units comprising ordinary shares or qualifying EC shares in the designated company which are paired with ordinary shares in another company, not being an investment trust, which satisfies the description specified in regulation 6(2)(a) or qualifying EC shares in another company which satisfies the conditions specified in regulation 6(2A)(b);

(d) subject to regulation 4A(1)(c), cash deposited in accordance with regulation 5(3) which the plan manager holds for the purpose of investment in such ordinary shares, qualifying EC shares or paired shares.

(3) Shares in the designated company which are not qualifying investments for single company plans within the meaning of paragraph (2), and which have been transferred in accordance with regulation 4A(2), may also be held under a single company plan but may only be purchased in the circumstances described in regulation 5(5)(b).

(4) For the purposes of these Regulations shares in the designated company are paired with shares in another company where—

(a) the articles of association or other instruments governing each of the companies provide that no share in the company to which they relate may be transferred otherwise than as part of a unit comprising one share in that company and one share in the other; and

(b) such units have been offered for sale to the public at the same time and at the same price or, if such units have been offered for sale to the public in more than one country, the offers were made in each country at the same time and at a broadly equivalent price.

(5) For the purposes of these Regulations shares represent other shares when a transaction occurs in relation to the original holding which would, apart from anything in these Regulations, result in a new holding being equated with the original holding for the purposes of capital gains tax.”

9. In regulation 7(2)(b) for the word “plan” there shall be substituted the words “general plan, or as the case may be any other single company plan.”.

10. In regulation 9(3)(c) for the word “plan” there shall be substituted the words “general plan, or as the case may be any other single company plan.”.

11. After regulation 16(a)(v) there shall be added—

“(vi) details of the plans which are being transferred specifying which of them are general plans and which are single company plans;”.

12. In regulation 17A—

(a) in paragraph (1)(b) after the word “year” there shall be inserted “in relation to a particular plan”;

(b) in paragraph (2)(a)(ii) after the word “year” there shall be added “in relation to the plan”.

13. In regulation 27(3) after the words “ordinary shares” there shall be inserted the words “or qualifying EC shares”.

9th December 1991

Irvine Patnick
Sydney Chapman
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 1992, further amend the Personal Equity Plan Regulations 1989 (“the principal Regulations”). The amendments have two main effects. The first is to provide for an additional kind of plan, called a single company plan, to which a plan investor can subscribe in any year in addition to subscribing to a plan under the Regulations as they were before these amendments, which is now called a general plan. The subscription limit for a single company plan is half that for a general plan and its distinguishing features are that only one company is designated for the purposes of the plan by the plan manager and that, in general, only shares in the designated company may be held under the plan.

The second main effect of these amendments is to extend the range of qualifying investments for both general plans and single company plans to include shares in companies incorporated in an EC State other than the United Kingdom which are broadly comparable to ordinary shares in a United Kingdom company and are listed on a recognised stock exchange in a member State (“qualifying EC shares”).

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 inserts new definitions in regulation 2 of the principal Regulations.

Regulation 4 amends the general conditions for plans and subscriptions to plans in regulation 4 of the principal Regulations by inserting provisions relating to single company plans.

Regulation 5 inserts a new regulation 4A in the principal Regulations providing special conditions for single company plans.

Regulation 6 amends the general investment rules in regulation 5 of the principal Regulations.

Regulation 7 amends the descriptions of qualifying investments specified in regulation 6 of the principal Regulations by applying those descriptions to general plans and specifying new descriptions of qualifying EC shares.

Regulation 8 inserts a new regulation 6B in the principal Regulations specifying the kinds of investments that may be held under single company plans.

Regulations 9 to 12 contain amendments to the principal Regulations which are consequential on the introduction of single company plans.

Regulation 13 contains an amendment to regulation 27(3) of the principal Regulations which is consequential on the extension of qualifying investments to include qualifying EC shares.