
STATUTORY INSTRUMENTS

1995 No. 3239

INCOME TAX

**The Tax-exempt Special Savings Account
(Relevant European Institutions) Regulations 1995**

Made - - - - *12th December 1995*
Laid before the House of
Commons - - - - *12th December 1995*
Coming into force - - *2nd January 1996*

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

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Tax-exempt Special Savings Account (Relevant European Institutions) Regulations 1995 and shall come into force on 2nd January 1996.

Interpretation

2. In these Regulations—

“the Board” means the Commissioners of Inland Revenue;

“notice” means notice in writing and “notify” shall be construed accordingly;

“the principal Regulations” means the Tax-exempt Special Savings Account Regulations 1990(2);

(1) 1988 c. 1; section 326C(1) was inserted by section 28(1) of the Finance Act 1990 (c. 29) and amended by section 62(3) and (4) of the Finance Act 1995 (c. 4); section 326D was inserted by section 63(4) of the Finance Act 1995.
(2) S.I. 1990/2361; amended by S.I. 1995/1929.

“a relevant European institution” has the meaning given by section 326A(10)(3) of the Taxes Act;

“the Taxes Act” means the Income and Corporation Taxes Act 1988;

and in Part III of these Regulations “regulation” means a regulation of the principal Regulations.

PART II

TAX REPRESENTATIVES

Accounts held with relevant European institutions

3.—(1) An account held with a relevant European institution shall not be a tax-exempt special savings account at the time it is opened, or shall cease to be a tax-exempt special savings account at a given time, unless at the time concerned one of the following three requirements is fulfilled.

(2) The first requirement is that—

- (a) a person who falls within subsection (5) of section 326D of the Taxes Act is appointed by the institution to be responsible for securing the discharge of the duties prescribed by regulation 4 which fall to be discharged by the institution, and
- (b) his identity and the fact of his appointment have been notified to the Board by the institution.

(3) The second requirement is that there are other arrangements with the Board for a person other than the institution to secure the discharge of such duties.

(4) The third requirement is that there are other arrangements with the Board designed to secure the discharge of such duties.

Prescribed duties of tax representatives

4. The duties prescribed by this regulation are those that fall to be discharged by a society or institution under the principal Regulations.

Termination of appointment

5. The appointment of a person in pursuance of the first requirement mentioned in regulation 3(2) shall be treated as terminated in circumstances where—

- (a) the Board have reason to believe that the person concerned —
 - (i) has failed to secure the discharge of any of the duties prescribed by regulation 4, or
 - (ii) does not have adequate resources to discharge those duties; and
- (b) the Board have notified the institution and that person that they propose to treat his appointment as having terminated with effect from the date specified in the notice.

Powers and liabilities of tax representative

6. Where, in accordance with the first requirement mentioned in regulation 3(2), a person is at any time appointed to be responsible for securing the discharge of duties, the person concerned—

- (a) shall be entitled to act on the institution’s behalf for any of the purposes of the provisions relating to the duties;

(3) Section 326A was inserted by section 28(1) of the Finance Act 1990 (c. 29) and subsection (10) was inserted in that section by section 63(3) of the Finance Act 1995.

- (b) shall secure (where appropriate by acting on the institution's behalf) the institution's compliance with and discharge of the duties;
- (c) shall be personally liable in respect of any failure of the institution to comply with or discharge any such duty as if the duties imposed on the institution were imposed jointly and severally on the institution and the person concerned.

Effect of section 326B(3) of the Taxes Act

7. Section 326B(3)(4) of the Taxes Act shall have effect as if the reference to subsection (1) included a reference to this Part of these Regulations.

PART III

AMENDMENTS TO THE PRINCIPAL REGULATIONS

8. In regulation 2(1)—
- (a) after the definition of “the Board” there shall be inserted—
 - ““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(5) as adjusted by the Protocol signed at Brussels on 17th March 1993(6);
 - “EEA State” means a State, other than the United Kingdom, which is a Contracting Party to the EEA Agreement;”
 - (b) after the definition of “the principal sections” there shall be inserted—
 - “a “relevant European institution” has the meaning given by section 326A(10) of the Taxes Act;”
 - (c) in the definition of a “society or institution” there shall be added at the end “or a relevant European institution”.
9. In regulation 5—
- (a) in paragraph (1) after the words “paragraph (2)” there shall be inserted the words “or, in the case of a relevant European institution, the information specified in paragraph (2A)”;
 - (b) after paragraph (2) there shall be inserted—
 - “(2A) The information specified in this paragraph is—
 - (a) the name under which it is incorporated or registered and the EEA State in which it is incorporated or registered;
 - (b) where it has a branch or business establishment in the United Kingdom and intends to operate all accounts opened with it through that branch or establishment—
 - (i) the address of that branch or business establishment including postcode, and
 - (ii) the tax office to which its accounts are submitted and its reference number there;
 - (c) where it has a branch or business establishment in the United Kingdom and does not so intend, which of the three requirements in regulation 3 of the Tax-exempt

(4) Section 326B was inserted by section 28(1) of the Finance Act 1990.

(5) O.J. No. L1, 3.1.94, p.3.

(6) O.J. No. L1, 3.1.94, p.572.

Special Savings Account (Relevant European Institutions) Regulations 1995 it proposes to fulfil;

- (d) where it does not have a branch or business establishment in the United Kingdom—
 - (i) whether it proposes to establish such a branch or business establishment through which it will operate all accounts opened with it, and
 - (ii) if not, which of the three requirements mentioned in regulation 3 of the Tax-exempt Special Savings Account (Relevant European Institutions) Regulations 1995 it proposes to fulfil;
- (e) the date from which it proposes to operate accounts.”;
- (c) in paragraph (3) after the words “Banking Act 1987” there shall be inserted the words “or is a relevant European institution”.

10. In regulation 11—

- (a) in paragraph (a) for the words from “, as the case may be” to the end of the paragraph there shall be substituted the words “to be authorised under the Banking Act 1987 or to be a relevant European institution, as the case may be.”;
- (b) after paragraph (e) there shall be added—
 - “(f) action has been taken in relation to it under the law of an EEA State corresponding to that described in paragraph (b), (c), (d) or (e).”

11. In regulation 16 after the word “inspection” there shall be inserted the words “at a place within the United Kingdom”.

*S. C. T. Matheson
G. H. Bush*

12th December 1995

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 2nd January 1996, provide that European authorised institutions within the meaning of the Banking Co-ordination (Second Council Directive) Regulations 1992 (S.I.1992/3218, amended by S.I. 1993/3225 and 1995/1217), which may accept deposits in the United Kingdom in accordance with those Regulations (“relevant European institutions”) and which operate tax-exempt special savings accounts, must appoint tax representatives for the purpose of discharging the duties of the institution under the Tax-exempt Special Savings Account Regulations 1990 (“the principal Regulations”) or make other arrangements with the Commissioners of Inland Revenue for the discharge of those duties. They also amend the principal Regulations so as to add relevant European institutions to the societies and institutions which may operate accounts and make further amendments which are consequential on that addition.

Part I of the Regulations contains general provisions, Part II contains provisions concerning tax representatives of relevant European institutions and Part III contains amendments to the principal Regulations.

In Part I, regulation 1 provides for citation, commencement and effect and regulation 2 contains definitions.

In Part II, regulation 3 requires relevant European institutions operating accounts to appoint tax representatives or make other arrangements with the Commissioners of Inland Revenue for the discharge of prescribed duties and regulation 4 prescribes the duties in question as those that fall to be discharged under the principal Regulations. Regulation 5 provides for the termination of the appointment of tax representatives and regulation 6 sets out the powers and liabilities of tax representatives. Regulation 7 amends section 326B(3) of the Income and Corporation Taxes Act 1988 so that the same consequences follow if an account ceases to be a tax-exempt special savings account by virtue of Part II of these Regulations as in the case of any other breach of the statutory conditions.

In Part III, regulation 8 adds definitions to the principal Regulations and amends the definition of a “society or institution” to include relevant European institutions. Regulation 9 contains amendments to the principal Regulations setting out the information to be provided by relevant European institutions intending to operate accounts. Regulations 10 and 11 make consequential amendments to the circumstances specified in the principal Regulations in which a society or institution ceases to be entitled to operate accounts and to the requirements for the inspection of records of a society or institution.