
STATUTORY INSTRUMENTS

1996 No. 223

INCOME TAX

The Income Tax (Building Societies) (Dividends and Interest) (Amendment) Regulations 1996

<i>Made</i>	- - - -	<i>6th February 1996</i>
<i>Laid before the House of Commons</i>	- - - -	<i>7th February 1996</i>
<i>Coming into force</i>	- -	<i>28th February 1996</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 477A(1) of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Building Societies) (Dividends and Interest) (Amendment) Regulations 1996 and shall come into force on 28th February 1996.

(2) The amendments to the principal Regulations made by regulations 3, 4 and 6 shall have effect with respect to any payment by a building society of a dividend or interest in respect of an investment made to trustees of a discretionary or accumulation trust on or after 6th April 1996.

Interpretation

2. In these Regulations—

“discretionary or accumulation trust” and “investment” have the meanings given by regulation 2(1) of the principal Regulations;

“the principal Regulations” means the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990;(2)

“regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3.—(1) Regulation 2 shall be renumbered as paragraph (1) of that regulation.

(1) 1988 c. 1; section 477A, to which there are amendments not relevant to these Regulations, was inserted by paragraph 4(1) of Schedule 5 to the Finance Act 1990 (c. 29).
(2) S.I. 1990/2231, amended by S.I. 1992/11, 2915, 1994/296 and 1995/1184.

- (2) In regulation 2(1)—
- (a) in the definition of “the appropriate person”⁽³⁾ for the words “as a personal representative in his capacity as such” there shall be substituted the words “in his capacity as a personal representative or as a trustee of a discretionary or accumulation trust”;
 - (b) after the definition of “the Board” there shall be inserted—

““discretionary or accumulation trust” means a trust which is such that some or all of any income arising to the trustees would fall (unless treated as income of the settlor or applied in defraying expenses of the trustees) to be comprised for the year in which it arises in income to which section 686⁽⁴⁾ of the Taxes Act (liability to additional rate tax of certain income of discretionary trusts) applies;”.
- (3) After regulation 2(1) there shall be added the following paragraphs—
- “(2) References in these Regulations to a beneficiary in relation to a discretionary or accumulation trust are references to any person who, as a person falling wholly or partly within any description of actual or potential beneficiaries, is either —
 - (a) a person who is, or will or may become, entitled under the trust to receive the whole or any part of any income under the trust; or
 - (b) a person to or for the benefit of whom the whole or any part of any such income may be paid or applied in exercise of any discretion conferred by the trust.
 - (3) References in paragraph (2) to income under the trust include references to so much (if any) of any property falling to be treated as capital under the trust as represents amounts originally received by the trustees as income.”.
4. After regulation 4(1)(b) there shall be inserted the following sub-paragraph—
- “(bb) a payment to trustees of a discretionary or accumulation trust in their capacity as such where the trustees are not resident in the United Kingdom and any person who is a beneficiary of the trust is—
- (i) an individual who is not ordinarily resident in the United Kingdom, or
 - (ii) a Scottish partnership, all the partners in which are individuals not ordinarily resident in the United Kingdom, or
 - (iii) a company within the meaning of section 832(1) of the Taxes Act which is not resident in the United Kingdom;”.

5.—(1) In regulation 4(1)(o)⁽⁵⁾ for the words “(within the meaning of section 457 of the Taxes Act)” there shall be substituted the words “(within the meaning of section 184(1) of the Finance Act 1993)”.

(2) In regulation 5(2)(c)(i) for “663” there shall be substituted “660B”.⁽⁶⁾

6. For regulation 11(2)(7) there shall be substituted—

“(2) An individual referred to in any of sub-paragraphs (a) to (c) of paragraph (1) of regulation 4 as not ordinarily resident in the United Kingdom, and a company or trustees referred to in sub-paragraph (bb) of that paragraph as not resident in the United Kingdom, may not be treated as not ordinarily resident or, as the case may be, not resident in the United

(3) Inserted by S.I. 1992/11.

(4) Section 686 was amended by section 55(3) of the Finance Act 1988 (c. 39), Part V of Schedule 17 to the Finance Act 1989 (c. 26), paragraph 13 of Schedule 5, and Part IV of Schedule 19, to the Finance Act 1990, paragraph 8 of Schedule 6 to the Finance Act 1993 (c. 34) and paragraph 13 of Schedule 17 to the Finance Act 1995 (c. 4).

(5) Added by S.I. 1992/11.

(6) Section 660B of the Income and Corporation Taxes Act 1988 was inserted by paragraph 1 of Schedule 17 to the Finance Act 1995.

(7) Amended by S.I. 1992/11.

Kingdom unless the declaration specified in paragraph (2AA) containing the undertaking specified in paragraph (2AB) has been made in writing by the appropriate person to the building society.

(2AA) The declaration specified is that—

- (a) where sub-paragraph (a) or (b) of regulation 4(1) applies, at the time the declaration is made the individual is not ordinarily resident in the United Kingdom;
- (b) where sub-paragraph (bb) of regulation 4(1) applies, at the time the declaration is made the trustees are not resident in the United Kingdom and do not have any reasonable grounds for believing that any of the beneficiaries of the trust is an individual who is ordinarily resident in the United Kingdom or a company which is resident in the United Kingdom;
- (b) where sub-paragraph (c) of regulation 4(1) applies, the individual was not ordinarily resident in the United Kingdom at the time of his death.

(2AB) The undertaking specified is that—

- (a) where sub-paragraph (a) or (b) of regulation 4(1) applies, the appropriate person will inform the building society if the individual or any of the individuals in respect of whom the declaration is made becomes ordinarily resident in the United Kingdom;
- (b) where sub-paragraph (bb) of regulation 4(1) applies, the appropriate person will inform the building society if—
 - (i) the individual or any of the individuals in respect of whom the declaration is made becomes ordinarily resident in the United Kingdom,
 - (ii) the trustees or any company in respect of whom the declaration is made become or becomes resident in the United Kingdom, or
 - (iii) an individual who is ordinarily resident in the United Kingdom or a company which is resident in the United Kingdom becomes or is found to be a beneficiary of the trust to which the declaration relates.

(2AC) Where—

- (a) a declaration is made as required by paragraph (2) in relation to an individual referred to in any of sub-paragraphs (a), (b) and (c) of regulation 4(1) as not ordinarily resident, and
- (b) the declaration does not give the address of the person making it

it shall be supported by a certificate given by the building society.”.

7. In regulation 11(3) after the word “provided” there shall be inserted the words “or authorised”.

*S C T Matheson
C W Corlett*

6th February 1996

Two of the Commissioners of Inland Revenue

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Building Societies (Dividends and Interest) Regulations 1990 (S.I.1990/2231) (“the principal Regulations”) so as to enable payments by building societies of dividends and interest to discretionary and accumulation trusts made on or after 6th April 1996 to be made without deduction of tax, provided that the trustees are not resident in the United Kingdom and the beneficiaries are not ordinarily resident in the United Kingdom (or in the case of a company which is a beneficiary, not resident in the United Kingdom). The Regulations also make other amendments of a minor nature to the principal Regulations as set out below.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 inserts a definition of “discretionary or accumulation trust” in regulation 2 of the principal Regulations and makes other amendments to that regulation in connection with discretionary or accumulation trusts.

Regulation 4 inserts in regulation 4 of the principal Regulations a new sub-paragraph enabling gross payments of dividends and interest to be made to discretionary or accumulation trusts where the trustees are not resident in the United Kingdom, and the beneficiaries are not ordinarily resident in the United Kingdom (or, in the case of a company which is a beneficiary, it is not resident in the United Kingdom).

Regulation 5 updates references to certain statutory provisions in the principal Regulations.

Regulation 6 extends regulation 11 of the principal Regulations so as to include declarations and undertakings by trustees of discretionary or accumulation trusts as a condition of their entitlement to receive gross payments of dividends and interest.

Regulation 7 enables the Board of Inland Revenue (“the Board”) to approve a society’s own form of declaration under regulation 11 of the principal Regulations, as an alternative to the society using the form provided by the Board. (Alternative forms can only be used by societies if specifically authorised by the Board).