
STATUTORY INSTRUMENTS

1996 No. 846

INCOME TAX

The Personal Equity Plan (Amendment) Regulations 1996

<i>Made</i>	- - - -	<i>19th March 1996</i>
<i>Laid before the House of Commons</i>	- - - -	<i>19th March 1996</i>
<i>Coming into force</i>	- -	<i>6th April 1996</i>

The Treasury, in exercise of the powers conferred upon them by section 333 of the Income and Corporation Taxes Act 1988(1) and section 151 of the Taxation of Chargeable Gains Act 1992(2), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Personal Equity Plan (Amendment) Regulations 1996 and shall come into force on 6th April 1996.

(2) Regulation 9 has effect in relation to amounts of interest paid or applied on or after 6th April 1996.

(3) Regulation 11 has effect in relation to securities which become plan investments on or after 6th April 1996.

(4) Regulation 12 has effect—

(a) as respects the year 1996–97 and subsequent years of assessment, and

(b) in relation to tax which—

(i) is charged by an assessment made on or after 6th April 1998, and

(ii) is for the year 1995–96 or any earlier year of assessment.

Interpretation

2. In regulations 3 to 12 “the principal Regulations” means the Personal Equity Plan Regulations 1989(3) and “regulation” means a regulation of those Regulations.

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

(2) 1992 c. 12; section 151 was amended by section 85 of the Finance Act 1993 (c. 34) and by section 64(2) of the Finance Act 1995 (c. 4).

(3) S.I. 1989/469, amended by S.I. 1990/678, 1991/733, 2774, 1992/623, 1993/756 and 1995/1539 and 3287.

Amendments to the principal Regulations

3.—(1) In regulation 2(1)(a)(4)—

- (a) after the definition of “the Board” there shall be inserted—
 - ““building society” means a building society within the meaning of the Building Societies Act 1986(5);”
- (b) in paragraph (a) of the definition of “company” the words from “within” to the end of the paragraph shall be omitted;
- (c) after the definition of “company” there shall be inserted—
 - ““deposit-taker” has the meaning given by section 481(2)(6) of the Taxes Act;”
- (d) in the definitions of “gains” and “chargeable gains” for the words “Capital Gains Tax Act 1979” there shall be substituted the words “Taxation of Chargeable Gains Act 1992”;
- (e) in the definition of “market value” for the words “section 150 of the Capital Gains Tax Act 1979” there shall be substituted the words “section 272 of the Taxation of Chargeable Gains Act 1992”.

(2) In regulation 2(1)(b)(7) for the definition of “feeder fund” there shall be substituted—

- ““feeder fund” means a unit trust scheme which is also—
- (a) an exempt approved personal pension scheme (within the meaning of Chapter 1 of Part XIV of the Taxes Act) where the employer is not a contributor to the exempt approved scheme and that scheme provides benefits additional to those provided by another exempt approved scheme to which he is a contributor, or
 - (b) an approved personal pension scheme (within the meaning of Chapter IV of Part XIV of the Taxes Act),

and where, under the rules of the unit trust scheme, investments subject to the trusts of the scheme must be invested in units in a single unit trust scheme or in shares in a single investment trust;”.

4. In regulation 6—

- (a) in paragraph (2)(c)(8) for the words “or (b)” there shall be substituted “, (b) or (ba)”;
- (b) in paragraph (4)(9) at the end of sub-paragraph (b) there shall be added “which does not satisfy the condition specified in paragraph (3)(c) but satisfies that condition as modified for the purposes of this paragraph by paragraph (5)”.

5. In regulation 6B(2)(10)—

- (a) for sub-paragraph (a) there shall be substituted—
 - “(a) where the designated company is incorporated in the United Kingdom and is neither an investment trust nor a venture capital trust, ordinary shares issued by that company which are officially listed on a recognised stock exchange in a member State, or dealt in on the Unlisted Securities Market, and ordinary shares satisfying that description or qualifying EC shares which represent those shares;”
- (b) in sub-paragraph (b) for the word “representing” there shall be substituted the words “satisfying the description in sub-paragraph (a) which represent”;

(4) Amended by S.I. 1990/678, 1991/733, 2774 and 1995/1539 and 3287.

(5) 1986 c. 53.

(6) Section 481(2) was amended by section 30 of, and paragraph 8 of Schedule 5 to, the Finance Act 1990 (c. 29).

(7) Amended by S.I. 1990/678, 1993/756.

(8) Amended by S.I. 1990/678, 1991/773, 2774, 1992/623, 1993/756 and 1995/1539.

(9) Substituted by S.I. 1993/756.

(10) Inserted by S.I. 1991/2774.

(c) for sub-paragraph (c) there shall be substituted—

“(c) investments in units comprising ordinary shares in the designated company (being a company which is incorporated in the United Kingdom and is neither an investment trust nor a venture capital trust) which satisfy the description in sub-paragraph (a), or qualifying EC shares in the designated company (being a company which satisfies the conditions in regulation 6(2A)(b)), which are paired with—

(i) ordinary shares in another company (being a company which is incorporated in the United Kingdom and is neither an investment trust nor a venture capital trust) which satisfy the description in sub-paragraph (a), or

(ii) qualifying EC shares in another company which satisfies the conditions specified in regulation 6(2A)(b);”.

6. After regulation 10 there shall be inserted—

“Application by curator bonis

10A.—(1) Where a curator bonis has been appointed in Scotland in respect of a person who is incapable of managing or administering his property and affairs, and that person is a qualifying individual, an application to subscribe to a plan may be made by the curator bonis in his capacity as such, notwithstanding that he has subscribed, or intends to subscribe, in another capacity to another general plan, or as the case may be another single company plan, in the year or one of the years for which the application is made.

(2) An application by a curator bonis must be made to a plan manager in a statement in writing and fulfil the conditions specified in paragraphs (3), (4) and (5).

(3) An application must specify the year or years for which the curator bonis is to subscribe to the plan.

(4) An application shall provide for a declaration by the curator bonis that—

(a) he has not subscribed and will not subscribe in that capacity to any other general plan, or as the case may be any other single company plan, in the year or years to which paragraph (3) refers;

(b) he will inform the plan manager if the person in respect of whom he has been appointed ceases to be resident and ordinarily resident in the United Kingdom;

(c) he authorises the plan manager in writing—

(i) to hold the cash subscription, plan investments, interest, dividends and any other rights or proceeds in respect of those investments and any other cash;

(ii) to make on his behalf any claims to relief from tax in respect of plan investments;

(iii) on the written request of the curator bonis to transfer or pay to him, as the case may be, plan investments, interest, dividends, rights or other proceeds in respect of such investments or any cash;

(d) the person in respect of whom he has been appointed—

(i) is 18 years of age or over;

(ii) has not subscribed and will not subscribe to any other general plan, or as the case may be any other single company plan, in the year or years to which paragraph (3) refers;

(iii) is resident and ordinarily resident in the United Kingdom.

(5) An application by a curator bonis must contain—

- (a) his full name,
 - (b) the address of his permanent residence, including postcode,
 - (c) the full name of the person in respect of whom he has been appointed,
 - (d) the address of the permanent residence, including postcode, of the person in respect of whom he has been appointed,
 - (e) if the person in respect of whom he has been appointed has one, his national insurance number, and
 - (f) the date of birth of the person in respect of whom he has been appointed,
- and must be accompanied by evidence in writing of his appointment.

(6) A plan manager may not accept an application by a curator bonis if he has reason to believe that—

- (a) the person in respect of whom he has been appointed is not or might not be a qualifying individual, or
 - (b) the curator bonis has given untrue information in his application.
- (7) Where a curator bonis subscribes to a plan in his capacity as such—

- (a) references in these Regulations to the plan investor shall be taken to be references to the person in respect of whom he has been appointed, save that anything requiring to be done, or capable of being done, under these Regulations by the plan investor shall be done by the curator bonis and any notice, assessment or payment required to be given to or made on or by the plan investor shall be given to or made on or by the curator bonis, and
- (b) any requirement in these Regulations (other than that in regulation 24A) for information to be given as regards a plan investor shall include a requirement to give the full name of any curator bonis appointed in respect of the plan investor and the address of his permanent residence, including postcode.”

7. In regulation 16 in paragraph (3)(b)(viii)(11) the words “by the transferor” shall be omitted.

8. In regulation 17(2)(a)(12) for the words “Income and Corporation Taxes Act 1988” there shall be substituted the words “Taxes Act”.

9. In regulation 17A(2)(a)(13) for the word “basic” there shall be substituted the word “lower”.

10. In regulation 19(5)(c)(14) for the words “for the kind of plan concerned” there shall be substituted the words “or one half of the subscription limit as the case may require”.

11. In regulation 27—

- (a) for paragraph (2) there shall be substituted—

“(2) Sections 104, 110 and 114 of the Taxation of Chargeable Gains Act 1992 shall apply for the purposes of pooling plan investments as if—

- (a) for subsection (4) of the said section 104 there were substituted—

“(4) This section and sections 110 and 114—

- (a) shall apply separately in relation to any securities which are held by a person as plan investments so long as they are so held, and

(11) Substituted by S.I. 1993/756.

(12) Inserted by S.I. 1991/733.

(13) Inserted by S.I. 1991/733 and amended by S.I. 1991/2729.

(14) Inserted by S.I. 1993/756.

- (b) shall apply in relation to any such securities which became plan investments by being transferred or renounced to a plan manager or to a nominee for a plan manager in the circumstances specified in regulation 4(2A)(a) or (b) or regulation 4A(2) as if they had been plan investments—
 - (i) in the case of securities which were transferred or renounced in the circumstances specified in regulation 4(2A)(a) or (b), and in the case of securities acquired by that person in accordance with the provisions of a savings-related share option scheme which were transferred in the circumstances specified in regulation 4A(2), from the date of their acquisition by him, or
 - (ii) in the case of securities appropriated to that person in accordance with the provisions of an approved profit sharing scheme which were transferred in the circumstances specified in regulation 4A(2), from the date when he directed the trustees to transfer the ownership of the securities to him or, if earlier, the release date in relation to those securities, and
- (c) while applying separately to any such securities, shall have effect as if that person held them in a capacity other than that in which he holds any other securities of the same class whether under another such plan or otherwise.
- (4A) In subsection (4) above—
 - (a) “plan”, “plan investment” and “plan manager” have the same meanings as in the Personal Equity Plan Regulations 1989 and “regulation” means a regulation of those Regulations;
 - (b) “approved profit sharing scheme” has the same meaning as in Chapter IV of Part V of the Taxes Act and “savings-related share option scheme” has the meaning given by paragraph 1 of Schedule 9 to that Act.”; and
- (b) in the said section 110 after subsection (11) there were added—
 - “(12) Where part of a new holding is treated by section 104(4)(b)(ii) as having been plan investments since a particular date—
 - (a) an operative event shall be regarded as having occurred for the purposes of this section immediately before that date consisting of the disposal of the part of that new holding which is so treated, and
 - (b) this section shall apply in relation to the occurrence of that operative event as it would have applied if it had always applied separately in relation to the part of that new holding which is so treated.”;
- (b) after paragraph (2) there shall be inserted—
 - “(2A) Section 107 of the Taxation of Chargeable Gains Act 1992 shall apply for the purposes of identifying securities which are eligible to become plan investments as if after subsection (9) there were added—
 - “(10) Where a person disposes of securities and immediately before that disposal—
 - (a) he held securities of the same class which he had acquired in the circumstances specified in regulation 4(2A)(a) or (b) or regulation 4A(2) of the Personal Equity Plan Regulations 1989, and

- (b) those securities were eligible for transfer to a personal equity plan under either of those regulations,

he shall be treated as having first disposed of any securities of that class which he then held and which were not so eligible.

(11) For the purposes of subsection (10) above, securities are eligible at a particular time for transfer to a personal equity plan under regulation 4(2A)(a) or (b) or regulation 4A(2) of the Personal Equity Plan Regulations 1989 when a transfer of, or a renunciation of the rights to, those securities at that time would satisfy the conditions respectively prescribed by regulation 4(3)(a) and 4A(3)(a) or (b) of those Regulations.”

- (c) in paragraph (3)(15) for the words “Sections 78 to 81 of the Capital Gains Tax Act 1979” there shall be substituted the words “Sections 127 to 131 of the Taxation of Chargeable Gains Act 1992” and for the words “section 77(2)” there shall be substituted the words “section 126(2)”.

12. For regulation 28(3) there shall be substituted—

“(3) The like provisions as are contained in the Management Act shall apply to any assessment under these Regulations as if it were an assessment to tax for the year in which, apart from these Regulations, the plan investor would have been liable (by reason of his ownership of the investments).

(3A) In the application of the like provisions as are contained in section 86(16) of the Management Act by virtue of paragraph (3) in relation to any sums due and payable by virtue of an assessment made on a plan manager under these Regulations, the relevant date—

- (a) is 1st January in the year for which the plan investor would have been liable where the plan manager has made an interim claim for a period falling within that year; and
- (b) in any other case, is the later of the following dates, that is to say—
 - (i) 1st January in that year; or
 - (ii) the date of the making of the repayment by the Board following receipt of the annual claim for that year.”

Michael Bates

Liam Fox

Two of the Lords Commissioners of Her Majesty’s Treasury

19th March 1996

(15) Amended by S.I. 1991/2774 and 1995/1539.

(16) Section 86 was substituted by section 110(1) of the Finance Act 1995 (c. 4).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 6th April 1996, further amend the Personal Equity Plan Regulations 1989 (S.I.1989/469, amended by S.I. 1990/678, 1991/733, 2774, 1992/623, 1993/756 and 1995/1539 and 3287) (“the principal Regulations”). The principal changes are the insertion of provisions which provide for the making of an application to subscribe to a plan by a person who has been appointed under the law of Scotland as a curator bonis for a person who is suffering from incapacity; provisions which modify the effect of the pooling rules in the Taxation of Chargeable Gains Act 1992 when a person subscribes to a plan by transferring or renouncing rights to shares; a provision taking account of the application of the lower rate of income tax to income from savings; and provisions consequent on the introduction of self-assessment for the determination of the relevant dates from which interest runs in relation to assessments made under the principal Regulations.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 contains definitions.

Regulation 3 clarifies the meaning of certain terms used in the principal Regulations and substitutes references to the Taxation of Chargeable Gains Act 1992 for references to the Capital Gains Tax Act 1979 in definitions in the principal Regulations.

Regulation 4 corrects defects in regulation 6(2)(c) and (4) of the principal Regulations and regulation 5 corrects defects in regulation 6B(2) of the principal Regulations.

Regulation 6 introduces a new regulation 10A of the principal Regulations providing for the making of an application to subscribe to a plan by a person appointed under the law of Scotland as a curator bonis for a person suffering from incapacity.

Regulation 7 corrects a defect in regulation 16 of the principal Regulations.

Regulation 8 corrects a drafting error in regulation 17 of the principal Regulations.

Regulation 9 substitutes a reference to the lower rate of income tax for a reference to the basic rate in regulation 17A of the principal Regulations.

Regulation 10 corrects a defect in regulation 19 of the principal Regulations.

Regulation 11 amends regulation 27 of the principal Regulations containing modifications of the pooling rules in sections 104, 107, 110 and 114 of the Taxation of Chargeable Gains Act 1992 when a person subscribes to a plan by transferring or renouncing rights to shares.

Regulation 12 substitutes new paragraphs (3) and (3A) for paragraph (3) of regulation 28 of the principal Regulations providing for a new method of determining the dates from which interest runs on an assessment to recover tax which should have been paid by a plan investor, or has been repaid incorrectly to a plan manager, as a result of the changes made to the Taxes Management Act 1970 for the purposes of self-assessment.