

## 2005 No. 3348

### INCOME TAX

#### The Personal Equity Plan (Amendment No. 2) Regulations 2005

*Made* - - - - - *6th December 2005*

*Laid before the House of Commons* *6th December 2005*

*Coming into force* - - - *27th December 2005*

The Treasury, in exercise of the powers conferred upon them by sections 694(1), (3) and (5), 695(1) and (3), 696 and 701(1) of the Income Tax (Trading and Other Income) Act 2005<sup>(a)</sup> and section 151 of the Taxation of Chargeable Gains Act 1992<sup>(b)</sup>, make the following Regulations:

#### Citation and commencement

1. These Regulations may be cited as the Personal Equity Plan (Amendment No. 2) Regulations 2005 and shall come into force on 27th December 2005.

#### Amendment of the Personal Equity Plan Regulations 1989

2. The Personal Equity Plan Regulations 1989<sup>(c)</sup> are amended as follows.

3. In regulation 2(1)(b)—

- (a) in the definition of “the second condition”, in paragraph (i), after “section” insert “264,”;
- (b) insert the following definitions at the appropriate places—

““non-UCITS retail scheme”—

- (a) has the meaning in the New Collective Investment Schemes Sourcebook (that is, a scheme to which, or to whose authorised fund manager and depositary, Sections 5.1, 5.4 and 5.6 of that Sourcebook apply),
- (b) includes a “recognised scheme” by virtue of section 270 or 272 of the Financial Services and Markets Act 2000<sup>(d)</sup>, which would fall within paragraph (a) of this definition if it were an authorised fund, and
- (c) includes a sub-fund of an umbrella which the terms of the scheme identify as a sub-fund which would fall within paragraph (a) or (b) of this definition if it were itself an authorised fund or a recognised scheme.

In this definition, expressions defined in the Glossary forming part of the Financial Services Authority Handbook<sup>(e)</sup> have those defined meanings;”

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(a) 2005 c. 5

(b) 1992 c. 12; section 151 was amended by section 85 of the Finance Act 1993 (c. 34), section 64(2) of the Finance Act 1995 (c. 4) and paragraph 436 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005.

(c) S.I. 1989/469; relevantly amended by S.I. [1998/3174], 2001/3629, 2003/2748 and 2005/2562.

(d) 2000 c. 8.

(e) Published by the Financial Services Authority.

““qualifying units in or shares of a non-UCITS retail scheme” means that—

- (a) the instrument constituting the scheme secures that redemption of the units or shares in question shall take place no less frequently than bi-monthly (see Rule 6.2.16(6) of the New Collective Investment Schemes Sourcebook omitting the words “Except where (7) applies, and”, read with Rule 6.3.4(1), whether or not those Rules apply to the scheme), and
- (b) a provision for suspension of dealings in exceptional conditions in accordance with Rule 7.2 of that Sourcebook (or any foreign procedure which is a direct foreign equivalent of that Rule) shall not be treated as a provision contrary to paragraph (a) of this definition;”.

**4. In regulation 6(2)(a)—**

- (a) in sub-paragraph (a)(iii) for “component” substitute “plan”;
- (b) after sub-paragraph (b)(ii)(a) insert “and”;
- (c) omit sub-paragraph (b)(ii)(c) and the word “and” which precedes it;
- (d) in sub-paragraph (g) for “or a” substitute “, fund of funds scheme or”;
- (e) in sub-paragraph (h) after “relevant UCITS” insert “or Chapter 5 UCITS”;
- (f) for sub-paragraphs (j) and (ja) substitute—
  - “(j) qualifying units in or shares of a non-UCITS retail scheme, in circumstances where the units or shares satisfy the condition specified in paragraph (13);”.

**5. In regulation 6(12)(b) omit “(b),”.**

**6. For regulation 6(13) substitute—**

“(13) The condition specified in this paragraph is that, judged at the date on which the qualifying investments in question become held in the plan (and having regard to the contractual terms and conditions then in existence) the plan investor will not be entitled to a secured minimum return at any time falling within the following 5 years.

The plan investor is entitled to a secured minimum return if —

- (a) the contract under which the investments were acquired, or any other transaction entered into by the plan investor or any other person, or
- (b) the nature of the underlying subject matter of the investments,

have the effect that the plan investor is not exposed, or not exposed to any significant extent, to the risk of loss from fluctuations in the value of the investments exceeding 5% of the capital consideration paid or payable for the acquisition of those investments.”.

*Joan Ryan*  
*Tom Watson*

6th December 2005

Two of the Lords Commissioners of Her Majesty’s Treasury

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(a) Regulation 6(2) was relevantly amended by S.I. 2001/3629, 2003/2748 and 2005/2562.

(b) Regulation 6(12) and (13) were inserted by S.I. 2003/2748 and regulation 6(12) was relevantly amended by S.I. 2005/2562..

## **EXPLANATORY NOTE**

These Regulations amend the Personal Equity Plan Regulations 1989 (S.I. 1989/469). The principal effects of the amendments are (1) to provide that shares or units in non-UCITS retail schemes (a new type of collective investment scheme recognised by the Financial Services Authority) are qualifying investments for PEPs, provided that the shares or units can be redeemed at least twice monthly and (2) to clarify the wording of the “5% test” (which a number of investments must satisfy in order to qualify for PEPs).

Regulation 1 provides for citation and commencement and regulation 2 for amendment of the principal Regulations.

Regulation 3(a) makes a technical amendment to the definition of “fund of funds scheme”.

Regulation 3(b) and 4(f) provide for shares and units in non-UCITS retail schemes to be qualifying investments for PEPs, subject to redemption conditions. Regulations 4(b) and (c) and 5 remove securities (temporarily) from the “5% test.” Regulation 6 clarifies the wording of the 5% test for other investments.

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact (exceeding the de minimis limit) on business, charities or voluntary bodies.

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STATUTORY INSTRUMENTS

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