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STATUTORY INSTRUMENTS

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**2006 No. 1543**

**The Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006**

**PART 1**

**Preliminary**

**Citation, commencement and effect**

**1.**—(1) These Regulations may be cited as the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006, and shall come into force on 1st August 2006.

(2) These Regulations do not have effect—

- (a) for the purposes of section 308(1) of FA 2004 (duties of promoter relating to any notifiable proposal), if the relevant date falls before 1st August 2006;
- (b) for the purposes of section 308(3) of FA 2004 (duties of promoter relating to any notifiable arrangements), if the date on which the promoter first becomes aware of any transaction forming part of notifiable arrangements falls before 1st August 2006;
- (c) for the purposes of section 309(1) of FA 2004 (duty of person dealing with promoter outside United Kingdom), and of section 310 of that Act (duty of parties to notifiable arrangements not involving promoter) if the date on which any transaction forming part of notifiable arrangements is entered into falls before 1st August 2006.

(3) In paragraph (2)(a) “the relevant date” has the meaning given by section 308(2) of FA 2004.

**Interpretation : general**

**2.**—(1) This paragraph gives the meaning of the abbreviated references to Acts used in these Regulations—

“CAA 2001” means the Capital Allowances Act 2001(1);

“FA 2004” means the Finance Act 2004;

“ICTA” means the Income and Corporation Taxes Act 1988(2);

“ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003(3);

“ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005(4);

“TCGA 1992” means the Taxation of Chargeable Gains Act 1992(5).

(2) In these Regulations—

“business” has the meaning given by regulation 3;

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(1) 2001 c. 2.  
(2) 1988 c. 1.  
(3) 2003 c. 1.  
(4) 2005 c. 5.  
(5) 1992 c. 12.

“the Information Regulations” means the Tax Avoidance Schemes (Information) Regulations 2004(6);

“lease”, “lessor” and “lessee” are to be construed in accordance with regulation 14(1);

“plant or machinery lease” has the meaning given by regulation 14;

“the Promoters Regulations” means the Tax Avoidance Schemes (Promoters and Prescribed Circumstances) Regulations 2004(7);

“small or medium-sized enterprise” has the meaning given by regulation 4.

(3) For the purposes of these Regulations section 839 of ICTA(8) applies to determine whether persons are connected.

### **Meaning of “business”**

3. In these Regulations “business” means—

- (a) a company;
- (b) a partnership; or
- (c) any person whose profits are charged to income tax, otherwise than by virtue of his being a partner—
  - (i) as trading income under Part 2 of ITTOIA 2005 (trading income), or
  - (ii) as property income under section 268 of ITTOIA 2005 (charge to tax on profits of a property business).

### **Meaning of “small or medium-sized enterprise”**

4.—(1) For the purposes of these Regulations a “small or medium-sized enterprise” means a micro, small or medium-sized enterprise as defined in the Recommendation.

(2) In this regulation—

“the Recommendation” means the Commission Recommendation of 6th May 2003, and

“the Annex” means the Annex to the Recommendation.

(3) Paragraph (1) is subject to the following provisions.

(4) If a company (“C”) is a micro, small or medium-sized enterprise, disregarding any partner enterprise or linked enterprise, and, taken alone, it would satisfy the employee limit and at least one of the financial limits, but—

- (a) the number of employees, annual turnover or annual balance sheet total (as the case may be) of a partner enterprise or linked enterprise to which it is related has been taken into account in determining whether the employee limits or the financial limits have been exceeded, and
- (b) a partner enterprise or linked enterprise to which C is related would, disregarding the number of employees, and the annual turnover and annual balance sheet totals of C, exceed the employee limit, or either of the financial limits,

Article 4(2) of the Annex is to be disregarded in determining whether C is a small or medium-sized enterprise for an accounting period in which it exceeds the employee or financial limits.

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(6) S.I. 2004/1864, amended by S.I. 2005/1869.

(7) S.I. 2004/1865, amended by regulation 2 of S.I. 2004/2613.

(8) Section 839 was amended by paragraph 20 of Schedule 17 to the Finance Act 1995 (c. 4) and by paragraph 340 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005.

In this paragraph references to the employee limit and the financial limits are to the limits respectively on the number of employees, and the annual turnover and balance sheet totals, contained in Article 2(1) of the Annex.