
STATUTORY INSTRUMENTS

2007 No. 3426

The Scientific Research Organisations Regulations 2007

PART 2

Associations, object and profits

Associations for the purposes of section 508

- 3.** The following shall be deemed to be an Association for the purposes of section 508(1)(a)—
- (a) a body formed by the combining of two or more persons for a purpose common to those persons, or
 - (b) a body corporate comprised of two or more members.

Association's object

4.—(1) In relation to an accounting period, an Association shall be deemed to have as its object the undertaking of research and development which may lead to or facilitate an extension of any class or classes of trade if—

- (a) the Association's constitutional document states that the object of the Association is the undertaking of research and development which may lead to or facilitate an extension of any class or classes of trade;
- (b) the stated object is the only object of the Association;
- (c) the Association satisfies the income spending condition in regulation 5;
- (d) regulation 6 (breach of income spending condition) does not apply;
- (e) regulation 15 (breach of arrangements for disseminating the results of research and development) does not apply; and
- (f) regulation 17 (breach of intellectual property requirements) does not apply.

This paragraph is subject to paragraph (2).

(2) Where an Association's constitutional document does not satisfy sub-paragraph (b) of paragraph (1) that sub-paragraph shall be deemed to be satisfied if—

- (a) in relation to the accounting period immediately preceding the first accounting period in relation to which these Regulations have effect, an Association is approved by the Secretary of State for the purposes of section 508, and
- (b) the object or objects stated in the constitutional document in relation to the accounting period for which the approval was given has not or have not in any way been altered or replaced.

Income spending condition

5.—(1) The income spending condition in relation to an accounting period is that the Association must apply, or intend to apply, at least 75% of the amount of its relevant income of the accounting

period to activities that are treated as research and development which may lead to or facilitate an extension of any class or classes of trade.

This is subject to paragraphs (2) and (3).

- (2) Paragraph (3) applies in a case where an Association—
 - (a) intends to apply an amount of its relevant income of an accounting period to activities that are treated as research and development, and
 - (b) intends to so apply the amount after the accounting period in which the relevant income arose.
- (3) Where this paragraph applies—
 - (a) the activities, to which the amount referred to in paragraph (2) is to be applied, must be planned or programmed to be undertaken by or on behalf of the Association; and
 - (b) the plan or programme of activities must have been prepared on or before the last day of the accounting period.

Breach of income spending condition

6.—(1) This regulation applies where an Association fails to apply the amount (or any part of it) referred to in regulation 5(2) to the planned or programmed activities referred to in regulation 5(3) before the fifth anniversary of the last day of the accounting period in which the relevant income arose.

(2) Where this regulation applies the Association shall be deemed not to have complied with the condition in section 508(1)(a) in relation to any accounting period which falls in whole or in part in the calendar year that ends on the sixth anniversary of the last day of the accounting period in which the relevant income arose.

Relevant income of an accounting period

7. For the purposes of regulation 5, the amount of an Association's relevant income of an accounting period is the amount of its gross income of the accounting period less any amount paid by the Association in the accounting period in respect of pension deficit funding.

Gross income of an accounting period

8.—(1) For the purposes of regulation 7, the gross income of an accounting period shall be determined in accordance with generally accepted accounting practice but subject to paragraphs (2) to (4).

- (2) The amount of the gross income of an accounting period is the amount of—
 - (a) the revenue of the period, and
 - (b) subject to paragraph (4), any chargeable gains arising to the Association in the period.
- (3) For the purposes of paragraph (2) the revenue of the period includes in particular—
 - (a) gross investment income;
 - (b) interest;
 - (c) dividends;
 - (d) royalties;
 - (e) grants of funding for the undertaking of research and development;
 - (f) grants from public funds;

- (g) any payment of a sum of money received by the Association which, if the Association were a charity, would be a qualifying donation received by it within the meaning of—
 - (i) section 339 (charges on income: donations to charity)(1), or
 - (ii) section 25 of the Finance Act 1990 (donations to charity by individuals)(2), and
- (h) any other amounts received by the Association which, if the Association were a charity, would be treated for the purposes of the Tax Acts in relation to the Association as a donation to it.

(4) Where in an accounting period an Association sells or otherwise disposes of real property to a 100% subsidiary company of the Association any chargeable gain arising to the Association on the sale or disposal of the real property shall not be included in the determination of the gross income of the accounting period.

(5) In paragraph (1) “generally accepted accounting practice” has the meaning it has in section 50(1) of the Finance Act 2004(3).

Pension deficit funding

9.—(1) For the purposes of regulation 7, an amount is paid in respect of pension deficit funding if—

- (a) it is paid directly or indirectly to the trustees or managers of an occupational pension scheme to which Part 3 of the Pensions Act 2004(4) applies;
- (b) the amount paid—
 - (i) is recommended by an actuary, or
 - (ii) made in compliance with a direction, notice or order of the Pensions Regulator made under the Pensions Act 2004;
- (c) the amount paid discharges, in whole or part, an obligation of the Association to make good any deficiency in the assets of the scheme required to meet the scheme’s liabilities;
- (d) the obligation discharged by the amount paid is in respect of only those of the scheme’s liabilities which arise before the first day of the first accounting period in relation to which these Regulations have effect; and
- (e) the obligation discharged by the amount paid is in respect of only those of the scheme’s liabilities to beneficiaries who undertook scientific research the purpose of which was to facilitate an extension of any class or classes of trade.

(2) In paragraph (1) “scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.

(1) Section 339 was amended by section 60(2) and (4) of the Finance Act 1989 (c. 26); sections 26 and 27(2) and (4) of the Finance Act 1990 (c. 29); section 64 of the Finance Act 1997 (c. 16); section 40(1) to (8) of the Finance Act 2000 (c. 17) and sections 57 and 58 of the Finance Act 2006 (c. 25).

(2) Section 25 was amended by section 71(5) and (6) of the Finance Act 1991 (c. 31); section 39(1) to (7) and (10) of the Finance Act 2000; sections 57 of, and paragraph 4 of Schedule 17 to, the Finance Act 2002 (c. 23); paragraphs 165 and 166 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1); sections 83(6) to (7) and 284 of, and paragraph 5 of Schedule 17 and paragraph 37 of Schedule 35 to, the Finance Act 2004 (c. 12); paragraphs 414 and 415 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5); regulation 104 of S.I. 2005/3229; section 11 of the Finance (No. 2) Act 2005 (c. 22) and paragraph 30 of Schedule 13 the Finance Act 2006.

(3) 2004 c. 12; section 50(1) was amended by paragraphs 456 and 457 of Schedule 1 to the Income Tax Act 2007.

(4) 2004 c. 35.

Relevant income of an earlier accounting period applied in a later accounting period

10. For the purposes of regulation 5, in determining the percentage of the amount of the relevant income of an accounting period (“the relevant period”) applied, or intended to be applied, to activities treated as research and development, any amount which—

- (a) arose in an earlier accounting period, and
- (b) is applied, or intended to be applied, in the relevant period,

shall not be taken into account.

Non-distribution of profits

11.—(1) In relation to an accounting period, an Association shall be deemed not to have complied with the condition in section 508(1)(b) if in the accounting period the Association directly or indirectly distributes, or intends to so distribute, in any manner or form any of its profits of that accounting period or any other accounting period to any of its members, subscribers or shareholders.

This is subject to paragraph (2).

- (2) Payments made by an Association to a member, subscriber or shareholder—
 - (a) of reasonable remuneration for goods, labour, power supplied or services rendered,
 - (b) of reasonable interest for money lent, or
 - (c) of reasonable rent for any premises,

shall be treated as not being a distribution of profits for the purposes of paragraph (1) if such payments are not prohibited by the Association’s constitutional document.