

**2007 No. 766**

**CORPORATION TAX**

**The Transfer of the Northern Ireland Water Service (Tax)  
Regulations 2007**

<i>Made</i> - - - -	<i>8th March 2007</i>
<i>Laid before the House of Commons</i>	<i>9th March 2007</i>
<i>Coming into force</i> - -	<i>1st April 2007</i>

The Treasury, in exercise of the powers conferred by section 67 of the Finance (No. 2) Act 2005(a), make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Transfer of the Northern Ireland Water Service (Tax) Regulations 2007 and come into force on 1st April 2007.

**Interpretation**

2. In these Regulations—

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

“TCGA” means the Taxation of Chargeable Gains Act 1992(c);

“relevant transfer” has the meaning given in section 67(1) of the Finance (No.2) Act 2005;

“successor company” has the meaning given in Article 269 of the Water and Sewerage Services (Northern Ireland) Order 2006(d);

“transferor” means the Department for Regional Development;

“wholly owned subsidiary” has the meaning given in Article 4 of the Companies (Northern Ireland) Order 1986(e).

**Capital allowances: transfer of plant or machinery**

3.—(1) This regulation applies where—

(a) there is a relevant transfer of plant or machinery; and

(b) the plant or machinery would have been treated for the purposes of CAA (had the transferor incurred expenditure qualifying for allowances under Part 2 of that Act on the

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(a) 2005 c. 22.

(b) 2001 c.2.

(c) 1992 c. 12.

(d) S.I. 2006/3336 (N.I. 21).

(e) S.I. 1986/1092 (N.I.6).

provision of the plant or machinery) as disposed of by the transferor to the successor company on the transfer taking effect.

(2) Where this regulation applies, the Secretary of State may determine the amount which is to be taken for the purposes of Part 2 of CAA to be the amount of capital expenditure incurred by the successor company on the provision of plant or machinery.

(3) A determination referred to in paragraph (2) may only be made with the consent of the Treasury.

(4) Expressions used in this regulation and in Part 2 of CAA have the same meanings in this regulation as in that Part.

#### **Capital allowances: determination of capital value of industrial buildings etc.**

**4.**—(1) This regulation applies where there is a relevant transfer of a relevant interest in an industrial building or structure.

(2) Where this regulation applies the Secretary of State may determine —

- (a) the amount to be taken as the amount of the residue of qualifying expenditure immediately after the transfer; and
- (b) the period to be taken as the period from the date of the transfer to the end of the period of 25 years beginning with the day on which the building or structure was first used.

(3) A determination referred to in paragraph (2) may only be made with the consent of the Treasury.

(4) Expressions used in this regulation and in Part 3 of CAA have the same meanings in this regulation as in that Part.

#### **Amendment of company tax return following determination by Secretary of State**

**5.**—(1) Where the Secretary of State makes a determination in accordance with regulations 3(2) or 4(2) the successor company—

- (a) may amend its company tax return where necessary in accordance with paragraph 15(4) of Schedule 18 to the Finance Act 1998(a); or
- (b) shall amend its company tax return not more than twelve months after the end of the accounting period in which the determination occurred where the date of the determination makes it impossible to comply with the time limits set out in paragraph 15(4) of Schedule 18 to that Act.

(2) Where a company does not make an amended return in accordance with sub-paragraph (b), an officer of Revenue and Customs may make an assessment or determination—

- (a) in accordance with paragraph 46 of Schedule 18 to the Finance Act 1998; or
- (b) not later than two years after the end of the accounting period in which the determination occurred,

whichever is the later.

#### **Chargeable gains: transfer values**

**6.** Where there is a relevant transfer, to the extent that section 171 of TCGA would otherwise apply to the transfer, that section shall not apply.

#### **Chargeable gains: degrouping charges**

**7.**—(1) This regulation applies if the successor company acquires an asset from the transferor by way of a relevant transfer at a time when both are members of the same group of companies.

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(a) 1998 c. 36.

(2) Where paragraph (1) applies the successor company shall not be treated as having acquired the asset from the transferor for the purposes of section 179 of TCGA (company ceasing to be member of group).

(3) Expressions used in this regulation and in section 179 of TCGA have the same meanings in this regulation as in that section.

#### **Ownership of successor company: issue of securities**

**8.** Any security (other than a share) issued by the successor company or its wholly owned subsidiary pursuant to Article 271 of the Water and Sewerage Services (Northern Ireland) Order 2006<sup>(a)</sup> shall be treated for the purposes of the Corporation Tax Acts as if it had been issued for new consideration, such new consideration being equal to the principal sum payable under the security.

#### **Modification of transfer schemes**

**9.—**(1) Where a transfer scheme is treated as modified under, or by an order made under paragraph 3 of Schedule 11 to the Water and Sewerage Services (Northern Ireland) Order 2006 the successor company—

- (a) may amend its company tax return in accordance with paragraph 15(4) of Schedule 18 to the Finance Act 1998<sup>(b)</sup>; or
- (b) shall amend its company tax return not more than twelve months after the end of the accounting period in which the modification occurred where the date of the modification makes it impossible to comply with the time limits set out in paragraph 15(4) of Schedule 18 to that Act.

(2) Where a company does not make an amended return in accordance with sub-paragraph (b), an officer of Revenue and Customs may make an assessment or determination—

- (a) in accordance with paragraph 46 of Schedule 18 to the Finance Act 1998; or
- (b) not later than two years after the end of the accounting period in which the modification occurred,

whichever is the later.

8th March 2007

*Frank Roy*  
*Claire Ward*  
Two of the Lords Commissioners of Her Majesty's Treasury

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<sup>(a)</sup> S.I. 2006/3336 (N.I. 21).  
<sup>(b)</sup> 1998 c. 36.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations deal with the tax consequences for corporation tax purposes of the transfer of the Northern Ireland Water Service from the Department for Regional Development to a successor company. The establishment of the successor company and the transfer scheme will be effected on 1<sup>st</sup> April 2007.

Regulation 1 introduces the Regulations.

Regulation 2 provides for interpretation.

Regulation 3 sets out that the Secretary of State may make a determination of values for the amount to be taken as the amount of capital expenditure on plant or machinery for the purposes of Part 2 of the Capital Allowances Act 2001 (c. 2).

Regulation 4 sets out that the Secretary of State may make a determination of values for the amount taken as the capital value of industrial buildings for the purposes of Part 3 of the Capital Allowances Act 2001.

Regulation 5 provides that where there has been a determination of values by the Secretary of State under regulations 3 or 4, the successor company shall amend its company tax return not more than twelve months after the end of the accounting period in which the determination occurred (where the date of the determination means that the company is unable to comply with the time-limits set out in paragraph 15(4) of Schedule 18 to the Finance Act 1998 (c. 36)). If the successor company does not make an amended return in accordance with this regulation, an officer of Revenue and Customs may make an assessment or determination in accordance with the time limits set out in the regulation.

Regulation 6 disapplies section 171 of the Taxation of Chargeable Gains Act 1992 (c. 12) to relevant transfers (within the meaning of these Regulations).

Regulation 7 disapplies section 179 of the Taxation of Chargeable Gains Act 1992 where the successor company acquires an asset from the transferor by way of a relevant transfer.

Regulation 8 provides that any security issued (other than a share) by the successor company shall be treated as issued for new consideration equal to the principal sum payable under that security for corporation tax purposes.

Regulation 9 provides that where the transfer scheme is modified, the successor company shall amend its company tax return not more than twelve months after the end of the accounting period in which modification occurred (where the date of such modification means that the company is unable to comply with the time-limits set out in paragraph 15(4) of Schedule 18 to the Finance Act 1998 (c. 36)). If the successor company does not make an amended return in accordance with this regulation, an officer of Revenue and Customs may make an assessment or determination in accordance with the time limits in the regulation.

These Regulations impose no new costs on business.

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