

2007 No. 792

INCOME TAX

The Employee Share Schemes (Electronic Communication of Returns and Information) Regulations 2007

<i>Made</i>	- - - -	<i>12th March 2007</i>
<i>Laid before the House of Commons</i>		<i>13th March 2007</i>
<i>Coming into force</i>	- -	<i>6th April 2007</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 132 and 133(2) of the Finance Act 1999(a), and now exercisable by them(b).

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Employee Share Schemes (Electronic Communication of Returns and Information) Regulations 2007 and shall come into force on 6th April 2007.

Interpretation

2.—(1) In these Regulations—

- (a) “the Act” means the Income Tax (Earnings and Pensions) Act 2003(c); and
- (b) any reference to a numbered section or Schedule (without more) is a reference to the section or Schedule bearing that number in the Act.

(2) In these Regulations—

“approved method of electronic communications”, in relation to the delivery of information in accordance with a provision of these Regulations, means a method of electronic communications which has been approved, by specific or general directions issued by the Commissioners, for the delivery of information of that kind under that provision;

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

(a) 1999 c. 16.
(b) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that in so far as it is appropriate in consequence of section 5 a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.
(c) 2003 c. 1.

“electronic communications” has the meaning given in section 132(10) of the Finance Act 1999;

“official computer system” means a computer system maintained by or on behalf of the Commissioners or on behalf of an officer of Revenue and Customs—

- (a) to send or receive information, or
- (b) to process or store information;

“relevant information” means information which is authorised by virtue of these Regulations to be delivered to or dispatched by Revenue and Customs by an approved method of electronic communications;

“Revenue and Customs” means Her Majesty’s Revenue and Customs.

PART 2

Information which may be delivered by electronic communications

Information which may be delivered by electronic communications under these Regulations

3.—(1) Information specified in the Schedule to these Regulations may be delivered to Revenue and Customs if—

- (a) it is sent by an approved method of electronic communications, and
- (b) the sender is authorised by Revenue and Customs to use electronic communications for that purpose.

(2) Revenue and Customs may dispatch an acknowledgement to confirm receipt of any information specified in the Schedule to these Regulations.

PART 3

Evidential Provisions

Whether relevant information has been delivered electronically

4.—(1) For the purposes of these Regulations, relevant information is to be taken to have been delivered to an official computer system by an approved method of electronic communications only if it is accepted by that official computer system.

This is subject to the following qualification.

(2) Relevant information which is delivered to an official computer system must meet the standards of accuracy and completeness set by specific or general directions given by the Commissioners.

(3) Relevant information which fails to meet those standards must be treated as not having been delivered.

Proof of content of electronic delivery

5.—(1) A document certified by Revenue and Customs to be a printed-out version of information delivered by an approved method of communications is evidence, unless the contrary is proved, that the information—

- (a) was delivered by an approved method of electronic communications on that occasion, and
- (b) constitutes everything which was delivered on that occasion.

(2) A document which purports to be a certificate given in accordance with paragraph (1) is presumed to be such a certificate unless the contrary is proved.

Proof of identity of person sending or receiving electronic delivery

6. The identity of—

- (a) the person sending any information delivered by an approved method of electronic communications to Revenue and Customs, or
- (b) the person receiving any information delivered by an approved method of electronic communications by Revenue and Customs,

is presumed, unless the contrary is proved, to be the person recorded as such on an official computer system.

Information sent electronically on behalf of a person

7.—(1) Any information delivered by an approved method of electronic communications—

- (a) to Revenue and Customs, or
- (b) to an official computer system,

on behalf of a person, is presumed to have been delivered by that person.

(2) But this does not apply if the person proves that the information was delivered without the person's knowledge or connivance.

Proof of information sent electronically

8.—(1) The use of an approved method of electronic communications is presumed, unless the contrary is proved, to have resulted in the delivery of information—

- (a) to Revenue and Customs, if the delivery of the information has been recorded on an official computer system;
- (b) by Revenue and Customs, if the dispatch of the information has been recorded on an official computer system.

(2) The use of an approved method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the delivery of relevant information—

- (a) to Revenue and Customs, if the delivery of the information has not been recorded on an official computer system;
- (b) by Revenue and Customs, if the dispatch of the information has not been recorded on an official computer system.

(3) The time of receipt or dispatch of any relevant information delivered by an approved method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

This is subject to the following qualification.

(4) The Commissioners may, by a general or specific direction, provide for information to be treated as delivered upon a different date (whether earlier or later) than that given by paragraph (3).

(5) Information shall not be taken to have been delivered to an official computer system by means of electronic communications unless it is accepted by the system to which it is delivered.

Authentication of information in document otherwise required to be signed

9.—(1) This regulation applies if—

- (a) information specified in the Schedule to these Regulations is delivered to Revenue and Customs by a method of electronic communications, and
- (b) the information is required to be signed by or on behalf of the person delivering it.

(2) The requirement for a signature shall be treated as satisfied if the information is authenticated by or on behalf of the sender in such manner as may be approved by the Commissioners.

Use of unauthorised method of electronic communications

10.—(1) This regulation applies if—

- (a) a method of electronic communications is used for the purpose of delivering information under Part 2 of these Regulations, and
- (b) that method of electronic communications is not for the time being approved for the delivery of information of that kind under that Part.

(2) The use of that method of electronic communications is conclusively presumed not to have resulted in the delivery of the information.

Paul Gray
Mike Hanson

12th March 2007

Two of the Commissioners for Her Majesty's Revenue and Customs

SCHEDULE

Regulation 3

Information which may be supplied to Revenue and Customs by an approved method of electronic communications

1. Information required under section 421J(3) (particulars of any reportable events under section 421K(3)).
2. Information pursuant to a notice given under section 421J(4) requiring a person to provide an officer of Revenue and Customs with particulars of any reportable events under section 421K(3) or, if there are none, a statement of that fact.
3. Information pursuant to a notice given under paragraph 93 of Schedule 2 requiring a person to provide an officer of Revenue and Customs with any information that officer reasonably requires under the SIP code (see section 488(3)).
4. Information pursuant to a notice given under paragraph 45 of Schedule 3 requiring a person to provide an officer of Revenue and Customs with any information that officer reasonably requires under the SAYE code (see section 516(3)).
5. Information pursuant to a notice given under paragraph 33 of Schedule 4 requiring a person to provide an officer of Revenue and Customs with any information that officer reasonably requires under the CSOP code (see section 521(3)).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the use of approved methods of electronic communications for the delivery of information required under some of the Chapters of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1). Part 7 has the title “Employment income: income and exemptions relating to securities”; and the Chapters in question are Chapter 1 (general), Chapter 6 (approved share incentive plans), Chapter 7 (approved SAYE option schemes) and Chapter 8 (approved CSOP schemes).

These Regulations are divided into three Parts, of which Part 1 is introductory. Regulation 1 deals with citation and commencement and regulation 2 with interpretation.

Part 2, consisting of regulation 3, deals with the information which may be delivered by electronic communications, and provides for information to be delivered to Revenue and Customs if it is sent by an approved method of electronic communications, and the sender is authorised by Revenue and Customs to use electronic communications for that purpose. The information falling within Part 2 is specified in the Schedule to these Regulations.

Part 3 deals with evidential matters. Regulation 4 is concerned with the issue of whether relevant information has been delivered electronically. Regulation 5 is concerned with proof of the content of an electronic delivery of information, and Regulation 6 with proof of the identity of the person sending or receiving an electronic delivery of information. Regulation 7 is concerned with information sent electronically on behalf of a person, and regulation 8 with proof of information sent electronically. Regulation 9 deals with the authentication of information in a document otherwise required to be signed, and regulation 10 with the consequences of the use of an unauthorised method of electronic communication.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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