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STATUTORY INSTRUMENTS

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**2012 No. 2903**

**INHERITANCE TAX**

**The Inheritance Tax (Market Makers  
and Discount Houses) Regulations 2012**

*Made* - - - - 19th November 2012  
*Laid before the House of*  
*Commons* - - - - 21st November 2012  
*Coming into force* - - 31st December 2012

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of powers conferred by sections 106(5) and 107(5) of the Finance Act 1986<sup>(1)</sup> and now exercisable by them<sup>(2)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Inheritance Tax (Market Makers and Discount Houses) Regulations 2012 and come into force on 31st December 2012.

**Application of these Regulations**

2. The day specified for the purposes of sections 106(6) and 107(6) of the Finance Act 1986 for the application of these Regulations is 31st December 2012.

**Amendment of the Inheritance Tax Act 1984**

3. The Inheritance Tax Act 1984<sup>(3)</sup> is amended as follows.

4. In section 105 (relevant business property), after subsection (4) insert—

“(4A) Subsection (3) above does not apply to any property if the business concerned is of a description set out in regulations under section 106(5) of the Finance Act 1986.”.

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(1) 1986 c.41.

(2) Sections 106 and 107 of the Finance Act 1986 (“the 1986 Act”) contain powers for the Board to make regulations. Section 114 of the 1986 Act provides that Part 5 shall be construed as one with the Inheritance Tax Act 1984 (c. 51). Section 272 of that Act provides that “the Board” means the Commissioners of Inland Revenue. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) 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 taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(3) 1984 c.51.

5. In section 234 (interest on instalments), for subsection (3)(c) substitute—
- “(c) any company—
    - (i) whose business is wholly that of a market maker or is that of a discount house and (in either case) is carried on in the United Kingdom, or
    - (ii) which is of a description set out in regulations under section 107(5) of the Finance Act 1986.”.

**Description for the purposes of sections 105(4A) and 234(3)(c)(ii) of the Inheritance Tax Act 1984**

6. For the purposes of section 105(4A) of the Inheritance Tax Act 1984 the description of a business is a business in an EEA State other than the United Kingdom which—

- (a) holds itself out at all normal times, in compliance with the rules of a regulated market which has been notified to the European Commission, as willing to buy and sell securities, stocks and shares at a price specified by it, and
- (b) is recognised as doing so by that regulated market.

7. For the purposes of section 234(3)(c)(ii) of the Inheritance Tax Act 1984 the description of a company is a company in an EEA State other than the United Kingdom which—

- (a) holds itself out at all normal times, in compliance with the rules of a regulated market which has been notified to the European Commission, as willing to buy and sell securities, stocks and shares at a price specified by it, and
- (b) is recognised as doing so by that regulated market.

*Ruth Owen  
Jim Harra*

Two of Her Majesty’s Commissioners for  
Revenue and Customs

19th November 2012

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## EXPLANATORY NOTE

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

These Regulations amend the Inheritance Tax Act 1984 (“the Act”) to apply Business Property Relief to any property if the business concerned is a market maker anywhere within the European Economic Area.

Regulation 4 amends section 105 of the Act to insert subsection (4A). The new subsection provides that subsection (3) also does not apply to businesses which are of a description set out in regulations made under section 106(5) of the Finance Act 1986 (“the 1986 Act”).

Regulation 6 describes, for the purposes of sections 105(4A) of the Act, those businesses.

Regulation 5 amends section 234 of the Act to substitute subsection (3)(c) to include a provision that companies which are of a description set out in regulations made under section 107(5) of the 1986 Act fall within section 234(3)(c). This is in order to mirror the changes made by regulation 4 to ensure the treatment of companies in relation to the interest payable on instalments is the same as the relief.

Regulation 7 describes, for the purposes of section 234(3)(c)(ii) of the Act, those companies.

A Tax Information and Impact Note covering this instrument was published on 4th October 2012 alongside the draft legislation and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.