

2017 No. 345

INCOME TAX

CAPITAL GAINS TAX

INHERITANCE TAX

**The Penalties Relating to Offshore Matters and Offshore
Transfers (Additional Information) Regulations 2017**

Made - - - - - *9th March 2017*

Laid before the House of Commons *10th March 2017*

Coming into force *1st April 2017*

The Treasury make the following Regulations in exercise of the powers conferred by paragraph 9(1C) of Schedule 24 to the Finance Act 2007(a), paragraph 12(2C) of Schedule 41 to the Finance Act 2008(b) and paragraph 14(2C) of Schedule 55 to the Finance Act 2009(c):

Citation and commencement

1. These Regulations may be cited as the Penalties Relating to Offshore Matters and Offshore Transfers (Additional Information) Regulations 2017 and come into force on 1st April 2017.

Interpretation

2. In these Regulations—

“asset” has the meaning given in section 21(1) of the Taxation of Capital Gains Act 1992(d), but also includes sterling;

“document” includes part of a document.

(a) 2007 c. 11; paragraph 9 was amended by paragraph 9 of Schedule 40 to the Finance Act 2008 (c. 9); paragraph 9(1C) was inserted by paragraph 2(4) of Schedule 21 to the Finance Act 2016 (c. 24).
(b) 2008 c. 9; paragraph 12(2C) was inserted by paragraph 6(4) of Schedule 21 to the Finance Act 2016 (c. 24).
(c) 2009 c. 10; paragraph 14 was amended with effect from a day to be appointed by paragraph 8 of Schedule 10 to the Finance (No. 3) Act 2010 (c. 33); paragraph 14(2C) was inserted by paragraph 10(5) of Schedule 21 to the Finance Act 2016 (c. 24).
(d) 1992 c. 12; section 21(1) was amended by paragraph 9 of Schedule 12 to the Finance Act 2006 (c. 25).

Additional information for the purposes of paragraph 9(1B)(d) of Schedule 24 to the Finance Act 2007, paragraph 12(2B)(d) of Schedule 41 to the Finance Act 2008 and paragraph 14(2B)(d) of Schedule 55 to the Finance Act 2009

3. The additional information required for the purposes of paragraph 9(1B)(d) of Schedule 24 to the Finance Act 2007(a), paragraph 12(2B)(d) of Schedule 41 to the Finance Act 2008(b) and paragraph 14(2B)(d) of Schedule 55 to the Finance Act 2009(c), is that a person (“P”) must—

- (a) tell HMRC whether or not regulations 4 or 5 (or both) apply to P; and
- (b) provide HMRC with the information specified in relation to those regulations set out in regulations 6 and 7 (as appropriate).

4. This regulation applies to P if there is a person (“the enabler”) who encouraged, assisted or otherwise facilitated the conduct by P giving rise to the penalty in question.

5. This regulation applies to P if—

- (a) P is the sole or a joint beneficial owner of an asset (“the asset”) situated or held in a territory outside the United Kingdom; and
- (b) the person holding the asset (“the asset holder”) is not P.

Additional information to be provided to HMRC where regulation 4 applies to P

6. The additional information to be provided to HMRC where regulation 4 applies to P is—

- (a) the name and address of the enabler;
- (b) a description of the enabler’s conduct that encouraged, assisted or otherwise facilitated the conduct by P giving rise to the penalty in question;
- (c) a description of how the first contact between P and the enabler was made and how the contact was maintained during the times when the enabler’s conduct encouraged, assisted or otherwise facilitated the conduct by P giving rise to the penalty in question; and
- (d) a description of all documents held by P relating to the enabler’s conduct that encouraged, assisted or otherwise facilitated the conduct by P giving rise to the penalty in question.

Additional information to be provided to HMRC where regulation 5 applies to P

7. The additional information to be provided to HMRC where regulation 5 applies to P is—

- (a) the name and address of any other joint beneficial owner of the asset;
- (b) the extent of P’s share of the beneficial ownership of the asset;
- (c) a description of all documents of title or other documents indicating P’s beneficial ownership of the asset;
- (d) details of where the asset is situated or held;
- (e) details of when and how P became a beneficial owner of the asset (including a description of all documents held by P relating to the acquisition of P’s beneficial ownership of the asset);
- (f) a description of all changes in the arrangements for the ownership of the asset since P became a beneficial owner of it (including the date of any change in the arrangements and a description of all documents held by P relating to such changes);
- (g) the names and last known addresses of all persons who have been asset holders of the asset during P’s beneficial ownership of it; and

(a) 2007 c. 11; paragraph 9(1B)(d) was inserted by paragraph 2(4) of Schedule 21 to the Finance Act 2016 (c. 24).

(b) 2008 c. 19; paragraph 12(2B)(d) was inserted by paragraph 6(4) of Schedule 21 to the Finance Act 2016 (c. 24).

(c) 2009 c. 10; paragraph 14(2B)(d) was inserted by paragraph 10(5) of Schedule 21 to the Finance Act 2016 (c. 24).

- (h) in relation to an asset holder who is not an individual, the name and business address (if known) of any director, senior manager, employee or agent of the asset holder who has advised or assisted P in relation to P's beneficial ownership of the asset.

8.—(1) A description of a document provided in accordance with regulations 6 or 7 must (as far as it is reasonably practicable to do so) state in relation to the document—

- (a) the latest of the date when the document was made, prepared or, if appropriate, signed or executed;
- (b) the person who made or prepared it (and the person on whose behalf it was made or prepared if different);
- (c) the person who signed or executed the document (if appropriate);
- (d) the person to whom the document was given or sent (if appropriate);
- (e) a summary of its contents or the information recorded in the document;
- (f) the location of the document or where it may be inspected.

(2) The requirement to provide a description of a document in accordance with regulations 6 or 7 may be met by the provision of the document in question to HMRC^(a) or a suitable copy of it.

(3) The provision of a document (or a copy of it) to HMRC as described in paragraph (2) is without prejudice to any requirement to produce the document in question to HMRC or power of HMRC to require the production of the document.

*David Evennett
Andrew Griffiths*

9th March 2017

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 1st April 2017. They specify the additional information required for the purposes of paragraph 9(1B)(d) of Schedule 24 to the Finance Act 2007 (c. 11), paragraph 12(2B)(d) of Schedule 41 to the Finance Act 2008 (c. 19) and paragraph 14(2B)(d) of Schedule 55 to the Finance Act 2009 (c. 10) where prompted or unprompted disclosure is made in relation to an offshore matter or an offshore transfer.

A Tax Information and Impact Note covering this instrument was published on 9th December 2015 and is available on the gov.uk website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

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^(a) Paragraph 23 of Schedule 24 to the Finance Act 2007 (c. 11), paragraph 24(2) of Schedule 41 to the Finance Act 2008 (c. 9) and paragraph 27(3) of Schedule 55 to the Finance Act 2009 (c. 10) define "HMRC" as Her Majesty's Revenue and Customs.

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