
STATUTORY INSTRUMENTS

1995 No. 3287

INCOME TAX

The Personal Equity Plan (Amendment No. 2) Regulations 1995

Made - - - - 19th December 1995
Laid before the House of
Commons - - - - 19th December 1995
Coming into force - - 9th January 1996

The Treasury, in exercise of the powers conferred on them by sections 333 and 333A of the Income and Corporation Taxes Act 1988(1) and section 151 of the Taxation of Chargeable Gains Act 1992(2), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal Equity Plan (Amendment No. 2) Regulations 1995 and shall come into force on 9th January 1996.

Interpretation

2. In these Regulations “the principal Regulations” means the Personal Equity Plan Regulations 1989(3) and “regulation” means a regulation of those Regulations.

Amendments to the principal Regulations

3. In regulation 2(1)(a)(4)—

(a) after the definition of “company” there shall be inserted—

““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(5) as adjusted by the Protocol signed at Brussels on 17th March 1993(6);

(1) 1988 c. 1; section 333 was amended by section 70 of the Finance Act 1991 (c. 31). Section 333A was inserted by section 64(1) of the Finance Act 1995 (c. 4).
(2) 1992 c. 12; section 152 was amended by section 85 of the Finance Act 1993 (c. 34) and by section 64(2) of the Finance Act 1995.
(3) S.I. 1989/469; amended by S.I. 1990/678, 1991/733, 2774, 1992/623, 1993/756 and 1995/1539.
(4) Amended by S.I. 1990/678, 1991/733, 2774 and 1995/1539.
(5) O.J. No. L1, 3.1.94, p.3.
(6) O.J. No. L1, 3.1.94, p.572.

“EEA State” means a State, other than the United Kingdom, which is a Contracting Party to the EEA Agreement;

“European institution” has the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992(7);”

(b) after the definition of “release date” there shall be inserted—

““relevant authorised person” has the same meaning as in section 333A(12) of the Taxes Act;”.

4.—(1) In regulation 5(3) there shall be inserted at the beginning the words “Subject to paragraph (3A),”.

(2) After regulation 5(3) there shall be inserted—

“(3A) A plan manager who is a European institution or a relevant authorised person may hold a plan investor’s cash subscription and other cash held under a plan in the currency of the EEA State in which he has his principal place of business and may deposit such cash in an account which is designated as mentioned in paragraph (3) with any person authorised under the law of that State to accept deposits.”

5. In regulation 11(2)—

(a) for sub-paragraph (b) there shall be substituted—

“(b) a plan manager must be—

(i) an authorised person within the meaning of Chapter III of Part I of the Financial Services Act 1986(8) (“the 1986 Act”), or

(ii) a European institution which may carry on home-regulated investment business in the United Kingdom in accordance with the Banking Co-ordination (Second Council Directive) Regulations 1992;”

(b) at the end of sub-paragraph (c) there shall be added—

“; and

(d) a plan manager who is a European institution or a relevant authorised person and who does not have a branch or business establishment in the United Kingdom, or has such a branch or business establishment but does not intend to carry out all his functions as a plan manager at that branch or business establishment, must fulfil one of the three requirements specified in regulation 11A.”

6. After regulation 11 there shall be inserted—

“Plan manager— appointment of tax representative

11A.—(1) The first requirement specified in this regulation is that—

(a) a person who falls within subsection (5) of section 333A of the Taxes Act is for the time being appointed by the plan manager to be responsible for securing the discharge of the duties prescribed by paragraph (4) which fall to be discharged by the plan manager, and

(b) his identity and the fact of his appointment have been notified to the Board by the plan manager.

(7) S.I. 1992/3218; amended by S.I. 1993/3225 and 1995/1217.

(8) 1986 c. 60; section 13 was amended by section 206(1) of, and paragraph 1 of Part I of Schedule 23 to, the Companies Act 1989 (c. 40) and section 23 was substituted by section 98(a), and paragraph 1 of Part I of Schedule 18 to, the Friendly Societies Act 1992 (c. 40).

(2) The second requirement specified in this regulation is that there are for the time being other arrangements with the Board for a person other than the plan manager to secure the discharge of such duties.

(3) The third requirement specified in this regulation is that there are for the time being other arrangements with the Board designed to secure the discharge of such duties.

(4) The duties prescribed by this paragraph are those that fall to be discharged by a plan manager under these Regulations.

(5) The appointment of a person in pursuance of the first requirement shall be treated as terminated in circumstances where—

(a) the Board have reason to believe that the person concerned—

(i) has failed to secure the discharge of any of the duties prescribed by paragraph (4), or

(ii) does not have adequate resources to discharge those duties; and

(b) the Board have notified the plan manager and that person that they propose to treat his appointment as having terminated with effect from the date specified in the notice.

(6) Where, in accordance with the first requirement, a person is at any time responsible for securing the discharge of duties, the person concerned—

(a) shall be entitled to act on the plan manager's behalf for any of the purposes of the provisions relating to the duties;

(b) shall secure (where appropriate by acting on the plan manager's behalf) the plan manager's compliance with and discharge of the duties;

(c) shall be personally liable in respect of any failure of the plan manager to comply with or discharge any such duty as if the duties imposed on the plan manager were imposed jointly and severally on the plan manager and the person concerned."

7. At the end of regulation 15(c) there shall be added—

“; or

(d) in the case of a European institution or a relevant authorised person, action corresponding to that described in paragraph (b) or (c) has been taken by or in relation to the institution or person under the law of an EEA State”.

8. At the end of sub-paragraph (b) of regulation 17A(1) there shall be added the words “(or, where the plan manager is a European institution or a relevant authorised person, its equivalent in the currency of the State in which he has his principal place of business)”.

9. In regulation 26(1) after the word “inspection” there shall be inserted the words “at a place within the United Kingdom”.

19th December 1995

Michael Bates
Derek Conway
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 9th January 1996, make further amendments to the Personal Equity Plan Regulations 1989 (“the principal Regulations”) in particular in relation to the qualifications for plan managers. They provide that a European institution within the meaning of the Banking Co-ordination (Second Council Directive) Regulations 1992, which may carry on home-regulated investment business in the United Kingdom in accordance with those Regulations, or a person who is an authorised person for the purposes of the Financial Services Act 1986 by virtue of section 31 of that Act, must appoint a tax representative for the purpose of discharging the duties of a plan manager under the principal Regulations, or make other arrangements with the Commissioners of Inland Revenue for the discharge of those duties, if it does not have a branch or business establishment in the United Kingdom through which it intends to carry out the functions of a plan manager. The amendments also provide for the termination of the appointment of a tax representative, set out the powers and liabilities of such representatives and make consequential amendments to the principal Regulations.

Regulation 1 provides for citation and commencement and regulation 2 contains definitions.

Regulation 3 inserts new definitions in the principal Regulations.

Regulation 4 makes consequential amendments to regulation 5 of the principal Regulations. Regulation 5 contains amendments to regulation 11 of the principal Regulations providing for the qualifications of plan managers.

Regulation 6 inserts a new regulation 11A in the principal Regulations providing for the appointment of tax representatives and regulations 7, 8 and 9 make consequential amendments to the principal Regulations.