

1999 No. 1029

INCOME TAX

The Personal Portfolio Bonds (Tax) Regulations 1999

<i>Made</i> - - - -	<i>30th March 1999</i>
<i>Laid before the House of Commons</i>	<i>30th March 1999</i>
<i>Coming into force</i>	<i>6th April 1999</i>

The Treasury, in exercise of the powers conferred on them by section 553C of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation, commencement and effect

- 1.**—(1) These Regulations may be cited as the Personal Portfolio Bonds (Tax) Regulations 1999 and shall come into force on 6th April 1999.
- (2) These Regulations shall have effect, in relation to personal portfolio bonds, with respect to any year ending on or after 6th April 2000.

Interpretation

- 2.**—(1) In these Regulations unless the context otherwise requires—
- “building society” means a building society within the meaning of the Building Societies Act 1986(b), or the Irish Building Societies Act 1989(c);
- “collective investment scheme” has the meaning given by section 75 of the Financial Services Act 1986(d), and “interest” in relation to a collective investment scheme means the beneficial entitlement (however described) of a participant (within the meaning of that section);
- “company” has the meaning given by section 832(1) and (2) of the Taxes Act;
- “insurance company” means an insurance company within the meaning of the Insurance Companies Act 1982(e);
- “internal linked fund” has the meaning given by regulation 3(1) of the Insurance Companies (Accounts and Statements) Regulations 1996(f);
- “market value” shall be construed in accordance with section 272 of the Taxation of Chargeable Gains Act 1992(g);
- “personal portfolio bond” has the meaning given by regulation 4, subject to regulation 3;
- “policy holder”, except in regulation 4(1), includes a holder of a life annuity contract;

(a) 1988 c. 1; section 553C was inserted by section 89 of the Finance Act 1998 (c. 36).
(b) 1986 c. 53.
(c) Number 17 of 1989.
(d) 1986 c. 60.
(e) 1982 c. 50.
(f) S.I. 1996/943.
(g) 1992 c. 12; section 272 was amended by paragraph 12 of Schedule 38 to the Finance Act 1996 (c. 8).

“recognised stock exchange” has the meaning given by section 841 of the Taxes Act;

“security” has the same meaning as in section 132(3)(b) of the Taxation of Chargeable Gains Act 1992;

“share” includes stock;

“the Taxes Act” means the Income and Corporation Taxes Act 1988;

“unit trust scheme” has the meaning given by subsection (6) of section 468 of the Taxes Act^(a);

“warrant” has the same meaning as in paragraphs 4 and 28(4) of Schedule 1 to the Financial Services Act 1986;

“year” in relation to a personal portfolio bond means a year as defined in section 546(4) of the Taxes Act, and “the final year” has the meaning given by that section.

(2) In these Regulations references to the premium paid, or the amount of the premium paid, include—

- (a) references to lump sum, or any other, consideration,
- (b) where more than one amount is payable by way of premium in respect of the policy or contract, references to the aggregate of the premiums paid, and
- (c) references to the market value at the date of transfer of any property other than cash transferred to the insurance company in satisfaction of any premium.

(3) In these Regulations references to a section, without more, are to that section of the Taxes Act.

Policies or contracts issued or made before 17th March 1998 which are the subject of special exclusions from being personal portfolio bonds

3.—(1) A policy or contract is not a personal portfolio bond if it is a policy or contract—

- (a) which, in the case of a policy, was issued in respect of an insurance made before 17th March 1998 and, in the case of a contract, was made before 17th March 1998,
- (b) whose terms are not varied on or after 16th July 1998 so as to increase the benefits secured or to extend the term of the policy or contract (any exercise of rights conferred by the policy or contract being regarded for this purpose as a variation), and
- (c) which is a policy or contract to which either paragraph (2) or paragraph (3) applies.

(2) This paragraph applies to a policy or contract under whose terms the benefits have at no time during its existence been capable of being determined either in whole or in part by reference to any index other than those referred to in regulation 4(7), or to any property other than—

- (a) shares or securities listed on a recognised stock exchange,
- (b) shares or securities of a company which are dealt in on the Unlisted Securities Market or the Alternative Investment Market, and which satisfy the conditions specified in paragraph (4), and
- (c) property described in regulation 4(3) and (4).

(3) This paragraph applies to a policy or contract—

- (a) under whose terms the benefits were at some time during its existence capable of being determined either in whole or in part by reference to property other than that referred to in paragraph (2)(a), (b) and (c), or by reference to an index other than those referred to in regulation 4(7), but at no time during its existence have been so determined, and

(a) Subsection (6) was amended by section 113 of the Finance Act 1994 (c. 9).

- (b) whose terms are varied before the end of the first year, in relation to that policy or contract, which commences on or after 6th April 1999, subject to paragraph (5), so that the only property that may be selected as mentioned in regulation 4(1) consists of property referred to in paragraph (2)(a), (b) and (c), and the only index that may be so selected consists of an index referred to in regulation 4(7).
- (4) The conditions specified in this paragraph are that—
 - (a) any holding of shares or securities of a company, by reference to which any benefits under the policy or contract are or have been capable of being determined during any period, does not at any time during that period exceed 10 per cent. of the issued share capital of the company concerned; and
 - (b) the amount invested in any shares or securities of a single company to which this condition applies does not at any time exceed 10 per cent. of the premium paid in respect of the policy or contract (and “amount invested” includes the market value at the date of transfer of any property other than cash transferred to the insurance company in satisfaction of any premium).
- (5) In a case where—
 - (a) the policy holder was not resident in the United Kingdom on 17th March 1998, and
 - (b) after that date, the policy holder is at any time resident in the United Kingdom,

paragraph (3)(b) shall apply with the modification that, for the year mentioned in that subparagraph, there is substituted a reference to whichever is the later of that year, and the first year, in relation to that policy or contract, which commences after the time mentioned in subparagraph (b) of this paragraph or, where there is more than one such time, the earliest such time.

(6) Any reference in paragraphs (2) and (3) to the period of existence of a policy or contract, or to a period in paragraph (4), or to a time during either such period, shall be construed ignoring any such period of time before 6th April 1994, but shall include any other such period or time (whether before or after the coming into force of these Regulations).

(7) Any reference in paragraphs (2)(a) and (b) and (4) to shares or securities, or to a holding of shares or securities, includes a reference to any option, warrant or other right to acquire shares or securities.

Definition of personal portfolio bond (applying to all policies or contracts whenever issued or made)

4.—(1) Subject to paragraph (2) and regulation 3, “personal portfolio bond” means a policy of life insurance, contract for a life annuity or capital redemption policy under whose terms—

- (a) some or all of the benefits are determined by reference to the value of, or the income from, property of any description (whether or not specified in the policy or contract) or fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
 - (b) some or all of the property, or such an index, may be selected by, or by a person acting on behalf of, the holder of the policy or contract or a person connected with him (or the holder of the policy or contract and a person connected with him).
- (2) A policy or contract is not a personal portfolio bond if—
- (a) the only property which may be selected as mentioned in paragraph (1)(b) is of the description prescribed by either or both of paragraphs (3) and (4), and
 - (b) the only index which may be selected as mentioned in paragraph (1)(b) is of the description prescribed by paragraph (7).
- (3) The description prescribed by this paragraph is of property which the insurance company has appropriated to an internal linked fund, where the property satisfies the condition specified in paragraph (5).
- (4) The description prescribed by this paragraph is of property consisting of any of the following—
- (a) units in an authorised unit trust within the meaning of subsection (6) of section 468, read with subsections (7) to (9) of that section(a),

(a) Section 468 was amended by section 113(1) and (2) of, and paragraph 3 of Schedule 14 and Part V(13) of Schedule 26 to, the Finance Act 1994 (c. 9).

- (b) shares in an investment trust within the meaning of section 842(a),
- (c) shares in an open-ended investment company within the meaning of section 75(8) of the Financial Services Act 1986(b),
- (d) cash, including cash deposited in a deposit account or share account with a building society, or in a bank account or similar account, except where the acquisition of the cash was made wholly or partly for the purpose of realising a gain from the disposal of it,
- (e) policies or contracts to which Chapter II of Part XIII of the Taxes Act applies, which satisfy the conditions specified in paragraph (6), and
- (f) an interest in a collective investment scheme which is constituted by–
 - (i) a company, not being an open-ended investment company, which is resident outside the United Kingdom,
 - (ii) a unit trust scheme the trustees of which are not resident in the United Kingdom, or
 - (iii) any arrangements which do not fall within paragraph (i) or (ii), which take effect by virtue of the law of a territory outside the United Kingdom and which, under that law, create rights in the nature of co-ownership (without restricting that expression to its meaning in the law of any part of the United Kingdom),

where the property concerned satisfies, or further satisfies, as the case may be, the condition specified in paragraph (5).

(5) The condition specified in this paragraph is that, at the time when the property is available to be selected, the opportunity to select property of the same description as the first-mentioned property is available to, or to persons acting on behalf of, all the policy holders of the insurance company concerned or one, or more than one, class of policy holders of that insurance company, as mentioned in paragraph (8)(a) to (c).

- (6) The conditions specified in this paragraph are that neither–
 - (a) the policy or contract, nor
 - (b) any property by reference to which the value of any benefits under the policy or contract is or has been directly or indirectly capable of being determined, nor
 - (c) any property which, in relation to the policy or contract, or the premium paid in respect thereof, is “derived property” within the meaning of section 660A(10)(c) of the Taxes Act,

is a personal portfolio bond.

(7) The description prescribed by this paragraph is of indices consisting of any of the following–

- (a) the retail prices index,
- (b) any similar general index of prices which is published by the government of any foreign state, or by an agent of such a government, or
- (c) any published index of prices of shares listed on a recognised stock exchange,

in circumstances where, at the time when the index is available to be selected, the opportunity to select the same index is available to, or to persons acting on behalf of, all the policy holders of the insurance company concerned or one, or more than one, class of policy holders of that insurance company, as mentioned in paragraph (8)(a) to (c).

(a) Section 842 was amended by section 117(1) of the Finance Act 1988 (c. 39), section 55 of the Finance Act 1990 (c. 29), paragraph 14(55) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12), paragraph 8 of Schedule 17 to the Finance Act 1994, and by paragraph 2 of Schedule 30, and paragraph 7(1) and (2)(b) of Schedule 38, to the Finance Act 1996 (c. 8).

(b) 1986 c. 60.

(c) Section 660A was inserted by paragraph 1 of Schedule 17 to the Finance Act 1995 (c. 4).

(8) In paragraphs (5) and (7) a “class” of policy holders means a number of policy holders to whom the opportunity is given to select property or an index as mentioned in paragraphs (5) and (7) in circumstances where—

- (a) that opportunity is clearly identified in marketing or other promotional literature published by the insurance company concerned to members of the public, or members of the public who are intending investors, as available generally to any person falling within its terms,
- (b) the class and the opportunity are not limited to connected persons, and
- (c) the composition of the class (which means the inclusion in or exclusion from the class of any person, or the ability of that person to take the opportunity, if he so chooses) is determined by the insurance company alone.

Personal portfolio bonds—computation of gain

5.—(1) This regulation makes provision for amounts to be treated as gains arising in connection with a personal portfolio bond in any year ending on or after 6th April 2000 other than the final year (a “relevant year”) for the purposes of charging those gains to tax in accordance with the provisions of Chapter II of Part XIII of the Taxes Act applied (with modifications) by regulation 6.

(2) Subject to paragraph (5), there shall be treated as a gain arising in a relevant year the amount calculated in accordance with the formula—

$$\frac{15 \times (A + B - C)}{100}$$

where—

A is the amount of the premium paid in respect of the personal portfolio bond,

B is the aggregate of the amounts found by applying that formula at the end of each of the previous years during which the personal portfolio bond was in existence, in succession, starting with the first such year, subject to paragraph (4), and

C is, on the assumption that the words “or assignment” and “assigned or” in section 546(1) (a) were omitted, the aggregate of—

- (a) any excess of the reckonable aggregate value mentioned in subsection (2) of section 546 over the allowable aggregate amount mentioned in subsection (3) of that section, which, in relation to the personal portfolio bond, has occurred at the end of the year immediately preceding the relevant year; and
- (b) any such excess which occurred at a time earlier than any excess mentioned in sub-paragraph (a) would have occurred.

(3) The gain calculated in accordance with paragraph (2) shall be treated as arising at the end of the relevant year concerned, subject to paragraph (4).

(4) The references—

- (a) in paragraph (3) to the end of a relevant year, and
- (b) in paragraph (2), in the definition of “B”, to the end of any previous year,

shall each be construed as a reference to the time immediately before any gain treated as arising in connection with the same policy or contract at the end of that year under section 541(a), 543 or 545, on the occurrence of such an excess as is mentioned in section 540(1)(a)(v), 542(1)(c) or 545(1)(d).

(5) Where the terms of a policy or contract, to which regulation 3(3) applies as modified by regulation 3(5), are varied, within the alternative period permitted by regulation 3(5), (that is, the

(a) Sections 540 and 541 were amended by paragraphs 3 and 4 of Schedule 9 to the Finance Act 1989 (c. 26).

first year which commences after the time mentioned in regulation 3(5)(b) falls later than the year mentioned in regulation 3(3)(b)), no gain shall be treated as arising under paragraph (2) at the end of the first year, in relation to the policy or contract, which ends after the time mentioned in regulation 3(5)(b).

Application of Chapter II of Part XIII of the Taxes Act

6.—(1) The gain treated as arising in accordance with regulation 5(2) shall be treated, for the purposes of section 547(a) and paragraph (2) (other than sub-paragraph (b) of that paragraph), as arising on the happening of a chargeable event, which takes place at the time given by regulation 5(3) and (4).

(2) The provisions of Chapter II of Part XIII of the Taxes Act(b) (other than section 553C) shall, so far as concerns policies or contracts that are also personal portfolio bonds, apply, subject to the omissions and modifications specified in paragraphs (3) to (8), both in relation to—

- (a) the gain treated as arising on the happening of a chargeable event in accordance with regulation 5(2) and paragraph (1), and
- (b) other gains treated as arising in accordance with that Chapter.

(3) In section 547 (method of charging gain to tax)—

- (a) in subsection (1) after “545” there shall be inserted the words “or regulations 5(2) and 6(1) of the Personal Portfolio Bonds (Tax) Regulations 1999”;
- (b) in each of subsections (5A) and (7) after “543” there shall be inserted the words “or regulations 5(2) and 6(1) of the Personal Portfolio Bonds (Tax) Regulations 1999”.

(4) In each of paragraphs (a), (b) and (c) of section 541(1), after sub-paragraph (ii) there shall be added—

“and

- (iii) the total amount treated under regulation 5 of the Personal Portfolio Bonds (Tax) Regulations 1999 as a gain arising in a relevant year in relation to the policy, prior to the happening of the chargeable event;”

(5) In each of paragraphs (a) and (b) of section 543(1), after sub-paragraph (ii) there shall be added—

“and

- (iii) the total amount treated under regulation 5 of the Personal Portfolio Bonds (Tax) Regulations 1999 as a gain arising in a relevant year in relation to the contract, prior to the happening of the chargeable event;”

(6) Section 550 (relief where gain charged at a higher rate) shall be omitted.

(7) In section 552(1)(c) after the words “this Chapter” there shall be inserted the words “or regulations 5(2) and 6(1) of the Personal Portfolio Bonds (Tax) Regulations 1999”.

(8) In section 553—

- (a) in each of subsections (3) and (6) after “section 541” there shall be inserted the words “or regulations 5(2) and 6(1) of the Personal Portfolio Bonds (Tax) Regulations 1999”; and
- (b) in subsection (10) after “545” there shall be inserted the words “or, in relation to a gain treated as arising in relation to a policy under regulations 5(2) and 6(1) of the Personal Portfolio Bonds (Tax) Regulations 1999, the same meaning as in section 553C(4)(b)”.

David Jamieson
Bob Ainsworth

30th March 1999

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Section 547 was amended by paragraph 5 of Schedule 9 to the Finance Act 1989, paragraph 9 of Schedule 7 to the Finance Act 1991 (c. 31), section 19 of the Finance (No. 2) Act 1992 (c. 48), sections 56 and 76 of the Finance Act 1995 (c. 4), Part V(6) of Schedule 41 to the Finance Act 1996 (c. 8) and paragraph 1 of Schedule 14 to the Finance Act 1998 (c. 36).

(b) Provisions of this Chapter were amended by Schedule 14 to the Finance Act 1998.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for a yearly charge to tax on gains treated as arising in relation to policies of life insurance, contracts for life annuities and capital redemption policies that are personal portfolio bonds, and for the application of the provisions in Chapter II of Part XIII of the Income and Corporation Taxes Act 1988 (“the 1988 Act”) in relation to those gains. The Regulations have effect in relation to years (as defined) ending on or after 6th April 2000.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 provides for special exclusions from being personal portfolio bonds, for certain policies and contracts made before 17th March 1998.

Regulation 4 defines “personal portfolio bond” for the purposes of the Regulations, subject to regulation 3.

Regulation 5 provides for the computation of the gain treated as arising in relation to personal portfolio bonds.

Regulation 6 applies with modifications the charging provision in section 547 of the 1988 Act in relation to gains computed in accordance with regulation 5, excludes section 550 of the 1988 Act from applying to personal portfolio bonds, and applies and provides for other modifications of Chapter II of Part XIII of the 1988 Act.

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