

2003 No. 282

INCOME TAX

The Income and Corporation Taxes (Electronic Communications) Regulations 2003

Made - - - - - *12th February 2003*
Laid before the House of Commons *12th February 2003*
Coming into force - - - *5th March 2003*

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 132 and 133(2) of the Finance Act 1999(a), hereby make the following Regulations:

PART 1

Introduction

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income and Corporation Taxes (Electronic Communications) Regulations 2003 and shall come into force on 5th March 2003.

(2) In these Regulations—

“the Board” means the Commissioners of Inland Revenue;

“the Management Act” means the Taxes Management Act 1970(b);

“official computer system” means a computer system maintained by or on behalf of the Board—

(a) to send or receive information or payments, or

(b) to process or store information; and

“the Taxes Act” means the Income and Corporation Taxes Act 1988(c).

(3) References in these Regulations to information and to the delivery of information shall be construed in accordance with section 132(8) of the Finance Act 1999.

Scope of these Regulations

2.—(1) These Regulations apply to—

(a) the delivery of information, to or by the Board, the delivery of which is authorised or required by or under—

(a) 1999 c. 16.

(b) 1970 c. 9.

(c) 1988 c. 1.

- (i) any provision of section 8, 8A, 9, 9A, 9B, 9C, 9D, 12AA, 12AB 12AC, 12AD, 12AE, 59DA or 59E of the Management Act(a),
 - (ii) Schedule 1A to the Management Act(b),
 - (iii) section 30 or 36 of the Finance Act 1998, or
 - (iv) Schedule 18 to the Finance Act 1998(c); and
- (b) the making of any payment or repayment of tax or other sums in connection with the operation of those provisions.
- (2) Nothing in these Regulations affects the operation of the Electronic Lodgement of Tax Returns Order 1997(d).

PART 2

Electronic Communications — General Provisions

Restriction on the use of electronic communications

3.—(1) The Board may only use electronic communications in connection with the matters referred to in regulation 2(1) if—

- (a) the recipient has indicated that he consents to the Board using electronic communications in connection with those matters; and
- (b) the Board have not been informed that that consent has been withdrawn.

(2) A person other than the Board may only use electronic communications in connection with the matters referred to in regulation 2(1) if the conditions specified in paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use electronic communications for the purpose in question by an authorisation given by means of a direction of the Board.

(4) The second condition is that the person uses—

- (a) an approved method for authenticating the identity of the sender of the communication;
- (b) an approved method of electronic communications; and
- (c) an approved method for authenticating any information delivered by means of electronic communications.

(5) The third condition is that any information or payment sent by means of electronic communications is in a form approved for the purpose of these Regulations.

- (a) Section 8 was substituted by section 90 (1) of the Finance Act 1990 (c. 29), and amended by sections 178(1) and 199(1) and (2) of the Finance Act 1994 (c. 9), section 104 of the Finance Act 1995 (c. 4) and section 121 of the Finance Act 1996 (c. 8). Section 9 was amended by section 121 of the Finance Act 1996, section 98(2) of the Finance Act 1998 (c. 36) and paragraph 2 of Schedule 29 to the Finance Act 2001 (c. 9). Sections 9A and 9B were substituted by paragraph 4(1) of Schedule 29 to the Finance Act 2001. Section 12AA was inserted by section 184 of the Finance Act 1994 and amended by sections 104(6) and 115(4) of the Finance Act 1995, sections 121, 123 and 124 of the Finance Act 1996, paragraph 3 of Schedule 19 to the Finance Act 1998 and paragraph 18 of Schedule 29 to the Finance Act 2001. Section 12AB was inserted by section 185 of the Finance Act 1994, amended by section 123(5) of the Finance Act 1996 and further amended and partly repealed (respectively) by paragraph 19 of Schedule 29 to the Finance Act 2001 and paragraph 3(1) of that Schedule and further repealed by Part 3(16) of Schedule 40 to the Finance Act 2002 (c. 23). Sections 12AC to 12AE were substituted by paragraph 5(1) of Schedule 29 to the Finance Act 2001. Section 59DA was inserted by paragraph 29 of Schedule 19 to the Finance Act 1998. Section 59E was inserted by section 30 of the Finance Act 1998 and amended by section 92(2) of the Finance Act 2002.
- (b) Schedule 1A was inserted by paragraph 35 of Schedule 19 to the Finance Act 1994, and amended by Schedule 20 to the Finance Act 1995, paragraph 42 of Schedule 19 to the Finance Act 1998, section 92(2) of the Finance Act 1999, section 99 of, and paragraph 5 of Schedule 16. paragraph 4 of Schedule 21 and paragraph 11 of Schedule 27 to the Finance Act 2000 (c. 17), paragraphs 4, 5 and 6 of Schedule 23 and paragraphs 7, 10, 12, 13, 17(2), 34 and 38(4) of Schedule 29 to the Finance Act 2001 and article 103 of S.I. 2001/3629.
- (c) Schedule 18 was amended by section 87 of the Finance Act 2001 and section 92 of, and paragraph 5 of Schedule 17 to, the Finance Act 2002 (c. 23).
- (d) S.I. 1997/57.

Here “form” includes the manner in which the information is presented.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a general or specific direction of the Board.

(7) In this regulation “approved” means approved, for the purposes of these Regulations and for the time being, by means of a general or specific direction of the Board.

Use of intermediaries

4. The Board may use intermediaries in connection with—

- (a) the delivery of information or the making of payments or repayments by means of electronic communications in connection with the matters referred to in regulation 2(1), and
- (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

PART 3

Electronic Communications— Evidential Provisions

Effect of delivering information by means of electronic communications

5.—(1) Information to which these Regulations apply, and which is delivered by means of electronic communications, shall be treated as having been delivered, in the manner or form required by any provision of the Taxes Act or the Management Act if, but only if, all the conditions imposed by—

- (a) these Regulations,
- (b) any other applicable enactment (except to the extent that the condition thereby imposed is incompatible with these Regulations), and
- (c) any specific or general direction given by the Board,

are satisfied.

(2) Information delivered by means of electronic communications shall be treated as having been delivered on the day on which the last of the conditions imposed as mentioned in paragraph (1) is satisfied.

This is subject to paragraphs (3) and (4).

(3) The Board 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 (2).

(4) 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.

Proof of content

6.—(1) A document certified by an officer of the Board to be a printed-out version of any information delivered by means of electronic communications under these Regulations on any occasion shall be evidence, unless the contrary is proved, that that information—

- (a) was delivered by means of electronic communications on that occasion; and
- (b) constitutes the entirety of what was delivered on that occasion.

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

Proof of sender or recipient

7. The identity of—

- (a) the sender of any information delivered to an official computer system by means of electronic communications under these Regulations, or
- (b) the recipient of any information delivered by means of electronic communications from an official computer system,

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

Information delivered electronically on another's behalf

8. Any information delivered by an approved method of electronic communications on behalf of any person shall be deemed to have been delivered by him unless he proves that it was delivered without his knowledge or connivance.

Proof of delivery of information and payments

9.—(1) The use of an authorised method of electronic communications shall be presumed, unless the contrary is proved, to have resulted in the making of a payment or the delivery of information—

- (a) in the case of information falling to be delivered, or a payment falling to be made, to the Board, if the making of the payment or the delivery of the information has been recorded on an official computer system; and
- (b) in the case of information falling to be delivered, or a payment falling to be made, by the Board, if the despatch of that payment or information has been recorded on an official computer system.

(2) The use of an authorised method of electronic communications shall be presumed, unless the contrary is proved, not to have resulted in the making of a payment, or the delivery of information—

- (a) in the case of information falling to be delivered, or a payment falling to be made, to the Board, if the making of the payment or the delivery of the information has not been recorded on an official computer system; and
- (b) in the case of information falling to be delivered, or a payment falling to be made, by the Board, if the despatch of that payment or information has not been recorded on an official computer system.

(3) The time of receipt of any information or payment sent by an authorised means of electronic communications shall be presumed, unless the contrary is proved, to be that recorded on an official computer system.

Use of unauthorised means of electronic communications

10.—(1) Paragraph (2) applies to information which is required to be delivered to the Board in connection with the matters mentioned in regulation 2(1).

(2) The use of a means of electronic communications, for the purpose of delivering any information to which this paragraph applies, shall be conclusively presumed not to have resulted in the delivery of that information, unless—

- (a) that means of electronic communications is for the time being approved for delivery of information of that kind; and
- (b) the sender is approved for the use of that means of electronic communications in relation to information of that kind.

PART 4

Revocations

Revocation and saving

11.—(1) There are revoked—

- (a) the Income Tax (Electronic Communications) Regulations 2000^(a); and
- (b) Part 2 of the Income Tax (Electronic Communications) (Miscellaneous Amendments) Regulations 2001^(b) and, in regulation 1(2) of those Regulations, the definition of “the Electronic Communications Regulations”.

(2) Notwithstanding the revocations in paragraph (1), any direction given by the Board under the provisions revoked, to the extent that it could be given under these Regulations, shall continue to have effect as if given under these Regulations.

12th February 2003

Nick Montagu
Tim Flesher
Two of the Commissioners of Inland Revenue

^(a) S.I. 2000/945.
^(b) S.I. 2001/1081.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the electronic delivery of certain types of information to or by the Commissioner of Inland Revenue (“the Board”).

Regulation 1 provides for the citation, commencement and interpretation of the Regulations.

Regulation 2(1) limits the scope of the Regulations to information and payments required to be delivered to or by the Board in relation to specified statutory provisions. Regulation 2(2) makes it clear that the Regulations do not affect the operation of the Electronic Lodgement of Tax Returns Order 1997 (S.I.1997/57).

Regulation 3 sets out the conditions under which the Board and others may use electronic communications for the purposes mentioned in regulation 2(1).

Regulation 4 permits the Board to use intermediaries for the purposes of electronic delivery of information and payments under the specified provisions, and authorises them to require others to do so.

Regulations 5 to 10 provide evidential rules in connection with the use of electronic communications for the purposes of the specified provisions.

Regulation 11(1) revokes the Income Tax (Electronic Communications) Regulations 2000 (S.I. 2000/945), which the present Regulations replace, and Part 2 of the Income Tax (Electronic Communications) (Miscellaneous Amendments) Regulations 2001 (2001/1081). It also makes a consequential revocation in regulation 1(2) of the latter instrument. Paragraph (2) of that regulation contains a saving for directions given by the Board under the provisions revoked.

STATUTORY INSTRUMENTS

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