

2006 No. 570

INCOME TAX

**The Registered Pension Schemes and Overseas Pension
Schemes (Electronic Communication of Returns and
Information) Regulations 2006**

Made - - - - 9th March 2006

Laid before the House of Commons 10th March 2006

Coming into force in accordance with regulation 1

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 132 and 133(2) of the Finance Act 1999 (a) and sections 135 and 136 of the Finance Act 2002 (b), and now exercisable by them (c).

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006 and shall come into force on such days or days as may be appointed by the Commissioners and specified in a notice in the London, Edinburgh and Belfast Gazettes.

Interpretation

2.—(1) In these Regulations—

- (a) “the Act” means the Finance Act 2004(d);
- (b) “Part 4” means Part 4 of the Act; and
- (c) any reference to a numbered section or Schedule (without more) is a reference to the section or Schedule bearing that number in the Act.

(2) In these Regulations, except where the context otherwise requires—

(a) 1999 c. 16.

(b) 2002 c. 23.

(c) The functions of the Commissioners of Inland Revenue (“the former Commissioners”) were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005. See also section 50 of that Act in relation to the construction of references to the former Commissioners in other enactments.

(d) 2004 c. 12.

“approved method of electronic communications”, in relation to the delivery of information in accordance with a provision of these Regulations, means a method of electronic communications which has been approved, by specific or general directions issued by the Commissioners, for the delivery of information of that kind under that provision;

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“the ELA Regulations” means the Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006(a);

“electronic communications” has the meaning given in section 132(10) of the Finance Act 1999;

“official computer system” means a computer system maintained by or on behalf of the Commissioners or on behalf of an officer of Revenue and Customs;

“relevant information” means information which is required or authorised by virtue of these Regulations to be delivered to Revenue and Customs by an approved method of electronic communications;

“Revenue and Customs” means Her Majesty’s Revenue and Customs; and

“the tax appeal Commissioners” means, as the case requires, the General Commissioners or the Special Commissioners.

Introduction

3.—(1) Part 2 of these Regulations makes provision about returns and information which must be delivered to Revenue and Customs by an approved method of electronic communications.

(2) Part 3 of these Regulations makes provision about returns and information which may be delivered to Revenue and Customs by an approved method of electronic communications.

PART 2

Information which must be delivered by electronic communications

Information which must be delivered by electronic communications

4.—(1) The information specified in Schedule 1 to these Regulations must be delivered to Revenue and Customs—

- (a) in a form approved for that purpose; and
- (b) by a method of electronic communications approved for that purpose.

(2) The Commissioners may make a general or specific direction requiring a scheme administrator to deliver specified information to Revenue and Customs by a particular method of electronic communications.

(3) Information specified in Schedule 1 which is delivered to Revenue and Customs in a form, or by a method, otherwise than that required by virtue of this regulation must be treated as not having been delivered.

(a) S.I. 2006/131.

PART 3

Information which may be delivered by electronic communications

Information which may be delivered by electronic communications

5.—(1) Information specified in Schedule 2 to these Regulations may be delivered to Revenue and Customs, if—

- (a) it is in a form approved for that purpose;
- (b) it is sent by a method of electronic communications approved for that purpose; and
- (c) the sender is authorised by Revenue and Customs to use electronic communications for that purpose.

(2) Information specified in Schedule 2 may be supplied by Revenue and Customs if—

- (a) the proposed recipient has consented to the use of electronic communications for the delivery of information by Revenue and Customs; and
- (b) that consent has not been withdrawn.

PART 4

Evidential provisions

Whether relevant information has been delivered electronically

6.—(1) For the purposes of these Regulations, relevant information is to be taken to have been delivered to an official computer system by an approved method of electronic communications only if it is accepted by that official computer system.

This is subject to the following qualification.

(2) Relevant information which is delivered to an official computer system must meet the standards of accuracy and completeness set by specific or general directions given by the Commissioners.

(3) Relevant information which fails to meet those standards must be treated as not having been delivered.

Proof of content of electronic delivery

7.—(1) A document certified by Revenue and Customs to be a printed-out version of information delivered by an approved method of electronic communications is evidence, unless the contrary is proved, that the information—

- (a) was delivered by an approved method of electronic communications on that occasion; and
- (b) constitutes everything which was delivered on that occasion.

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

Proof of identity of person sending or receiving electronic delivery

8. The identity of—

- (a) the person sending any information delivered by an approved method of electronic communications to Revenue and Customs, or
- (b) the person receiving any information delivered by an approved method of electronic communications by Revenue and Customs,

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

Information sent electronically on behalf of a person

9.—(1) Any information delivered by an approved method of electronic communications—

- (a) to Revenue and Customs, or
- (b) to an official computer system,

on behalf of a person, is taken to have been delivered by that person.

(2) But this does not apply if the person proves that the information was delivered without the person's knowledge or connivance.

Proof of information sent electronically

10.—(1) The use of an approved method of electronic communications is presumed, unless the contrary is proved, to have resulted in the delivery of information—

- (a) to Revenue and Customs, if the delivery of the information has been recorded on an official computer system;
- (b) by Revenue and Customs, if the despatch of the information has been recorded on an official computer system.

(2) The use of an approved method of electronic communications is presumed, unless the contrary is proved, not to have resulted in the delivery of relevant information—

- (a) to Revenue and Customs, if the delivery of the information has not been recorded on an official computer system;
- (b) by Revenue and Customs, if the despatch of the information has not been recorded on an official computer system.

(3) The time of receipt or despatch of any relevant information delivered by an approved method of electronic communications is presumed, unless the contrary is proved, to be the time recorded on an official computer system.

This is subject to the following qualification.

(4) The Commissioners 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 (3).

(5) 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.

Authentication of information in document otherwise required to be signed

11. If—

- (a) information specified in Schedule 2 to these Regulations is delivered to Revenue and Customs by a method of electronic communications; and
- (b) the information is required to be signed by or on behalf of the person delivering it,

the requirement for a signature shall be treated as satisfied if the information is authenticated by or on behalf of the sender in such manner as may be approved by the Commissioners.

Use of unauthorised method of electronic communications

12.—(1) This regulation applies to information—

- (a) which is required to be delivered to Revenue and Customs under a provision of Part 2 of these Regulations; or

(b) which is permitted to be delivered to Revenue and Customs under a provision of Part 3 of these Regulations.

(2) The use of a method of electronic communications for the purpose of delivering such information is conclusively presumed not to have resulted in the delivery of that information, unless that method of electronic communications is for the time being approved for the delivery of information of that kind under that provision.

David Varney

Paul Gray

9th March 2006

Two of the Commissioners for Her Majesty's Revenue and Customs

SCHEDULE 1

Regulation 4

Information which must be supplied to Revenue and Customs by an approved method of electronic communications

A form of application for the registration of a pension scheme under section 153 (registration of pension schemes).

A return under section 250(2) (registered pension scheme return) in response to a notice under section 250(1).

A return under section 254 (accounting for tax by scheme administrators), and any amendment of that return.

A declaration under section 270 (scheme administrator's obligations).

An event report under regulation 3 of the Registered Pension Schemes (Provision of Information) Regulations 2006(a) (provision of information by scheme administrator to Revenue and Customs).

Information furnished under regulation 4 of the Registered Pension Schemes (Provision of Information) Regulations 2006 (information about a pension scheme which has been wound up).

A notice under regulation 6 of the Registered Pension Schemes (Provision of Information) Regulations 2006 (termination of scheme administrator's appointment).

SCHEDULE 2

Regulation 5

Information which may be supplied either to or by Revenue and Customs by an approved method of electronic communications

A notification by Revenue and Customs under section 153(6) of a decision on an application to register a pension scheme under section 153(4).

A notification by Revenue and Customs under section 157(2) (withdrawal of registration) of withdrawal of the registration of a pension scheme under section 157(1).

A notification under section 169(2)(a) (recognised transfers) by a scheme manager (within the meaning of section 169(3)) that a scheme is a recognised overseas pension scheme.

An undertaking by the scheme manager under section 169(2)(b) that he will inform Revenue and Customs if the scheme ceases to be a recognised overseas pension scheme.

(a) S.I. 2006/567.

An undertaking by the scheme manager under section 169(2)(c) that he will comply with any prescribed information requirements.

A notification by Revenue and Customs of a decision under section 169(5), the effect of which is to exclude a recognised overseas pension scheme from being a qualifying recognised overseas pension scheme.

A notification by Revenue and Customs of a decision under section 169(7) that a recognised overseas pension scheme is to cease to be excluded from being a qualifying recognised overseas pension scheme.

A notice under section 250 requiring the scheme administrator of a registered pension scheme to deliver a return under that section.

A notice under section 252 (notices requiring documents or particulars about registered pensions schemes, etc.) to a person of a description prescribed by the Registered Pension Schemes and Employer-Financed Retirement Benefits Schemes (Information) (Prescribed Descriptions of Persons) Regulations 2005(a) to produce or provide documents or particulars.

An assessment made by Revenue and Customs under section 254 or 255 (assessments on scheme administrators and others under Part 4).

A notice issued by Revenue and Customs in respect of a penalty imposed under any of sections 257 to 266 (penalties for non-compliance with requirements to provide information or furnish returns).

An application—

- (a) under section 267 for the discharge of the scheme administrator's liability to the lifetime allowance charge;
- (b) under section 268 for the discharge of the scheme administrator's liability to the scheme sanction charge; or
- (c) under that section for the discharge of a person's liability to the unauthorised payments surcharge

and a notification by Revenue and Customs of their decision upon that application.

An application by a former scheme administrator under section 271(5) (release of former scheme administrator) to be released from the liability as scheme administrator, and a notification by Revenue and Customs of their decision on that application.

A notification under paragraph 10(3) of Schedule 29 (winding up lump sum: employer's undertaking).

A notification, information or an undertaking provided by a scheme manager under paragraph 5(1) of Schedule 33 given for the purpose of securing that a pension scheme is a qualifying overseas pension scheme.

A notification by Revenue and Customs of their decision under paragraph 5(3) of Schedule 33 (exclusion of overseas pension scheme from being a qualifying overseas pension scheme).

A notification by Revenue and Customs of their decision under paragraph 5(5) of Schedule 33 (overseas pension scheme ceasing to be excluded from being a qualifying overseas pension scheme).

A notification by an individual under regulation 3, 4, 5, 6, 7 or 8 of the ELA Regulations (b).

A requirement by an individual under regulation 12 of the ELA Regulations that Revenue and Customs give notice of their decision to refuse to consider the information in a notification by the

(a) S.I. 2005/3455.

(b) S.I. 2006/131.

individual; the notice given of that decision; and a notice of appeal to the tax appeal Commissioners against that decision.

A requirement by an individual under regulation 14 of the ELA Regulations that Revenue and Customs give notice of their refusal to issue a certificate under those Regulations; the notice given of that refusal; and a notice of appeal to the tax appeal Commissioners against that refusal.

A requirement by an individual under regulation 16 of the ELA Regulations that Revenue and Customs issue an aggregate certificate.

A notice given by an individual under regulation 17 of the ELA Regulations that any information given in a notification, or in connection with a notification under those Regulations, was incorrect or has become incorrect.

A notice given by an individual under regulation 18 of the ELA Regulations that information given in a certificate issued by Revenue and Customs under those Regulations was incorrect or has become incorrect.

A notice by Revenue and Customs under regulation 22 of the ELA Regulations requiring an individual to provide information, particulars or documents; and a notice of appeal to the tax appeal Commissioners against such a notice.

A notice by Revenue and Customs under regulation 24 of the ELA Regulations of the revocation or amendment of a certificate under those Regulations; and a notice of appeal to the tax appeal Commissioners against such a notice.

A certificate by Revenue and Customs under the ELA Regulations, and an amendment, under those Regulations, of such a certificate.

Information furnished by a company about an unauthorised employer payment under regulation 5 of the Registered Pension Schemes (Provision of Information) Regulations 2006(a).

Information furnished by personal representatives under regulation 10 of the Registered Pension Schemes (Provision of Information) Regulations 2006.

A notice of appeal against a decision by Revenue and Customs under section 153(6), 157(2), 169(5), 267, 268 or 271(6) or paragraph 5(3) of Schedule 33.

A notice of appeal against a notice requiring the production of documents or the furnishing of particulars under section 252.

A notice of appeal against an assessment under regulation 4 of the Registered Pension Schemes (Accounting and Assessment) Regulations 2005(b) (assessment in respect of supplementary charges under Part 4).

Information required from qualifying overseas pension schemes and qualifying recognised overseas pension schemes under regulations 2 and 3 of the Pension Schemes (Information Requirements — Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pensions Schemes and Corresponding Relief) Regulations 2006(c).

A notice of appeal against the imposition of a penalty under—

- (a) section 98 of TMA 1970 by virtue of section 258 (penalties for failure to provide information required by regulations under section 251(1)(a) or (4) of the Finance Act 2004);
- (b) section 257 (scheme administrator failing to make a registered pension scheme return or negligently or fraudulently making an incorrect return or delivering incorrect documents);
- (c) section 259 (failure to deliver documents or particulars required by notice);

(a) S.I. 2006/567.
(b) S.I. 2005/3454.
(c) S.I. 2006/208.

- (d) section 260 (failure to deliver accounting return);
- (e) section 261 (enhanced lifetime allowance regulations: documents and information);
- (f) section 262 (enhanced lifetime allowance regulations: failures to comply);
- (g) section 263 (lifetime allowance enhanced protection: benefit accrual);
- (h) section 264 (fraudulent or negligent misstatements, etc.);
- (i) section 265 (winding up wholly or mainly to facilitate payment of lump sums); or
- (j) section 266(2) (transfer of sums representing accrued rights to a registered pension scheme which is an insured scheme otherwise than to scheme administrator of the transferee scheme or an insurance company).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the use of approved methods of electronic communication for the purposes of delivery of information required under Part 4 of the Finance Act 2004.

Part 1 deals with citation and commencement.

Part 2 deals with information which must be delivered to Revenue and Customs by an approved method of electronic communications. The information falling within this Part is listed in Schedule 1 to the Regulations.

Part 3 deals with information which may be delivered either to or by Revenue and Customs by an approved method of electronic communications. The information falling within this Part is listed in Schedule 2 to the Regulations.

Part 4 deals with evidential matters.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004, and subordinate legislation under it, was published by the Board of Inland Revenue on 8 April 2004, and is available on the website of HM Revenue and Customs at www.hmrc.gov.uk/ria/simplifying-pensions.pdf or obtained by writing to The Ministerial Correspondence Unit, 1st Floor, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.

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