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STATUTORY INSTRUMENTS

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**2008 No. 2682**

**The Income Tax (Deposit-takers and Building Societies) (Interest Payments) Regulations 2008**

**PART 2**

**PAYMENTS OF INTEREST IN RELATION TO RELEVANT INVESTMENTS**

**Gross payments**

4.—(1) Section 851 does not apply in relation to—

- (a) a payment of interest, or
- (b) part of a payment of interest within regulation 13(2)(a) (joint accounts),

where, in respect of the person beneficially entitled to the payment or the part of the payment, a certificate has been supplied (see regulation 5) and has not ceased to be valid (see regulation 11).

This is subject to regulation 13(3).

(2) But paragraph (1) does not apply if—

- (a) the provisions of section 629 of ITTOIA 2005(1) (income paid to relevant children of settlor) apply to the payment; or
- (b) a notice of deduction under regulation 12 has been issued in relation to the payment and it has not been cancelled.

(3) Where a certificate has been supplied and it has not ceased to be valid, a relevant financial institution which operates a system which refunds an amount corresponding to tax deducted from payments of interest made previously in the tax year shall—

- (a) refund any such amount in relation to the investment to which the certificate relates, and
- (b) recover an amount corresponding to the amount refunded on a written application to the Commissioners.

This is subject to paragraph (4).

(4) Paragraph (3) shall not apply where a relevant financial institution has given a statement under section 975 of ITA 2007 (statements about deduction of income tax), if—

- (a) the statement relates to the tax year in which the certificate was given; and
- (b) the statement was given prior to the receipt of the certificate.

**Certificate of non-liability to tax**

5. A certificate of non-liability to tax must—

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(1) 2005 c. 5. Section 629 was amended by regulation 192 of S.I. 2005/3229 and by paragraph 34(1) of Schedule 13 to the Finance Act 2006 (c. 25).

- (a) certify that the person beneficially entitled to a payment of interest or, where regulation 13 (joint accounts) applies, to part of a payment of interest, is unlikely to be liable to pay any amount by way of income tax for the tax year in which that payment is made,
- (b) be supplied by a prescribed person (regulation 6),
- (c) be supplied to the relevant financial institution within the prescribed time limit (regulation 7),
- (d) be in the prescribed form (regulation 8), and
- (e) contain the prescribed contents (regulation 9).

### **Prescribed persons**

6.—(1) A prescribed person is—

- (a) a person—
  - (i) in whose name an investment is held,
  - (ii) who is beneficially entitled to a payment of interest on that investment, and
  - (iii) who was aged 16 or over at the beginning of the tax year in which the payment is made;
- (b) the parent or guardian of a person who is beneficially entitled to a payment of interest where that person is under the age of 16 at the beginning of the tax year in which the payment is made;
- (c) a person—
  - (i) who is beneficially entitled to a payment of interest, and
  - (ii) who is under the age of 16 at the beginning of the tax year in which the payment is made but who will become 16 during that tax year;
- (d) the donee of a power of attorney authorising the donee to administer the financial affairs of a person beneficially entitled to a payment of interest;
- (e) a parent, guardian, spouse, civil partner, daughter or son of a person suffering from mental disorder who is beneficially entitled to a payment of interest;
- (f) a receiver or other person appointed by any court in the United Kingdom to act in relation to the property and affairs of a person beneficially entitled to a payment of interest who is incapable, by reason of mental disorder, of managing and administering their property and affairs; or
- (g) a person appointed by the Secretary of State under—
  - (i) paragraph (1) of regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act)<sup>(2)</sup>, whose appointment has not been revoked or terminated, or who has not resigned, under paragraph (2) of that regulation; or
  - (ii) paragraph (2) of regulation 28 of the Child Benefit and Guardian's Allowance (Administration) Regulations 2003 (appointment of persons to act on behalf of those unable to act)<sup>(3)</sup>, whose appointment has not been revoked, or who has not resigned, under paragraph (3) of that regulation, or whose appointment has not been terminated under paragraph (4) of that regulation.

(2) In this regulation—

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(2) [S.I. 1987/1968](#). Paragraph (1) of regulation 33 was amended by regulations 20 and 23 of, and the Schedule to, [S.I. 1999/2572](#), by regulation 7(7)(a) of [S.I. 2005/337](#) and by regulation 2(14) of [S.I. 2007/2470](#).

(3) [S.I. 2003/492](#).

“daughter or son” means a daughter or son aged 16 or over and includes a stepdaughter or stepson and an adopted or illegitimate daughter or son; and

“mental disorder” has the meaning given by—

- (a) section 1(2) of the Mental Health Act 1983 (application of Act: “mental disorder”)(4) in England and Wales,
- (b) section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (meaning of “mental disorder”)(5) in Scotland, and
- (c) Article 3 of the Mental Health (Northern Ireland) Order 1986 (definition of “mental disorder” and related expressions)(6) in Northern Ireland.

### **Supply within prescribed time limit**

7.—(1) A certificate is treated as supplied to the relevant financial institution on the date it is given to the relevant financial institution or recorded by the relevant financial institution in accordance with paragraph (1)(b) of regulation 8 and nothing in paragraphs (2) or (3) of that regulation affects that date.

(2) The prescribed time limit is—

- (a) where regulation 6(1)(c) applies, before the end of the tax year in which the person beneficially entitled to the payment attains the age of 16; and
- (b) in any other case, before the end of the tax year in which the payment is made.

### **Prescribed form of a certificate**

8.—(1) A certificate must be—

- (a) in writing, signed by a prescribed person, or
- (b) if not in writing, recorded in writing by the relevant financial institution on behalf of a prescribed person.

(2) If the relevant financial institution operates a record system under which the original certificate is not retained, the relevant financial institution must make a record of the certificate.

(3) Where paragraph (1)(b) or (2) applies—

- (a) a copy of the record of the certificate must be sent by the relevant financial institution to the prescribed person within 30 days of that record being made;
- (b) the prescribed person must notify the relevant financial institution of any corrections required within 30 days from the date the copy is sent; and
- (c) the relevant financial institution must incorporate any such corrections in a revised record which must be sent to the prescribed person as soon as possible.

(4) A certificate shall be regarded as being in writing if it was supplied—

- (a) by telephonic facsimile transmission; or
- (b) by electronic communication containing an electronic signature of the prescribed person.

(5) A certificate or a record of a certificate must be retained by a relevant financial institution in such manner as may be approved by the Commissioners for two years after the relevant financial institution has ceased to pay interest without deduction of a sum representing income tax in relation to a relevant investment.

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(4) 1983 c. 20. This definition will be substituted by section 1(2) of the [Mental Health Act 2007 \(c. 12\)](#) with effect from 3/11/2008, the day appointed by [S.I. 2008/1900](#).

(5) 2003 asp 13.

(6) 1986 No. 595 (N.I. 4).

### Prescribed contents of a certificate

9.—(1) A certificate must contain—

- (a) the information prescribed in paragraphs (2) and (4); and
- (b) the undertaking prescribed in paragraph (5).

(2) In relation to the person beneficially entitled to the payment of interest, the prescribed information is that person's—

- (a) name,
- (b) permanent residential address (including post code),
- (c) date of birth, and
- (d) national insurance number if the circumstances in paragraph (3) apply, except where, in a particular case, an officer has indicated that this information is not required.

(3) The circumstances referred to in paragraph (2)(d) are that the person beneficially entitled to the payment of interest—

- (a) was aged 16 or over at the beginning of the tax year in which the payment was made, and
- (b) was liable to pay Class 1 or Class 2 contributions within the meaning of section 1(2) of the Social Security Contributions and Benefits Act 1992(7), at any time within the period of three years ending with the date on which the certificate is signed.

(4) In relation to the investment to which the certificate relates, the prescribed information is—

- (a) the name of the relevant financial institution,
- (b) the account number, and
- (c) the branch, sort code or roll number as appropriate, of the relevant financial institution where the account is held, if the account cannot otherwise be identified.

(5) The prescribed person must undertake to notify the relevant financial institution that if—

- (a) that person, being the person beneficially entitled to the payment of interest, or
- (b) the person so entitled,

becomes liable to pay any amount by way of income tax for the tax year in which the payment is made, that person will notify the relevant financial institution in accordance with regulation 10.

### Notification of liability to income tax in accordance with regulation 9(5)

10. A notification given in accordance with the undertaking in regulation 9(5) must contain details of the investment to which the certificate relates, including the account number and where necessary for identifying the account, the branch, sort code or roll number as appropriate, of the relevant financial institution.

### Certificate ceasing to be valid

11.—(1) A certificate ceases to be valid in any of the circumstances specified in paragraph (2).

(2) The circumstances specified in this paragraph are—

- (a) the receipt by the relevant financial institution of a notification under regulation 10 that the person beneficially entitled to a payment of interest arising on an account specified in the notification has become liable to pay an amount by way of income tax for the tax year in which the payment is made;

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(7) 1992 c. 4. Paragraph (2) was amended by paragraph 56 of Schedule 7 to the [Social Security Act 1998 \(c. 14\)](#), by section 74(1) of the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#) and by paragraph 170 of Schedule 6 to the [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#).

- (b) in the case of a certificate supplied by a prescribed person within regulation 6(1)(b), the ending of the tax year in which the person beneficially entitled to the payment of interest reaches the age of 16;
- (c) the failure by a person who has given a certificate under regulation 6(1)(c) to become the holder of the investment to which the certificate relates before the first payment of interest after the end of the tax year in which the age of 16 is reached;
- (d) the issue of a notice of deduction under regulation 12;
- (e) the notification of the relevant financial institution that the person beneficially entitled to the payment of interest in respect of whom the certificate was given has died.

### **Notice of deduction**

**12.**—(1) If an officer thinks that a person beneficially entitled to a payment of interest is or has become liable to pay an amount by way of income tax the officer must notify the prescribed person accordingly.

(2) If the prescribed person does not satisfy the officer within 30 days of the notification under paragraph (1) that the person beneficially entitled to the payment is not, or has not become, liable to pay an amount by way of income tax, the officer shall issue a notice of deduction to the relevant financial institution.

(3) A notice of deduction must—

- (a) give the name of the person beneficially entitled to the payment of interest;
- (b) give the account number of the account in respect of which the payment of interest is made;
- (c) give the branch, sort code or roll number as appropriate, of the relevant financial institution where the account is held, if the account cannot otherwise be identified; and
- (d) require a sum representing income tax to be deducted under section 851.

(4) Following the issue of a notice of deduction under this regulation no further certificate shall be accepted from or in respect of the person beneficially entitled to the payment of interest relating to the account specified in the notice.

This is subject to paragraph (7).

(5) A sum representing income tax shall be deducted under section 851 as soon as it is reasonably practicable to do so and in any event not later than 30 days following the date of issue of the notice.

(6) Where an officer is satisfied that the person referred to in the notice was not liable at the date of the notice and has not since become liable, or is no longer liable, to tax, the notice of deduction must be cancelled and notice of the cancellation must be given to that person and to the relevant financial institution.

(7) Where notice of the cancellation is given by an officer under paragraph (6) a further certificate may be supplied by or in respect of the person beneficially entitled to the payment of interest.

### **Joint accounts**

**13.**—(1) Where—

- (a) more than one person is beneficially entitled to a payment of interest on a relevant investment, and
- (b) a certificate is given by or in respect of—
  - (i) one or more (but not all) of the persons beneficially entitled to the payment of interest, or

- (ii) each person beneficially entitled to the payment of interest but one or more of the certificates has ceased to be valid at any time due to the occurrence of one of the circumstances specified in sub-paragraphs (a), (b), (c), or (d) of regulation 11(2) (circumstances in which a certificate ceases to be valid),

for the purposes of these Regulations and section 851, it shall be assumed that those persons are beneficially entitled to the payment of interest in equal shares.

- (2) Where paragraph (1) applies, payment of—
  - (a) so much of the interest as corresponds to the share of any person by, or in respect of whom, a certificate was supplied and has not ceased to be valid shall be made without deduction of tax under regulation 4, and
  - (b) the remainder of the interest—
    - (i) must be made under deduction of tax in accordance with section 851, and
    - (ii) the amount so deducted must be treated as income tax paid by the person or persons to whom the payment is treated as being made for all purposes of the Income Tax Acts<sup>(8)</sup>.

This is subject to paragraph (4).

- (3) Where paragraph (2)(b) applies, in the case of a certificate which ceases to be valid the deduction of tax pursuant to section 851 must be made—
  - (a) as soon as the certificate has ceased to be valid, or
  - (b) where regulation 12 (notice of deduction) applies, in accordance with paragraph (5) of that regulation.
- (4) Where paragraph (1) applies—
  - (a) a relevant financial institution may by notice inform an officer that the whole of the payment of interest referred to in the notice shall be made under deduction of tax in accordance with section 851; and
  - (b) an amount representing income tax shall accordingly be deducted by the relevant financial institution from the payment to which the notice relates and which is made after the date of the notice.
- (5) A relevant financial institution may by notice to an officer (“the cancellation notice”)—
  - (a) cancel a notice given under paragraph (4), and
  - (b) where a notice is so cancelled, paragraph (2) shall apply to any payment of interest to which the notice formerly related and which is made after the date of the cancellation notice.

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(8) “The Income Tax Acts” has the meaning given in Schedule 1 to the [Interpretation Act 1978 \(c. 30\)](#).