
STATUTORY INSTRUMENTS

2012 No. 1868

The National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012

PART 4

Modification of Regulations under Part 7

Modification of the Descriptions Regulations

25.—(1) The Descriptions Regulations apply to notifiable contribution arrangements and notifiable contribution proposals with the following modifications and any reference in those Regulations to sections 306 to 313C and section 314A shall be construed as a reference to the corresponding provision of these Regulations (see regulation 5(2)).

(2) In regulation 1 (citation, commencement and effect) omit paragraphs (2) and (3).

(3) In regulation 5 (prescribed descriptions of arrangements)—

(a) in paragraph (1) for “income tax, corporation tax and capital gains tax” substitute “national insurance contributions”, and

(b) in paragraph (2) omit sub-paragraphs (f) to (h).

(4) In Part 3—

(a) for “tax advantage” wherever it occurs substitute “advantage within the meaning given by section 132A(7) of the Social Security Administration Act 1992”; and

(b) for “a tax advantage” wherever it occurs substitute “an advantage within the meaning given by section 132A(7) of the Social Security Administration Act 1992”.

(5) In regulation 10 (Description 5: standardised tax products), in the heading and paragraphs (1) and (3) for “tax product” substitute “national insurance contributions product”.

(6) Omit regulations 12 to 17A.

The Information Regulations

26.—(1) The Information Regulations apply to notifiable contribution arrangements and notifiable contribution proposals with the following modifications and—

(a) any reference in those Regulations to sections 306 to 313C and section 314A shall be construed as a reference to the corresponding provision of these Regulations (see regulation 5(2)); and

(b) any reference in those Regulations to section 98C of the Taxes Management Act 1970 shall be construed as a reference to regulation 22 of these Regulations.

(2) In regulation 2 (interpretation)—

(a) insert the following definition immediately before the definition of “employment”—
““contributions” means national insurance contributions;”;

- (b) after the definition of “filing date” insert—
 - ““notifiable contribution arrangements” has the meaning given by section 132A(3) of the Social Security Administration Act 1992;
 - “notifiable contribution proposal” has the meaning given by section 132A(3) of the Social Security Administration Act 1992;”;
- (c) omit the definition of “the prescribed taxes”.
- (3) In regulation 4 (prescribed information in respect of notifiable proposals and arrangements)—
 - (a) wherever the words appear—
 - (i) for “any of the prescribed taxes” substitute “the contributions”;
 - (ii) for “notifiable arrangements” substitute “notifiable contribution arrangements”;
 - (iii) for “notifiable proposal” substitute “notifiable contribution proposal”; and
 - (iv) for “tax advantage” substitute “advantage”;
 - (b) in paragraphs (1)(b), (2)(c) and (3)(b) omit “, the IHT Arrangements Regulations or the SDLT Arrangements Regulations”; and
 - (c) in paragraph (5) omit the definitions of “the IHT Arrangements Regulations” and “the SDLT Arrangements Regulations”.
- (4) In regulation 5 (time for providing information under section 308, 308A, 309 or 310)—
 - (a) in paragraph (2) for “proposal or arrangements” substitute “contribution proposal or contribution arrangements”;
 - (b) in paragraph (3) for “notifiable proposal or arrangements” substitute “notifiable contribution proposal or notifiable contribution arrangements”;
 - (c) in paragraphs (6), (7) and (8) for “notifiable arrangements” substitute “notifiable contribution arrangements”.
- (5) In regulation 7 (time for providing information under section 312A) for “notifiable arrangements” substitute “notifiable contribution arrangements”.
- (6) In regulation 8 (exemption from duty under section 312A)—
 - (a) for “a tax advantage in respect of income tax or capital gains tax” substitute “an advantage”; and
 - (b) for “notifiable arrangements” substitute “notifiable contribution arrangements”.
- (7) Omit regulation 9.
- (8) For regulation 10 (prescribed cases under section 313(3)(b)) substitute—

“Prescribed information under regulation 15 of the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012: timing and manner of delivery

- 10.—**(1) For the purposes of regulation 15 of the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012 (duty of parties to notifiable contribution arrangements to notify HMRC of number, etc) the prescribed information is—
- (a) the reference number allocated by HMRC under regulation 12 to the notifiable contribution arrangements or notifiable contribution proposal;
 - (b) the earnings period in which the person making the notification expects an advantage to be obtained; and
 - (c) the employer’s name, address and Unique Taxpayer Reference (UTR).

(2) The prescribed information shall be provided by the employer to HMRC in such form and manner as they may specify.

(3) Unless paragraph (4) applies, the prescribed time at which a person who is a party to notifiable contribution arrangements must provide HMRC with information under regulation 15 is whichever of (a) or (b) below applies in respect of the tax year in which the employer first enters into a transaction forming part of the notifiable contribution arrangements and whichever applies in respect of each subsequent year until an advantage ceases to apply to any person—

- (a) in the case of a non-Real Time Information employer any time before the date on which the return under paragraph 22(1) of Schedule 4 to the Social Security (Contributions) Regulations 2001 (return by employer at end of year)⁽¹⁾ is or would be due; or
- (b) in the case of a Real Time Information employer, 14 days after the end of the final tax period of the tax year.

In this paragraph, “non-Real Time Information employer” and “Real Time Information employer” have the meanings given in paragraph 1 of Schedule 4 to the Social Security Contributions Regulations 2001 (interpretation; provisions derived from the Income Tax Acts and the Income Tax (Pay As You Earn) Regulations 2003).

(4) Where the advantage which is expected to arise from the notifiable contribution arrangements relates to Class 1A contributions only, and the transactions which comprise the notifiable contribution arrangements do not give rise to an advantage in relation to tax, the prescribed time is any time before the date on which the return under regulation 80(1) of the Social Security (Contributions) Regulations 2001 (return by employer) is or would be due—

- (a) for the year in which the employer first enters into a transaction forming part of the notifiable contribution arrangements; and
- (b) for each subsequent year until the advantage ceases to apply to any person.

In this paragraph the term “an advantage in relation to tax” shall be construed in accordance with section 318(1).”.

(9) Omit regulations 11 and 12.

(10) In regulation 13(1)(b)(i) (prescribed information under section 313ZA: information and timing) before “arrangements” insert “contribution”.

(11) In regulation 15(1)(b) (prescribed information under section 313C: information and timing) before “proposal” insert “contribution”.

(12) In regulation 17 (electronic delivery of information)—

- (a) in paragraph (2)—
 - (i) for sub-paragraph (a) substitute—
 - “(a) it is authorised by virtue of Part 7A of the Social Security (Contributions) Regulations 2001 (electronic communications); and”;
 - (ii) in paragraph (b) for “section” substitute “Part”.
- (b) in paragraph (3)(a) for “regulations under section 132 of the Finance Act 1999” substitute “Part 7A of the Social Security (Contributions) Regulations 2001 (electronic communications)”.

(13) Omit regulation 18.

(1) [S.I. 2001/1004](#); paragraph 22(1) of Schedule 4 was amended by [S.I. 2003/93](#) and paragraph 1 of Schedule 4 was relevantly amended by [S.I. 2012/821](#).

The Tax Avoidance Schemes (Promoters and Prescribed Circumstances) Regulations 2004

27.—(1) The Tax Avoidance Schemes (Promoters and Prescribed Circumstances) Regulations 2004 apply to notifiable contribution arrangements and notifiable contribution proposals as they apply to income tax with the following modifications and any reference in those Regulations to sections 306 to 313C and section 314A shall be construed as a reference to the corresponding provision of these Regulations (see regulation 5(2)).

(2) In regulation 1 (citation, commencement and interpretation) for paragraph (2) substitute—

“(2) In these Regulations—

“notifiable contribution arrangements” and “notifiable contribution proposal” have the meanings given by section 132A(3) of the Social Security Administration Act 1992.”.

(3) In regulation 4 (persons not to be treated as promoters under section 307(1)(a)(i) or (b)(i))—

(a) for “tax advice” wherever it occurs substitute “advice about national insurance contributions”; and

(b) for “tax advantage” wherever it occurs substitute “advantage”.

(4) In regulation 6 (legal professional privilege) for “section 314” substitute “section 132A(6) of the Social Security Administration Act 1992”.

The Tax Avoidance Schemes (Penalty) Regulations 2007

28. The Tax Avoidance Schemes (Penalty) Regulations 2007 apply to notifiable contribution arrangements and notifiable contribution proposals as they apply to income tax and—

(a) any reference in those Regulations to sections 306 to 313C and section 314A shall be construed as a reference to the corresponding provision of these Regulations (see regulation 5(2)); and

(b) any reference in those Regulations to section 98C of the Taxes Management Act 1970 shall be construed as a reference to regulation 22 of these Regulations.