
STATUTORY INSTRUMENTS

1998 No. 3175

INCOME TAX

The Corporation Tax (Instalment Payments) Regulations 1998

Made - - - - 17th December 1998
Laid before the House of
Commons - - - - 17th December 1998
Coming into force - - 7th January 1999

The Treasury, in exercise of the powers conferred on them by sections 59DA(8) and 59E of the Taxes Management Act 1970(1), section 826A of the Income and Corporation Taxes Act 1988(2) and section 30 of the Finance Act 1998, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Corporation Tax (Instalment Payments) Regulations 1998 and shall come into force on 7th January 1999.

(2) These Regulations have effect in relation to accounting periods of companies ending on or after 1st July 1999.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

“the Board” means the Commissioners of Inland Revenue;

“large company” has the meaning given by regulation 3;

“Management Act” means the Taxes Management Act 1970;

“Schedule 18” means Schedule 18 to the Finance Act 1998;

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

(2) References in these Regulations to profits of a company in any accounting period are references to the aggregate of—

(a) the amount of profits chargeable to corporation tax shown in the company’s assessment or determination under Schedule 18 for that accounting period, and on which corporation tax finally falls to be charged, and

(1) 1970 c. 9. Section 59DA was inserted by paragraph 29(2) of Schedule 19 to the Finance Act 1998 (c. 36) and section 59E was inserted by section 30 of that Act.

(2) 1988 c. 1; section 826A was inserted by paragraph 1(2) of Schedule 4 to the Finance Act 1998.

- (b) the amount of the company's franked investment income in that period other than franked investment income which the company (if a member of a group) receives from companies within the group within the meaning of section 13(7) of the Taxes Act(3).

(3) References in these Regulations to the total liability of a company for an accounting period are references to the amount of tax payable for that period by the company as calculated in accordance with paragraph 8(1) of Schedule 18, reduced by the amount (if any) of deductions from payments made in that period to which section 559 of the Taxes Act(4) (payments to sub-contractors) applies.

Large companies

3.—(1) Subject to paragraphs (2) and (3), a large company is a company whose profits in any accounting period exceed the upper relevant maximum amount in force at the end of that period.

(2) A company is not a large company as respects an accounting period if the amount of its total liability for that period does not exceed £5,000 or, where the accounting period is less than twelve months, that amount proportionately reduced.

(3) A company is not a large company as respects an accounting period if—

- (a) its profits for that accounting period do not exceed £10,000,000, and
 (b) apart from this paragraph, it was not a large company in the twelve months preceding that accounting period.

(4) In paragraph (1) “upper relevant maximum amount” shall be construed in accordance with section 13 of the Taxes Act(5) but disregarding section 434(3A) and (3B) of the Taxes Act(6) and section 88(4) of the Finance Act 1989(7) (amounts to be left out of account in determining profits for the purposes of section 13 of the Taxes Act).

(5) Subsections (3) to (8) of section 13 of the Taxes Act (reduction of lower and upper relevant maximum amounts by reference to whether a company has one or more associated companies and length of company's accounting period) shall apply so as to reduce the amount specified in paragraph (3)(a) in accordance with those subsections as they apply so as to reduce the lower and upper relevant maximum amounts, except that—

- (a) the number of associated companies referred to in subsection (3) of that section shall be determined by reference to the number existing at the end of the immediately preceding accounting period of the company or, if there is no immediately preceding accounting period or the immediately preceding accounting period did not end on the day before the accounting period concerned commenced, by reference to the number existing at the commencement of the accounting period concerned;
 (b) section 434(3A) and (3B) of the Taxes Act and section 88(4) of the Finance Act 1989 shall be disregarded.

(6) For the purposes of paragraph (3)(b) a company shall be treated as not being a large company in the period of twelve months preceding the accounting period in question in either of the following circumstances—

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- (3) Section 13(7) was amended by paragraph 11 of Schedule 16 to the Finance Act 1994 (c. 9) and by paragraph 1 of Schedule 6 to the Finance (No. 2) Act 1997 (c. 58).
 (4) Section 559 was amended by articles 381(2) and 382 of, and paragraph 61 of Schedule 9 and Schedule 10 to, S.I.1989/2405 (N.I.19), section 2(4) of the Social Security (Consequential Provisions) Act 1992 (c. 6), section 2(4) of the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), section 139(1) of, and paragraph 1 of Schedule 27 and Part VIII(21) of Schedule 29 to, the Finance Act 1995 (c. 4), section 54(5) of Finance Act 1997 (c. 16), and section 55(2) of, and paragraph 2(1) of Schedule 8 to, the Finance Act 1998.
 (5) Section 13 was amended by section 105(1) of the Finance Act 1989 (c. 26) and section 86(2) of the Finance Act 1994.
 (6) Subsections (3A) to (3D) of section 434 were inserted by paragraph 5(4) of Schedule 16 to the Finance Act 1994 and repealed in relation to accounting periods beginning on or after 6th April 1999 by paragraph 6(2) of Schedule 6 to the Finance (No. 2) Act 1997.
 (7) Section 88(4) was amended by section 45(2) of the Finance Act 1990 (c. 29).

- (a) during any part of the period of twelve months it either did not exist or did not have an accounting period;
- (b) a relevant accounting period of the company either falls within or ends in that period of twelve months.

(7) In paragraph (6) “relevant accounting period” means an accounting period as respects which, by virtue of the provisions of this regulation other than paragraph (3), the company was not a large company.

Instalment payments—transitional provision

4.—(1) In relation to an accounting period of a large company ending on or after 1st July 1999 but before 1st July 2000—

- (a) an amount equal to 60 per cent. of the company’s total liability for that period shall be treated as becoming due and payable in accordance with regulation 5;
- (b) the balance of the company’s total liability for that period shall be payable in accordance with section 59D(1) of the Management Act(8), that is, on the day following the expiry of nine months from the end of the accounting period (“the due and payable date”).

(2) In relation to an accounting period of a large company ending on or after 1st July 2000 but before 1st July 2001—

- (a) an amount equal to 72 per cent. of the company’s total liability for that period shall be treated as becoming due and payable in accordance with regulation 5;
- (b) the balance of the company’s total liability for that period shall be payable on the due and payable date.

(3) In relation to an accounting period of a large company ending on or after 1st July 2001 but before 1st July 2002—

- (a) an amount equal to 88 per cent. of the company’s total liability for that period shall be treated as becoming due and payable in accordance with regulation 5;
- (b) the balance of the company’s total liability for that period shall be payable on the due and payable date.

Instalment payments—principal provision

5.—(1) Save as regards any amount falling within regulation 4(1)(b), (2)(b) or (3)(b), amounts in respect of the total liability of a large company for an accounting period shall be treated as becoming due and payable as follows.

(2) Subject to paragraph (4), the amount of the company’s total liability for that period or, as the case may be, the specified percentage amount shall be treated as becoming due and payable in instalments (not exceeding four) on the dates specified in paragraph (3).

(3) The first instalment payment shall be treated as becoming due and payable on the date which is six months and thirteen days from the start of the accounting period.

The final instalment payment shall be treated as becoming due and payable on the date which is three months and fourteen days from the end of the accounting period.

An additional instalment payment or additional instalment payments shall, where the length of the accounting period so allows, each be treated as becoming due and payable on the date which is three months after the date of the immediately preceding instalment payment.

(8) Section 59D was substituted by paragraph 29(2) of Schedule 19 to the Finance Act 1998.

(4) Where the length of the accounting period is such that the date which is three months and fourteen days from the end of the accounting period falls earlier than the date which is six months and thirteen days from the start of the accounting period, the amount of the company's total liability for that period or, as the case may be, the specified percentage amount shall be treated as becoming due and payable on the date which is three months and fourteen days from the end of the accounting period.

(5) Where in accordance with paragraph (2) amounts in respect of the amount of the company's total liability for an accounting period or in respect of the specified percentage amount are treated as becoming due and payable in instalments, the amount treated as becoming due and payable on any instalment payment date shall be calculated in accordance with paragraphs (6) to (8) and by reference to the formula—

$$3 \times \frac{CTI}{n}$$

where—

CTI is the amount of the company's total liability for that accounting period or the specified percentage amount, and

n is the number of whole months falling within that accounting period plus the appropriate decimal.

(6) The amount treated as becoming due and payable on the first instalment payment date is the smaller of CTI and the amount resulting from the formula specified in paragraph (5).

(7) The amount treated as becoming due and payable on each subsequent instalment payment date other than the final instalment payment date is the smaller of—

(a) the balance of the company's total liability for that accounting period or of the specified percentage amount carried forward from the immediately preceding instalment payment date, and

(b) the amount resulting from the formula specified in paragraph (5).

(8) The amount treated as becoming due and payable on the final instalment payment date is the balance of the company's total liability for that accounting period or of the specified percentage amount carried forward from the immediately preceding instalment payment date.

(9) In this regulation—

“the appropriate decimal” is a decimal, calculated to two places rounded arithmetically where necessary, representing the number of days in the accounting period falling outside the whole months falling within that period and corresponding to the fraction of which the numerator is the number of those days and the denominator is 30;

“the specified percentage amount” means an amount equal to the percentage specified in regulation 4(1)(a), (2)(a) or (3)(a), as the case may be.

Repayment of amounts in respect of a large company's total liability for an accounting period

6.—(1) This regulation applies where a large company—

(a) has paid an amount or amounts by way of instalments in respect of its total liability for an accounting period in accordance with regulation 5, and

(b) subsequently has grounds for believing that, by reason of a change in the circumstances of the company since the payment or payments were made—

(i) the amount of its total liability for that period is likely to be less than previously calculated, and

(ii) the aggregate amount so paid exceeds the aggregate amount (“the revised aggregate amount”) that would have been treated as becoming due and payable by the relevant date having regard to the revised calculation of that liability.

(2) The company may, by notice given to an officer of the Board, make a claim to an officer of the Board for the repayment of so much of the aggregate amount so paid as in the company’s view exceeds the revised aggregate amount.

(3) The notice under paragraph (2) must state—

- (a) the amount which the company considers should be repaid, and
- (b) the grounds referred to in paragraph (1)(b).

(4) If the company has appealed against an amendment of an assessment, or an assessment, in respect of the amount of its total liability for the accounting period concerned, and the appeal has not been finally determined, it may apply to the Commissioners to whom the appeal stands referred for a determination of the amount which should be repaid to the company pending determination of the amount of its total liability for that accounting period.

(5) Any claim under paragraph (2) or application under paragraph (4) shall be heard and determined in the same way as an appeal.

(6) If the company makes an application under section 55(3)(9) or (4) of the Management Act (application to postpone payment pending determination of appeal), that application may be combined with an application under paragraph (4).

(7) In paragraph (1)(b) “the relevant date” means the date on which a claim under paragraph (2) is made.

(8) Section 59DA of the Management Act (claim for repayment in advance of liability being established) shall not apply in any case where this regulation applies.

Interest on unpaid amounts of a large company’s total liability for an accounting period

7.—(1) Section 87A(10) of the Management Act shall apply in relation to any unpaid amount in respect of the total liability of a large company for an accounting period, with the modifications specified in paragraphs (2) to (5).

(2) After subsection (1) there shall be inserted the following subsection—

“(1A) An amount or amounts treated as becoming due and payable in respect of the total liability of a large company for an accounting period in accordance with regulation 5 of the Corporation Tax (Instalment Payments) Regulations 1998 shall carry interest at the rate applicable under section 178 of the Finance Act 1989(11) from the date or dates specified in that regulation as the date or dates when that amount or those amounts are treated as becoming due and payable until payment.”

(3) In subsection (2)—

- (a) for the words “Subsection (1) above applies” there shall be substituted “Subsections (1) and (1A) above apply”;
- (b) for the words “that subsection” there shall be substituted “those subsections”.

(9) Section 55(3) was amended by paragraph 18(2) of Schedule 19 to the Finance Act 1994.

(10) Section 87A was inserted by section 85 of the Finance (No. 2) Act 1987 (c. 51), and the inserted section was amended by paragraph 10(4) of Schedule 29 to the Income and Corporation Taxes Act 1988, section 179(1)(b) of the Finance Act 1989, paragraph 2(9) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12), paragraph 4 of Schedule 14 and paragraph 1 of Schedule 18 to the Finance Act 1993 (c. 34), paragraph 24 of Schedule 19 to the Finance Act 1994, paragraphs 8 and 9 of Schedule 24 to the Finance Act 1995, paragraph 1 of Schedule 14 to the Finance Act 1996 and paragraph 4 of Schedule 4 to the Finance Act 1998.

(11) Section 178 was amended by paragraph 44 of Schedule 19 to the Finance Act 1994.

(4) In subsection (3) there shall be added at the end the words “, and the reference in subsection (1A) above to the date or dates when an amount or amounts are treated as becoming due and payable in respect of the total liability of a large company for an accounting period is a reference to the date or dates when that amount or those amounts are treated as having become due and payable by the company”.

(5) After subsection (9) there shall be added—

“(10) In subsections (1A) and (3) above “large company” has the meaning given by regulation 3 of the Corporation Tax (Instalment Payments) Regulations 1998.”

Interest on overpaid amounts of a company’s total liability for an accounting period

8.—(1) Section 826 of the Taxes Act(12) shall apply in relation to—

- (a) an amount or amounts paid by a large company in accordance with regulation 5 in respect of its total liability for an accounting period, and
- (b) an amount or amounts paid by a company that is not a large company in an accounting period in respect of its total liability for that accounting period, where the payment is made prior to the day following the expiry of nine months from the end of that accounting period,

with the modifications specified in paragraphs (2) and (3).

(2) In subsection (1)—

(a) after paragraph (c) there shall be inserted

“or

(d) the total amount paid by a large company (as defined in regulation 3 of the Corporation Tax (Instalment Payment) Regulations 1998) up to a point in time in respect of its total liability for an accounting period in accordance with regulation 5 of those Regulations exceeds the amount that is treated as having become due and payable by the company for that period at that time in accordance with that regulation, or

(e) an amount paid by a company that is not a large company in an accounting period in respect of the amount of its total liability for that period is paid prior to the day following the expiry of nine months from the end of that period (“the normal due date”),,

(b) for the words “the repayment or payment shall” there shall be substituted the words “or, in a case to which paragraph (d) above applies, until the date on which the excess amount arising as mentioned in that paragraph is extinguished or, in a case to which paragraph (e) above applies, until the normal due date, the repayment or payment or excess amount shall”.

(3) After subsection (3) there shall be inserted—

“(3A) In relation to an excess amount in respect of a company’s total liability arising as mentioned in subsection (1)(d) above, the material date is the date on which the first instalment payment for the accounting period concerned is treated as becoming due as mentioned in regulation 5(3) of the Corporation Tax (Instalment Payments) Regulations 1998 or, if later, the date on which the excess amount arises.

(3B) In relation to a case falling within subsection (1)(e) above—

(12) Section 826 was amended by section 180(6) of the Finance Act 1989, paragraph 23 of Schedule 15 to the Finance Act 1991 (c. 31), paragraph 10(1) to (4) of Schedule 14 and paragraph 5 of Schedule 18 to the Finance Act 1993, paragraph 20 of Schedule 16 and paragraph 42 of Schedule 19 to the Finance Act 1994, paragraphs 11 and 12(1) and (2) of Schedule 24 to the Finance Act 1995, section 173(5) of, and paragraph 48 of Schedule 14 to, the Finance Act 1996, Part II(4) of Schedule 8 to the Finance (No. 2) Act 1997, and section 34 of, and paragraphs 1(1), (2) and 3(1) of Schedule 4 to, the Finance Act 1998.

- (a) if the payment for the accounting period concerned was made on or before the date which, if the company had been a large company, would have been the date on which the first instalment payment for that accounting period would have been treated as becoming due as mentioned in regulation 5(3) of the Regulations referred to in subsection (3A) above, the material date is that date, or
- (b) if the payment for the accounting period concerned was made later than the date referred to in paragraph (a) above, the material date is the date on which that payment was made.”

Consequential amendment of section 102 of the Finance Act 1989

9.—(1) Section 102 of the Finance Act 1989(**13**) (surrender of company tax refund within group) shall apply in relation to a surrendering company that is a large company with the modification specified in paragraphs (2) and (3).

- (2) In subsection (3), in the definition of “tax refund relating to an accounting period”—
 - (a) the word “or” immediately following paragraph (b) shall be omitted;
 - (b) after paragraph (c) of that definition there shall be added
“or
 - (d) the following circumstances, that is, where an amount paid by a large company (as defined in regulation 3 of the Corporation Tax (Instalment Payments) Regulations 1998) in respect of its total liability for an accounting period in accordance with regulation 5 of those Regulations exceeds the amount in respect of the company’s total liability that is treated as having become due and payable by the company for that period in accordance with that regulation by the date on which the amount was paid or, if paid in more than one instalment, by the latest date of payment of that amount.”

(3) In subsection (5)(b) there shall be added at the end the words “or, where paragraph (d) of the definition of “tax refund relating to an accounting period” in subsection (3) above applies, the earliest of the dates referred to in regulation 5 of the Corporation Tax (Instalment Payments) Regulations 1998 on which an amount in respect of the surrendering company’s total liability for the accounting period concerned is treated as having become due and payable”.

Information to be provided to the Board

- 10.**—(1) The Board may, at any time following the relevant date, by notice require any company to furnish them, within such time (not being less than thirty days) as may be provided by the notice—
- (a) such information relating to the computation of any amount paid in respect of the company’s total liability for an accounting period in accordance with regulation 5 as they may reasonably require for ascertaining whether the amount of the payment was consistent with the quality and quantity of the information available to the company, at the time the payment was due, regarding its total liability for that period;
 - (b) such information as they may reasonably require for ascertaining the reasons for non-payment by the company at any time in accordance with regulation 5 of any amount in respect of the company’s total liability for an accounting period;
 - (c) such information as they may reasonably require for ascertaining whether a claim for repayment of an amount under regulation 6(2) was properly made.

(13) Section 102 was amended by paragraph 11 of Schedule 14 to the Finance Act 1993 and paragraph 12(3) of Schedule 24 to the Finance Act 1995.

(2) In paragraph (1) “the relevant date” means the date specified in paragraph 14(1) of Schedule 18 as the filing date for the company tax return for the accounting period concerned.

Production of records

11.—(1) The Board may, at any time following the relevant date, by notice require a company to produce, within such time (not being less than thirty days) as may be provided by the notice—

- (a) all such books, documents and other records in its possession or power relating to the computation of any amount paid in respect of the company’s total liability for an accounting period in accordance with regulation 5 as they may reasonably require for ascertaining whether the amount of the payment was consistent with the quality and quantity of the information available to the company, at the time the payment was due, regarding its total liability for that period;
- (b) all such books, documents and other records in its possession or power as they may reasonably require for ascertaining the reasons for non-payment by the company at any time in accordance with regulation 5 of any amount in respect of the company’s total liability for an accounting period;
- (c) all such books, documents and other records in its possession or power as they may reasonably require for ascertaining whether a claim for repayment of an amount under regulation 6(2) was properly made.

(2) In complying with a notice under paragraph (1) copies of books, documents and other records may be produced instead of originals, but—

- (a) the copies must be photographic or other facsimiles, and
- (b) an officer of the Board may require the original to be made available for inspection in accordance with regulation 12.

(3) In paragraph (1) “the relevant date” has the same meaning as in regulation 10.

Inspection of records

12.—(1) An officer of the Board authorised to do so may, at any time following the relevant date, require a company to make available for inspection, at such time as that officer may reasonably require, all such books, documents and other records in its possession or power as could be required to be produced by notice by the Board under regulation 11.

(2) Where records are maintained by computer the officer making the inspection shall be provided by the company with all the facilities necessary for obtaining information from them.

(3) In paragraph (1) “the relevant date” has the same meaning as in regulation 10.

Penalty for unpaid tax

13. The circumstances prescribed for the purposes of section 59E(4) of the Management Act (penalty not exceeding twice the amount of interest charged by virtue of regulation 7 on any unpaid amount in respect of the total liability of a company for an accounting period) are where—

- (a) the company, or a person acting on its behalf, deliberately or recklessly fails to pay the amount in question in accordance with regulation 5;
- (b) the company, or a person acting on its behalf, fraudulently or negligently makes a claim for repayment of an amount under regulation 6(2).

Anti-avoidance provision

14.—(1) This regulation applies where, on or after 25th November 1997 and before 30th June 2002—

- (a) a company does one or both of the following, that is to say—
 - (i) otherwise than in any of the circumstances specified in paragraph (6), causes the date or dates on which any of its relevant accounting periods begins or ends to be changed,
 - (ii) otherwise than in either of the circumstances specified in paragraph (7), enters into any arrangements or transactions the effect of which is to transfer the amount of its taxable profits to another company which belongs to the same group, other than a company specified in paragraph (8), and
- (b) the result is that, on the assumptions specified in paragraph (9), an amount or amounts of corporation tax in respect of the taxable profits of the company for any part of an accounting period beginning after 1st July 1998 and ending on or before 30th June 2002 becomes, or is treated as becoming, due and payable, in accordance with regulations 4 and 5 or section 59D(1) of the Management Act, on a date or dates (“the actual date or dates”) later than the date or dates (“the hypothetical date or dates”) on which, but for the action taken by the company as mentioned in sub-paragraph (a), they would have become, or would be treated as having become, due and payable in accordance with those regulations or that section.

(2) The company shall be liable to pay to the Board, in respect of the accounting period referred to in paragraph (1)(b), an amount computed in accordance with paragraph (3).

(3) The amount payable shall be computed—

- (a) by reference to—
 - (i) the amount, or (as the case may be) the aggregate of the amounts, of corporation tax referred to in paragraph (1)(b), and
 - (ii) the interval of time elapsing between the hypothetical date or dates and the actual date or dates;
- (b) so as to allow for accelerated as well as deferred amounts of corporation tax (but not to the extent that it results in an amount falling to be paid by the Board); and
- (c) as if it were interest on the amount, or the aggregate of the amounts, of corporation tax referred to in paragraph (1)(b).

(4) Interest referred to in paragraph (3)(c)—

- (a) shall be at the rate applicable under section 178 of the Finance Act 1989, and
- (b) shall be treated as if it were tax charged and due and payable under an assessment.

(5) For the purposes of this regulation a relevant accounting period is an accounting period which, but for the action taken by the company as mentioned in paragraph (1)(a)(i)—

- (a) would have ended on 25th November 1997 or after that date but on or before 30th June 2002, and
- (b) would have been of twelve months duration and commenced immediately following the end of the previous accounting period.

(6) The circumstances specified in this paragraph for the purposes of paragraph (1)(a)(i) are where the change in question—

- (a) derives from a decision made before, or facts in existence prior to, 25th November 1997; or
- (b) arises as a result of the accounting period concerned ending by reason of—

- (i) the occurrence of any of the events specified in paragraphs (c) to (e) of subsection (3) of section 12 of the Taxes Act, except where the event in question occurs by reason of the transfer of the company's activities to a company which belongs to the same group, or
 - (ii) the transfer of the whole or part of the long term business of an insurance company to another company as mentioned in subsection (7A) of that section; or
- (c) arises as a result of—
- (i) a change in the ultimate control of the company giving rise to the alignment of the company's accounting period with that of its new ultimate parent company, where the alignment is effected prior to the end of the accounting period of the new ultimate parent company in which the change occurs, or
 - (ii) a notice by the company under section 224(2) of the Companies Act 1985⁽¹⁴⁾ (specification of accounting reference date not later than nine months after the date of incorporation) giving rise to such alignment as is mentioned in paragraph (i).
- (7) The circumstances specified in this paragraph for the purposes of paragraph (1)(a)(ii) are where—
- (a) the accounting period of the company to whom the profits are transferred begins and ends on the same dates as the accounting period of the transferor company and the case is not one where the transferor company has effected a change falling within paragraph (1)(a)(i) in the date or dates of any of its relevant accounting periods;
 - (b) as a result of the transfer of profits, the profits of the transferor company for the accounting period in which the transfer is effected or for any subsequent accounting period are reduced by an amount not exceeding £5,000,000 or, where that accounting period is a period of less than twelve months, that amount proportionately reduced.
- (8) The company specified in this paragraph for the purposes of paragraph (1)(a)(ii) is any company which—
- (a) is resident outside the United Kingdom, and
 - (b) either—
 - (i) is not trading in the United Kingdom through a branch or agency, or
 - (ii) if so trading, is not a company in the case of which the taxable profits transferred form part of the taxable profits of that branch or agency.
- (9) The assumptions specified in this paragraph for the purposes of paragraph (1) are that, if the company had not taken the action referred to in sub-paragraph (a) of that paragraph—
- (a) reliefs available to the company or to the group to which the company belongs in calculating liability to corporation tax would have been allocated so as to result in that liability arising later rather than sooner,
 - (b) any profits covered or, as the case may be, not covered by reliefs would similarly have been covered or not covered, and
 - (c) in calculating the amount or amounts of corporation tax which would have become due and payable, or would be treated as having become due and payable on the hypothetical date or dates, not more than twelve months' taxable profits would have been allocated to any of the years falling within regulation 4, that is, the year from 1st July 1999 to 30th June 2000, the year from 1st July 2000 to 30th June 2001, and the year from 1st July 2001 to 30th June 2002, allocating taxable profits for actual accounting periods before taxable profits for relevant accounting periods.

⁽¹⁴⁾ 1985 c. 6. Section 224 was inserted by section 3 of the Companies Act 1989 (c. 40).

(10) In calculating, for the purposes of this regulation, the hypothetical date or dates, it shall be assumed that—

- (a) where necessary, taxable profits are apportioned between a company’s accounting periods (including its relevant accounting periods) on a time basis or, where that basis would be unjust and unreasonable, on such basis as would be just and reasonable;
- (b) those dates are determined as if the taxable profits concerned were the only taxable profits for an accounting period.

(11) In this regulation—

- (a) “control” shall be construed in accordance with section 416 of the Taxes Act⁽¹⁵⁾;
- (b) “group” means a company which has one or more 51 per cent. subsidiaries together with that or those subsidiaries;
- (c) “hypothetical date or dates” shall be construed in accordance with paragraph (1)(b);
- (d) the reference in paragraph (6)(c) to a change in the ultimate control of the company (“the relevant company”) is a reference to the situation arising where—
 - (i) the company which was previously not under the control of any other company in the group (“the ultimate parent company”), while retaining control of the relevant company, itself comes under the control of another company (“the new ultimate parent company”) otherwise than as a result of a reorganisation, or
 - (ii) the relevant company ceases to be controlled by the ultimate parent company and comes under the control of another company (“the new ultimate parent company”) which is not under the control of any other company in the group, or
 - (iii) otherwise than as a result of a reorganisation, the relevant company comes under the control of a company which is not itself under the control of any other company;and the reference in paragraph (6)(c) to “new ultimate parent company” shall be construed accordingly;
- (e) references to “51 per cent. subsidiary” shall be construed in accordance with section 838(1)(a) of the Taxes Act.

Insurance companies and friendly societies—supplementary provision

15.—(1) This regulation applies where—

- (a) an insurance company or friendly society is entitled to a provisional repayment under Schedule 19AB to the Taxes Act⁽¹⁶⁾ (including a provisional repayment under that Schedule as modified by the Friendly Societies (Provisional Repayment for Exempt Business) Regulations 1993)⁽¹⁷⁾,
- (b) an amount of corporation tax (“the relevant amount”) is treated as becoming due and payable in accordance with regulation 5 of these Regulations on the date which is the fourteenth day after the end of the provisional repayment period to which the provisional repayment relates, and
- (c) the whole or part of the provisional repayment is set off against the relevant amount.

(2) For the purposes of calculating—

- (a) the amount of interest (if any) on the provisional repayment, and
- (b) the amount of interest (if any) payable on the relevant amount,

⁽¹⁵⁾ Section 416 was amended by Part V of Schedule 17 to the Finance Act 1989.

⁽¹⁶⁾ Schedule 19AB was inserted by Schedule 8 to the Finance Act 1991.

⁽¹⁷⁾ S.I.1993/3112, amended by S.I. 1997/474.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

the amount so set off shall be treated, unless the company elects otherwise, as—

- (i) a provisional repayment under Schedule 19AB to the Taxes Act, and
- (ii) a payment on account of the relevant amount,

deemed, in each case, to have been made on the date referred to in paragraph (1)(b).

17th December 1998

Jane Kennedy
David Jamieson
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for quarterly instalment payments of corporation tax by large companies (as defined in regulation 3 of the Regulations), except that the provision relating to interest on overpaid amounts of tax in respect of an accounting period (regulation 8) also applies to companies that are not large companies in that accounting period. The Regulations have effect in relation to accounting periods of companies ending on or after 1st July 1999, being the day appointed under section 199 of the Finance Act 1994 for the purposes of corporation tax self-assessment.

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

Regulation 3 defines a “large company” for the purposes of the Regulations.

Regulation 4 makes transitional provision for instalment payments by large companies in relation to accounting periods ending on or after 1st July 1999 but before 1st July 2002.

Regulation 5 contains the principal provision for quarterly instalment payments by large companies.

Regulation 6 provides for repayment by the Inland Revenue of amounts of tax paid by large companies.

Regulation 7 provides for interest to be paid by large companies on unpaid amounts of tax.

Regulation 8 provides for interest to be paid by the Inland Revenue on overpaid amounts of tax.

Regulation 9 amends section 102 of the Finance Act 1989 (surrender of company tax refund within group) so that it includes the surrender of an excess amount paid by a large company in respect of its tax liability.

Regulation 10 provides for the furnishing of information to the Inland Revenue, regulation 11 for the production of records to the Inland Revenue, and regulation 12 for the inspection of records by the Inland Revenue, in connection with amounts of tax payable by large companies, or claims for repayment of tax by large companies, under the Regulations.

Regulation 13 provides that a penalty under section 30(4) of the Finance Act 1998 may be imposed on a large company which deliberately or recklessly fails to pay an amount of tax due under the Regulations, or fraudulently or negligently makes a claim for repayment of tax under the Regulations.

Regulation 14 is an anti-avoidance provision designed to counter any action taken by a large company that avoids the full effect or application of the Regulations.

Regulation 15 provides that, where an insurance company or a friendly society is entitled to a provisional repayment for a quarter under Schedule 19AB to the Income and Corporation Taxes Act 1988 (inserted by Schedule 8 to the Finance Act 1991), the amount of the provisional repayment may be set off against a quarterly instalment of tax due under these Regulations without interest consequences.