
STATUTORY INSTRUMENTS

2002 No. 3006

INCOME TAX

The Retirement Benefits Schemes (Information Powers) (Amendment) Regulations 2002

Made - - - - *4th December 2002*
Laid before the House of
Commons - - - - *5th December 2002*
Coming into force - - *6th April 2003*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 605(1A), (1B), (1D) and (1E) of the Income and Corporation Taxes Act 1988⁽¹⁾ and section 133(1) of the Finance Act 1999⁽²⁾, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Retirement Benefits Schemes (Information Powers) (Amendment) Regulations 2002 and shall come into force on 6th April 2003.

Interpretation

2. In these Regulations “the principal Regulations” means the Retirement Benefits Schemes (Information Powers) Regulations 1995⁽³⁾ and “regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3.—(1) Amend regulation 2 (interpretation) as follows.

(2) Renumber the existing regulation 2 as paragraph (1) of that regulation.

(3) In paragraph (1)—

(a) for the definition of “controlling director” substitute—

““controlling director” in relation to a company means a person who is, or was within the ten years immediately preceding the event in question—

(1) 1988 c. 1. Section 605 has been amended. Subsections (1A) to (1E) were inserted by section 105(1) and (2) of the Finance Act 1994 (c. 9), and subsection (1B)(a) was substituted by paragraph 4 of Schedule 15 to the Finance Act 1998 (c. 36).
(2) 1999 c. 16.
(3) S.I. 1995/3103. The definition of a small self-administered scheme in the 1991 Regulations is amended by S.I. 1998/728 and 2000/1086.

- (a) a director as defined in section 612(1) of the Taxes Act (interpretation for the purposes of Chapter 1 of Part 14), and
- (b) within paragraph (b) of section 417(5) of the Taxes Act (meaning of director for the purposes of provisions about close companies);”;
- (b) after the definition of “controlling director” insert—
 - ““electronic communications” includes any communications by means of a telecommunications system (within the meaning of the Telecommunications Act 1984(4));”;
- (c) after the definition of “friendly society” insert—
 - ““governing instrument” in relation to a retirement benefits scheme means a trust deed, or other document by which the scheme is established, and any other document (except an enactment) which contains provisions by which the administration of the scheme is governed;”;
- (d) after the definition of “shares” insert—
 - ““signed” in relation to a document includes the incorporation in it, or the logical association with it, of an electronic signature, as defined in section 7(2) of the Electronic Communications Act 2000(5);”;
- (e) for the definition of “small self-administered scheme” substitute—
 - ““small self-administered scheme” means an approved scheme which is a small self-administered scheme within the meaning given by regulation 2(1) of the 1991 Regulations(6); and”;
- (f) omit the definition of “unlisted company”.
- (4) After paragraph (1) add—
 - “(2) In these Regulations, a reference to a notice or other document (other than a consent under paragraph (3) below) includes a notice or other document in such form and delivered by such means of electronic communications as the Board may approve by directions.
 - (3) The Board or an officer of theirs shall only deliver a notice or other document under these Regulations to a person by means of electronic communications if that person—
 - (a) has given his consent in writing to the delivery of documents by the Board by that means; and
 - (b) has not notified the Board that that consent has been withdrawn.”.

4.—(1) Amend regulation 5 (investment and borrowing transactions of small self-administered schemes) as follows.

(2) In paragraph (1)(a) after “on the relevant form supplied by” insert “or in the relevant document delivered by”.

(3) For paragraph (4) substitute—

“(4) In paragraph (3) above—

- (a) “unlisted company” means a company which is not listed on a recognised stock exchange within the meaning of section 841(1) of the Taxes Act (recognised stock exchanges and recognised investment exchanges), but does not include an open-ended investment company within the meaning of section 236 of the Financial

(4) 1984 c. 12.

(5) 2000 c. 7.

(6) The definition was substituted by regulation 3(b) of S.I. 1998/728 and amended by regulation 2(5) of S.I. 2000/1086.

Services and Markets Act 2000 (meaning of open-ended investment company for the purposes of Part 17 of that Act)(7); and

(b) references to a company associated with an employer shall be construed in accordance with regulation 2(9) of the 1991 Regulations.”.

5. In regulation 6(1) (participation of employers in a scheme) after “on the relevant form supplied by” insert “or in the relevant document delivered by”.

6.—(1) Amend regulation 7 (special contributions by employers) as follows.

(2) In paragraph (1) after “on the relevant form supplied by” insert “or in the relevant document delivered by”.

(3) In paragraph (2) for “in” substitute “, in which there falls the end of the chargeable period, in the course of”.

7.—(1) Amend regulation 8 (controlling directors as members of schemes) as follows.

(2) In paragraph (1) after “on the relevant form supplied by” insert “or in the relevant document delivered by”.

(3) For paragraph (3)(a) substitute—

“(a) the admission of any person to membership of the scheme who is a controlling director of a company which is an employer in relation to the scheme; or.”

8. In regulation 10 (reporting of chargeable events)—

(a) in paragraph (1) after “on the relevant form supplied by” insert “, or in the relevant document delivered by” and

(b) at the end of the regulation add—

“(4) In this regulation and regulation 11 references to an approved scheme include a scheme which has at any time been approved.”.

9. In regulation 11(1) (supply of information by insurance companies which are prescribed persons) after “on the relevant form supplied by” insert “or in the relevant document delivered by”.

10. After regulation 11 insert—

“Reporting transfer payments from approved retirement benefits schemes, relevant statutory schemes or specified annuity contracts

11A.—(1) The prescribed person within regulation 3(a), (b) or (c) in relation to—

(a) an approved retirement benefits scheme,

(b) a relevant statutory scheme, or

(c) an annuity contract referred to in section 605(1B)(c) of the Taxes Act other than a contract which provides for the immediate payment of benefits,

shall furnish to the Board, at the time prescribed by paragraph (2) below, such information (including copies of any relevant books, documents or other records) relating to an event specified in paragraph (3) below, as is specified by the Board.

(2) The time prescribed is any time not later than 28 days after the event in question.

(3) The event specified in this paragraph is one satisfying all the following conditions.

First condition

A transfer payment (“the payment”) is made from—

- (a) an approved retirement benefits scheme,
- (b) a relevant statutory scheme, or
- (c) a fund held subject to an annuity contract falling within paragraph (1)(c), (“the paying scheme”).

Second condition

The market value of the payment—

- (a) equals or exceeds £250,000; or
- (b) when aggregated with the market value of any other payments relating to the same person, made from the paying scheme within any period of 365 days, beginning with the first of those payments and including the date of the payment in question, equals or exceeds £250,000.

Third condition

The payment is not made to a relevant statutory scheme, an approved statutory scheme or an annuity contract which provides for the immediate payment of benefits.

Reporting transfer payments to retirement benefits schemes or specified annuity contracts

11B.—(1) The prescribed person within regulation 3(a), (b) or (c) in relation to—

- (a) a retirement benefits scheme for the time being approved by the Board, other than a statutory scheme, or
- (b) an annuity contract referred to in section 605(1B)(c) of the Taxes Act, other than a contract which provides for the immediate payment of benefits,

shall furnish to the Board, at the time prescribed by paragraph (2) below, such information (including copies of any relevant books, documents or other records) relating to an event specified in paragraph (3) below, as is specified by the Board.

This is subject to the qualification in paragraph (5).

- (2) The time prescribed is any time not later than 28 days after the event in question.
- (3) The event is one satisfying both of the following conditions.

First condition

A transfer payment (“the payment”) is received by—

- (a) a retirement benefits scheme which is for the time being approved by the Board,
or
- (b) a fund held subject to an annuity contract falling within paragraph (1)(b) (“the receiving scheme”).

Second condition

The market value of the payment, when aggregated with the market value of any other transfer payments relating to the same person, made to the receiving scheme within a period of 365 days, beginning with the first such payment and including the date of the payment in question, equals or exceeds £250,000.

(4) If a payment has fallen within the second condition in paragraph (3), all subsequent transfer payments made to the receiving scheme within the period referred to in that condition, so far as they relate to the same person, shall be notified individually to the Board by the prescribed person in relation to the receiving scheme.

This is subject to the following qualification.

(5) The prescribed person in relation to the receiving scheme shall not be under an obligation to furnish information under this regulation if the prescribed person in respect of the paying scheme is under an obligation to furnish information in respect of the same transaction under regulation 11A.

Interpretation for the purposes of regulations 11A and 11B

11C.—(1) In regulations 11A and 11B—

“market value” has the meaning given in section 272 of the Taxation of Chargeable Gains Act 1992 (valuation: general provisions for the purposes of that Act)(**8**); and

“transfer payment” includes a payment under paragraph 1(3) of Schedule 5 to the Welfare Reform and Pensions Act 1999(**9**) or paragraph 1(3) of Schedule 5 to the Welfare Reform and Pensions (Northern Ireland) Order 1999(**10**).

(2) In relation to an annuity contract mentioned in section 605(1B)(c) of the Taxes Act, references to a prescribed person within regulation 3 include a reference to the insurance company with which the contract is made.”

11. In regulation 12 after paragraph (4) insert—

“(4A) In paragraph (1) above “approved” has the same meaning as in regulation 10.”

12.—(1) Amend regulation 14 (inspection of records) as follows.

(2) In paragraph (2)—

(a) in sub-paragraph (a) for the words “the scheme” to the end substitute “a scheme”;

(b) in sub-paragraphs (b) to (f) for “that” in each place where it occurs substitute “a”.

(3) At the end of paragraph (4) add “and may specify matters falling within paragraph (1)(a) to (d) by reference to schemes generally, or those of a limited description, without naming individually each scheme which is the subject of the notice.”

13. In regulation 15(3)(c) (retention of records containing information required to be reported) for “10 or 11” substitute “10, 11, 11A or 11B”.

4th December 2002

Tim Flesher
Dave Hartnett
Two of the Commissioners of Inland Revenue

(8) 1992 c. 12. Subsection (3) of section 272 was amended by paragraph 12(1) of Schedule 38 to the Finance Act 1996 (c. 8).

(9) 1999 c. 30.

(10) S.I. 1999/3147 (N.I. 11).

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Retirement Benefits Schemes (Information Powers) Regulations 1995 (S.I.1995/3103) (“the principal Regulations”).

Regulation 1 provides for the citation and commencement of these Regulations. Regulation 2 provides a definition of “the principal Regulations” for the purposes of these Regulations.

Regulation 3 inserts new definitions in regulation 2 of the principal Regulations of “electronic communications”, “governing instrument” and “signed”, substitutes new definitions of “controlling director” and “small self-administered scheme” and omits the definition of “unlisted company”.

Regulation 4 amends regulation 5 of the principal Regulations, substituting a new paragraph (4). The effect of the substitution is to remove the obligation on the prescribed person in respect of a small self-administered scheme to furnish information to the Commissioners of Inland Revenue about investments in unlisted companies which are open-ended investment companies within the meaning of section 236 of the Financial Services and Markets Act 2000 (c. 8). Regulation 4 also amends regulation 5 of the principal Regulations so that information required to be furnished to the Board may be delivered electronically.

Regulation 5 amends regulation 6(1) of the principal Regulations so as to permit documents requiring information, and information so required, to be delivered electronically, and regulations 6(2), 7(2), 8(a) and 9 make similar amendments in respect of information required to be supplied in respect of special contributions, controlling directors becoming members of schemes, chargeable events and information required to be supplied by insurance companies.

Regulation 6(3) makes a drafting amendment so that the time within which the payment of a special contribution falls to be reported, under regulation 7(2) of the principal Regulations, is computed by reference to the end of the scheme year, in which falls the end of the chargeable period, in the course of which it is paid.

Regulation 7(3) makes an amendment consequential on the new definition of “controlling director”.

Regulations 8(b) and 11 respectively amend regulations 10 and 12 of the principal Regulations so as to widen references in those regulations, and regulation 11 of the principal Regulations, to approved retirement benefits schemes so as to include schemes which have at any time been approved.

Regulation 10 inserts new regulations 11A, 11B and 11C in the principal Regulations. The new regulation 11A imposes a duty upon the relevant person in respect of an approved retirement benefits scheme, a relevant statutory scheme or an annuity contract referred to in section 605(1B) of the Income and Corporation Taxes Act 1988 (c. 1), other than one providing immediate benefits, to furnish information to the Board of Inland Revenue within 28 days on the happening of the event specified in the new regulation 11A(3). The event is the making of any transfer payment from such a scheme or contract where the value of the assets comprised in the payment equals or exceeds £250,000 or the aggregate market value of assets comprised in a series of such payments made within a period of 365 days equals or exceeds that amount. The new regulation 11B imposes a similar reporting requirement in respect of a transfer payment or transfer payments to a retirement benefits scheme which is for the time being approved by the Board, other than a statutory scheme, or an annuity contract within section 605(1B)(c), other than one providing immediate benefits, if the amount of the payment, or the amount of the payments when aggregated, exceeds that amount. The new regulation 11C contains interpretation provisions in respect of regulations 11A and 11B.

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Regulation 12 amends regulation 14 of the principal Regulations so as to make it clear that a notice under that regulation need not specify the schemes in respect of which a prescribed person is required to make records available to an officer of the Board.

Regulation 13 makes an amendment to regulation 15 of the principal Regulations to provide for the retention of records in respect of information required to be supplied under the new regulations 11A and 11B.