

2005 No. 1539

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

**The Reporting of Savings Income Information (Amendment)
Regulations 2005**

Made - - - - - *9th June 2005*

Laid before the House of Commons *10th June 2005*

Coming into force in accordance with regulation 1(2)

The Treasury, in exercise of the powers conferred upon them by section 199 of the Finance Act 2003(a), make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Reporting of Savings Income Information (Amendment) Regulations 2005.

(2) These Regulations shall come into force on such date as is determined by the Treasury and specified by notices in the London, Edinburgh and Belfast Gazettes.

Amendments to the Reporting of Savings Income Information Regulations 2003

2. The Reporting of Savings Income Information Regulations 2003(b) shall be amended as follows.

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

(2) In paragraph (1), for the definition of “the Savings Directive” substitute—

““the Savings Directive” means Council Directive 2003/48/EC of 3rd June 2003(c) (“the Directive of 2003”) on the taxation of savings income in the form of interest payments, as amended by Council Directive 2004/66/EC(d), and a reference, without more, to a numbered Article is a reference to the Article of the Directive of 2003, as so amended, which bears that number;”.

(3) In paragraph (2)—

(a) after the definition of “agent” insert the following definitions—

(a) 2003 c. 14.

(b) S.I. 2003/3297.

(c) OJ No. L157, 26.06.2003, p.38.

(d) OJ No. L168, 1.5.2004, p.35, 66-67.

““arrangements” means agreements or arrangements made with a territory being a dependent or associated territory of a member State in relation to the automatic exchange of information or, during the transitional period defined in Article 10 of the Savings Directive, the application of a withholding tax referred to in paragraph 2(ii) of Article 17 of the Savings Directive;

“country” includes a territory;”;

(b) for the definition of “economic operator” substitute—

““economic operator” is a paying agent established in another member State or in a territory (construed in accordance with the Savings Directive or the arrangements with the territory, as appropriate) with which arrangements have been made;”;

(c) for the definition of “paying agent” substitute—

““paying agent”, unless the context otherwise requires, has the meaning given in regulation 3;”;

(d) for the definition of “a prescribed territory” substitute—

““a prescribed territory” means another member State, Aruba, the British Virgin Islands, Gibraltar, Guernsey, the Isle of Man, Jersey, Montserrat or the Netherlands Antilles;”;

(e) after the definition of “residual entity” insert the following definition—

““Revenue and Customs”, except in the expression “an officer of Revenue and Customs”, means Her Majesty’s Revenue and Customs (see section 4 of the Commissioners for Revenue and Customs Act 2005(a));”.

4.—(1) Amend regulation 4 (meaning of residual entity) as follows.

(2) In paragraph (1)—

(i) after “member State” insert “or in a territory with respect to which arrangements have been made”; and

(ii) at the end of sub-paragraph (c) insert “or an equivalent undertaking for collective investment established in a territory with which arrangements have been made”; and

(3) For the second paragraph of paragraph (3) substitute—

“An entity which presents to the paying agent or economic operator a certificate—

(a) issued by the member State in which that entity is established in accordance with Article 4(3), or

(b) issued by the territory with which arrangements have been made in which that entity is established in accordance with provisions which are equivalent to Article 4(3),

shall, for the purposes of this regulation, be treated as if it were a UCITS authorised in accordance with the UCITS Directive or an equivalent undertaking for collective investment established in the territory with which arrangements have been made (as the case may be).”.

5.—(1) Amend regulation 5 (election by an entity to be treated as a UCITS) as follows.

(2) In paragraph (2) for “the Inland Revenue” substitute “Revenue and Customs”.

(3) In paragraph (4) for “the Inland Revenue” substitute “Revenue and Customs”.

6. In regulation 6(c) (meaning of receiving agent) after “member State” insert “or in a territory with which arrangements have been made”.

7.—(1) Amend regulation 7 (meaning of relevant payee) as follows.

(2) In paragraph (2)(a) for “paying agent” substitute “a paying agent”; and

(a) 2005 c. 11.

- (3) In paragraph (2)(c)—
- (a) in paragraph (iii) for “Directive; or” substitute—
 - “Directive, or an equivalent undertaking for collective investment established in a territory with which arrangements have been made;”;
 - (b) in paragraph (iv)—
 - (i) after “a UCITS” insert “authorised”; and
 - (ii) at the end omit “or”;
 - (c) after paragraph (iv) insert—
 - “(v) which is treated as being an equivalent undertaking for collective investment established in a territory with which arrangements have been made for the purposes of those arrangements by virtue of provisions which are equivalent to Article 4(3); or”.
- 8. In regulation 8 (meaning of savings income) —**
- (a) in paragraph (2)(a)(iii) omit “and”;
 - (b) at the end of paragraph (2)(a) insert —
 - “; and
 - (v) any share interest paid by a credit union registered under the Credit Unions (Northern Ireland) Order 1985(a); and”;
 - (c) after paragraph (5)(b) insert—
 - “(c) where a collective investment fund—
 - (i) is established in a territory with which arrangements have been made which has made provisions equivalent to the derogation in the first sentence of Article 6(6); and
 - (ii) the collective investment fund has invested 15% or less of its assets in money debts in accordance with the law of that territory in the application of those provisions,
 there is no savings income”;
 - (d) in paragraph (8)(b)(i) for “paragraphs (1)(c) and (d) of Article 6” substitute “paragraph 4 of Article 6”;
 - (e) after paragraph (8)(b) insert—
 - “(c) where a residual entity—
 - (i) is established in a territory with which arrangements have been made which has made provisions equivalent to the derogation in the second sentence of Article 6(6); and
 - (ii) the residual entity has invested 15% or less of its assets in money debts in accordance with the law of that territory in the application of those provisions,
 there is no savings income”;
 - (f) in paragraph (11)—
 - (i) at the end of sub paragraph (a) insert “or an equivalent undertaking for collective investment established in a territory with which arrangements have been made”; and
 - (ii) after (b) insert—
 - “(ba) an entity which is treated as being an equivalent undertaking for collective investment established in a territory with which arrangements have been made for the purposes of those arrangements by virtue of provisions which are equivalent to Article 4(3); or”

(a) S.I. 1985/1205 (N.I. 12). Article 2 contains the definition of “credit union” which is relevant for these purposes.

(iii) for paragraph (c) substitute —

“(c) an undertaking for collective investment which is not established in the Community or in a territory with which arrangements have been made.”.

9. In regulation 9 (identity and residence of relevant payees) —

(a) for paragraph (4)(a) substitute —

“(a) the name and address of the individual, and

(i) where the individual is resident for tax purposes in a member State, the tax identification number (if any) allocated by that member State but if it is not available the individual’s date and place of birth,

(ii) where the individual is resident for tax purposes other than in a member State, the individual’s date and place of birth,

in accordance with paragraphs (5) and (7);”;

(b) in paragraph (7) after “tax identification number” insert “is not required or if it is and it”

(c) in paragraph (9)—

(i) for the words preceding sub-paragraph(a) substitute —

“(9) Where an individual presents a passport or official identity card issued by a member State and declares himself to be resident in a third country —”; and

(ii) in sub-paragraph (a) omit from “if he presents a passport” to “a member State,”.

10.—(1) Amend regulation 10 (information to be reported by paying agents making payments to relevant payees) as follows.

(2) In the heading for “the Inland Revenue” substitute “Revenue and Customs”.

(3) In paragraph (1) for “the Inland Revenue” substitute “Revenue and Customs”.

(4) In paragraph (2)(c) after “tax identification number” insert “is not required or if it is and it”.

11.—(1) Amend regulation 11 (information to be reported by paying agent making payments to residual entities) as follows.

(2) In the heading for “the Inland Revenue” substitute “Revenue and Customs”.

(3) In paragraph (1) for “the Inland Revenue” substitute “Revenue and Customs”.

12.—(1) Amend regulation 12 (information to be reported by receiving agents) as follows.

(2) In the heading for “the Inland Revenue” substitute “Revenue and Customs”.

(3) In paragraph (1) for “the Inland Revenue” substitute “Revenue and Customs”.

(4) In paragraph (2)(d) after “tax identification number” insert “is not required or if it is and it”.

13.—(1) Amend regulation 13 (amount of savings income to be reported) as follows.

(2) In the heading for “the Inland Revenue” substitute “Revenue and Customs”.

(3) In paragraph (1) for “the Inland Revenue” substitute “Revenue and Customs”.

14.—(1) Amend regulation 14 (paying and receiving agents to notify reportable payments).

(2) In the heading for “the Inland Revenue” substitute “Revenue and Customs”.

(3) In paragraph (1) for “the Inland Revenue” (in each place where the expression appears) substitute “Revenue and Customs”.

15.—(1) Amend regulation 15 (reports by paying and receiving agents to the Inland Revenue) as follows.

(2) In the heading for “the Inland Revenue” substitute “Revenue and Customs”.

(3) In paragraph (1) —

(a) for “The Inland Revenue” substitute “Revenue and Customs”; and

(b) for “the Inland Revenue”, in each place where the expression appears, substitute “Revenue and Customs”.

16.—(1) Amend regulation 16 as follows.

(2) In paragraph (1)—

(a) for “the Inland Revenue” substitute “Revenue and Customs”; and

(b) for “the Revenue” substitute “that officer”.

(3) In paragraph (2), in each place where the expression appears, for “an officer of the Inland Revenue” substitute “an officer of Revenue and Customs”.

(4) In paragraph (4)(b) for “residual entity” substitute “entity”.

(5) In paragraph (6) for “the Inland Revenue” substitute “Revenue and Customs”.

17. In the Schedule —

(a) after the entries for Italy insert—

Latvia	Pašvaldības (Local governments)
Poland	Gminy (Communes) Powiaty (Provinces) Województwa (Districts) Związki gmin (Associations of Communes) Związki powiatów (Associations of Provinces) Związki województw (Associations of Districts) Miasto Stołeczne Warszawa (Capital City of Warsaw) Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Reconstruction and Modernisation of Agriculture) Agencja Nieruchomości Rolnych (Agricultural Property Agency)

(b) after the entries for Portugal insert —

Slovakia	Mestá a Obce (Municipalities) Železnice Slovenskej republiky (Slovak Railway Company) Štátny Fond Cestného Hospodárstva (State Road Management Fund) Slovenské Elektrárne (Slovak Power Plants) Vodohospodárska výstavba (Water Economy Building Company)
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(c) in the first entry for Spain for “Galacia” substitute “Galicia”; and

- (d) in the Note at the end of Table 2 after “member States” insert “or territories with which arrangements have been made”.

*Joan Ryan
Tom Watson*

9th June 2005

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Reporting of Savings Income Information Regulations 2003 (S.I. 2003/3297) (“The Regulations”).

The Regulations implement part of Council Directive 2003/48/EC of 3rd June 2003 on taxation of savings income in the form of interest payments (“the Directive”), namely Articles 1 to 8, 15 and 17.

The Regulations are amended to—

- (i) implement the amendments made to Council Directive 2003/48/EC by Council Directive 2004/66/EC (OJ No. L168, 1.5.2004, p.35, 66-67) by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia;
- (ii) implement the agreements or other arrangements made with dependent or associated territories of the Member States;
- (iii) reflect the abolition of the Inland Revenue and the transfer of its functions to Her Majesty’s Revenue and Customs; and
- (iv) make minor corrections.

The impact of implementing the specific changes required of relevant bodies by these Regulations are marginal, and occur as a part of the changes necessary for the implementation of the Directive. The Regulatory Impact Assessment (RIA) for the Directive can be found at <http://hmrc.gov.uk/ria/eusd-ria.pdf>.