STATUTORY INSTRUMENTS

2017 No. 1172

INHERITANCE TAX

The Inheritance Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2017

Made - - - -	*29th November 2017*
Laid before the House of Commons - - - -	*30th November 2017*
Coming into force - -	*1st April 2018*

The Treasury make the following Regulations in exercise of the powers conferred by sections 306(1)(a) and (b) and 317(2) of the Finance Act 2004(**1**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Inheritance Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2017 and come into force on 1st April 2018.

(2) These Regulations do not have effect—

(a) for the purposes of section 308(1) of the Finance Act 2004 (duties of promoter relating to any notifiable proposal), if the relevant date falls before 1st April 2018;

(b) for the purposes of section 308(3) of the Finance Act 2004 (duties of promoter relating to any notifiable arrangements), if the date on which the promoter first becomes aware of any transaction forming part of notifiable arrangements falls before 1st April 2018;

(c) for the purposes of section 309(1) of the Finance Act 2004 (duty of person dealing with promoter outside the United Kingdom), and of section 310 of that Act (duty of parties to notifiable arrangements not involving promoter), if the date on which any transaction forming part of notifiable arrangements is entered into falls before 1st April 2018.

(3) In paragraph (2)(a) "the relevant date" has the meaning given by section 308(2) of the Finance Act 2004.

Interpretation

2. In these Regulations—

"chargeable transfer" has the meaning given by section 2(1) of IHTA 1984;

(**1**) 2004 c. 12. Section 317(2) was amended by paragraph 8 of Schedule 17 to the Finance Act 2010 (c. 13).

"estate" shall be construed in accordance with sections 5, 55 and 151(4) of IHTA 1984;

"IHTA 1984" means the Inheritance Tax Act 1984(**2**);

"potentially exempt transfer" has the meaning given by section 3A(1) and (1A) of IHTA 1984(**3**);

"property" shall be construed in accordance with section 272 of IHTA 1984;

"relevant property" has the meaning given by section 58 of IHTA 1984;

"relevant property entry charge" means the charge to inheritance tax which arises on a transfer of value made by an individual during that individual's lifetime as a result of which property becomes relevant property;

"transfer of value" has the meaning given by section 3(1) of IHTA 1984.

Prescribed description of arrangements in relation to inheritance tax

3. Subject to regulation 5, for the purposes of Part 7 of the Finance Act 2004 (disclosure of tax avoidance schemes) arrangements which fall within the description in regulation 4 are prescribed in relation to inheritance tax.

4.—(1) Arrangements fall within the description in this regulation if it would be reasonable to expect an informed observer (having studied the arrangements and having regard to all relevant circumstances) to conclude that condition 1 and condition 2 are met.

(2) Condition 1 is that the main purpose, or one of the main purposes, of the arrangements is to enable a person to obtain one or more of the following advantages in relation to inheritance tax (the "tax advantage")—

(a) the avoidance or reduction of a relevant property entry charge;

(b) the avoidance or reduction of a charge to inheritance tax under section 64, 65, 72 or 94 of IHTA 1984;

(c) the avoidance or reduction of a charge to inheritance tax arising from the application of section 102, 102ZA, 102A or 102B of the Finance Act 1986(**4**) in circumstances where there is also no charge to income tax under Schedule 15 to the Finance Act 2004 (charge to income tax on benefits received by former owner of property);

(d) a reduction in the value of a person's estate without giving rise to a chargeable transfer or potentially exempt transfer.

(3) Condition 2 is that the arrangements involve one or more contrived or abnormal steps without which the tax advantage could not be obtained.

5.—(1) Arrangements are excepted from being prescribed under regulation 3 if they—

(a) implement a proposal which has been implemented by related arrangements; and

(b) are substantially the same as the related arrangements.

(2) In this regulation "related arrangements" means arrangements which—

(a) were entered into before 1st April 2018; and

(b) at the time they were entered into, accorded with established practice of which HMRC had indicated their acceptance.

(**2**) 1984 c. 51.
(**3**) Section 3A was inserted by paragraph 1 of Schedule 19 to the Finance Act 1986 (c. 41) and was relevantly amended, including the insertion of subsection (1A), by paragraphs 7 and 9 of Schedule 20 to the Finance Act 2006 (c. 25).
(**4**) 1986 c. 41. Sections 102A and 102B were inserted by the Finance Act 1999 section 104; section 102ZA was inserted by paragraph 33 of Schedule 20 to the Finance Act 2006 (c. 25).