STATUTORY INSTRUMENTS

2017 No. 988

INCOME TAX
CAPITAL GAINS TAX

The Sections 106B, 106C and 106D of the Taxes Management Act 1970 (Specified Threshold Amount) Regulations 2017

Made - - - -	*11th October 2017*
Laid before the House of Commons - - - -	*13th October 2017*
Coming into force - -	*3rd November 2017*

These Regulations are made by the Treasury in exercise of the powers conferred by sections 106F(2) and (3) and 106H(2) and (3) of the Taxes Management Act 1970(**1**).

Citation and commencement

1. These Regulations may be cited as the Sections 106B, 106C and 106D of the Taxes Management Act 1970 (Specified Threshold Amount) Regulations 2017 and come into force on 3rd November 2017.

Interpretation

2.—(1) In these Regulations—

(a) "CRS" means the common reporting standard for automatic exchange of financial account information in tax matters developed by the Organisation for Economic Co-operation and Development(**2**) as amended from time to time;

(b) "CRS arrangements" means the arrangements relating to the CRS described in paragraph (2).

(c) "excluded offshore income tax or capital gains tax" means income tax or capital gains tax chargeable on or by reference to offshore income, assets or activities(**3**) which, at the

(**1**) 1970 c. 9; sections 106F and 106H were inserted by section 166 of the Finance Act 2016 (c. 24).

(**2**) The standard for automatic exchange of financial account information developed by the Organisation for Economic Co-Operation and Development ("the OECD") is available on the OECD website at http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters-9789264216525-en.htm .

(**3**) Section 106F(4) of the Taxes Management Act 1970 (c. 9) defines "offshore income, assets or activities"; Section 106F was inserted by section 166 of the Finance Act 2016 (c. 24).

relevant time, is reportable to the Commissioners for Her Majesty's Revenue and Customs pursuant to—

(i) CRS arrangements; or

(ii) article 8 of Council Directive 2011/16/EU(**4**).

(d) "relevant time" means the time when the event giving rise to income tax or capital gains tax chargeable on or by reference to offshore income, assets or activities occurs;

(e) "TMA 1970" means the Taxes Management Act 1970(**5**).

(2) The arrangements relating to the CRS referred to in paragraph (1)(b) are arrangements made to ensure automatic exchange of financial account information between the United Kingdom and the territories specified in the Schedule to these Regulations meeting the CRS(**6**).

Threshold amount for the purposes of sections 106B to 106D of TMA 1970

3. The threshold amount for a year of assessment for the purposes of sections 106B to 106D of TMA 1970 (offences relating to certain failures to comply with sections 7 or 8 of TMA 1970 by a taxpayer chargeable to income tax or capital gains tax on or by reference to offshore income, assets or activities) is £25,000.

4. Whether the threshold amount has been exceeded in relation to a person for the purposes of sections 106B to 106D of TMA 1970 must be determined by reference to—

(a) regulations 5 and 6 for the purposes of section 106B of TMA 1970 (offence of failure to give notice of being chargeable to tax);

(b) regulation 7 for the purposes of section 106C of TMA 1970 (offence of failing to deliver a tax return);

(c) regulations 8 and 9 for the purposes of section 106D of TMA 1970 (offence of making an inaccurate return).

Calculation of the total amount of income tax and capital gains tax chargeable on or by reference to offshore income, assets or activities for the purposes of section 106B of TMA 1970

5. The total amount of income and capital gains tax chargeable for a year of assessment on or by reference to offshore income, assets or activities for the purposes of section 106B of TMA 1970 ("the section 106B amount") must be calculated in accordance with the applicable provisions of paragraphs 7 and 11 of Schedule 41 to the Finance Act 2008(**7**) (penalty for failure to notify) ("paragraphs 7 and 11") construed as described in regulation 6.

6. Paragraphs 7 and 11 must be construed as if—

(a) the purpose of those paragraphs is to calculate the section 106B amount (with references to "potential lost revenue" construed accordingly); and

(**4**) OJ No L 64, 11.3.2011, p1, relevantly amended by Council Directive 2014/107/EU, OJ No L 359, 16.12.2014, p1.
(**5**) 1970 c. 9.
(**6**) The Commissioners for Her Majesty's Revenue and Customs have entered into competent authority agreements with tax authorities in other territories pursuant to international agreements to which the United Kingdom is a party regarding the exchange of information meeting the standard for automatic exchange of financial account information in tax matters developed by the OECD ("OECD standard"). Additionally, the European Union has entered into international agreements with other territories which require member States of the European Union to exchange information with those territories meeting the OECD standard.
(**7**) 2008 c. 9; paragraph 7 has been amended by paragraph 583(a) and (b) of Schedule 1 to the Corporation Tax Act 2010 (c. 4), paragraph 6(2) and (3) of Schedule 51 to the Finance Act 2013 (c. 29) and section 104(6) of the Finance Act 2015 (c. 11).