STATUTORY INSTRUMENTS

2016 No. 99

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX
INHERITANCE TAX

The Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations 2016

Made - - - -	*1st February 2016*
Laid before the House of Commons - - - -	*2nd February 2016*
Coming into force - -	*23rd February 2016*

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 Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations 2016 and come into force on 23rd February 2016.

(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)(**2**), if the relevant date(**3**) falls before 23rd February 2016;

(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 23rd February 2016;

(c) for the purposes of section 309(1) of the Finance Act 2004 (duty of person dealing with promoter outside United Kingdom), and of section 310 of that Act (duty of parties to

(**1**) 2004 c.12. Section 317(2) was amended by section 56 of, and paragraphs 1 and 8 of Schedule 17 to, the Finance Act 2010 (c.13).
(**2**) Section 308 was amended by paragraph 2 of Schedule 38 to the Finance Act 2008 (c.9).
(**3**) Relevant date is defined in section 308(2) of Finance Act 2004 (c.12). Section 308(2) was amended by paragraphs 1 and 2 of Schedule 38 to Finance Act 2008 and paragraphs 1 and 3 of Schedule 17 to Finance Act 2010.

notifiable arrangements not involving promoter), if the date on which any transaction forming part of notifiable arrangements is entered into falls before 23rd February 2016.

Amendment of the Tax Avoidance Schemes (Prescribed Description of Arrangements) Regulations 2006

2. The Tax Avoidance Schemes (Prescribed Description of Arrangements) Regulations 2006(**4**) are amended as provided for in regulations 3 to 9.

3.—(1) Regulation 2 (interpretation: general) is amended as follows.

(2) In paragraph (1) insert the following definitions in the appropriate places—

""CTA 2009" means the Corporation Tax Act 2009(**5**);",

""CTA 2010" means the Corporation Tax Act 2010(**6**);", and

""ITA 2007" means the Income Tax Act 2007(**7**);".

(3) In paragraph (2) after the definition of "business" insert—

""generally accepted accounting practice" has the meaning given by section 1127 of CTA 2010;".

4.—(1) Regulation 5 (prescribed descriptions of arrangements)(**8**) is amended as follows.

(2) For paragraph (1) substitute—

"(1) The following arrangements are prescribed for the purposes of Part 7 of the FA 2004 (disclosure of tax avoidance schemes)—

(a) in relation to income tax, corporation tax and capital gains tax, any arrangements which fall within any description specified in a provision of these Regulations listed in paragraph (2);

(b) in relation to inheritance tax, any arrangements which fall within any description specified in a provision of these Regulations listed in paragraph (2)(a) or (c)."

(3) In paragraph (2)—

(a) omit the "and" after sub-paragraph (g);

(b) after sub-paragraph (h) insert—

"and

(i) regulation 19 (description 9: financial products)."

5. In regulation 7(1)(e)(iii)(bb) (Description 2: Confidentiality where no promoter is involved)(**9**) for "Income Tax Act 2007" substitute "ITA 2007".

6. For regulation 10 (Description 5: standardised tax products) substitute—

"**Description 5: standardised tax products**

10.—(1) Subject to regulation 11, arrangements are prescribed if a promoter makes the arrangements available for implementation by more than one person and the conditions in paragraph (2) are met.

(**4**) S.I. 2006/1543, relevantly amended by S.I. 2009/2033, S.I. 2010/2834 and S.I. 2013/2595.
(**5**) 2009 c.4.
(**6**) 2010 c.4.
(**7**) 2007 c.3.
(**8**) Regulation 5 was amended by regulation 2 of S.I. 2009/2033, regulation 4 of S.I. 2010/2834 and regulation 9 of S.I. 2013/2595.
(**9**) Regulation 7 was amended by regulation 6 of S.I. 2010/2834 and regulations 6 to 8 of S.I. 2013/2595.

(2) The conditions are that an informed observer (having studied the arrangements and having regard to all relevant circumstances) could reasonably be expected to conclude that —

(a) the arrangements have standardised, or substantially standardised, documentation —

(i) the purpose of which is to enable a person to implement the arrangements;

(ii) the form of which is determined by the promoter; and

(iii) the substance of which does not need to be tailored, to any material extent, to enable a person to implement the arrangements;

(b) a person implementing the arrangements must enter into a specific transaction or series of specific transactions;

(c) the transaction or series of transactions is standardised, or substantially standardised, in form; and

(d) either the main purpose of the arrangements is to enable a person to obtain a tax advantage or the arrangements would be unlikely to be entered into but for the expectation of obtaining a tax advantage."

7.—(1) Regulation 11 (arrangements excepted from Description 5) is amended as follows.

(2) Omit paragraph (1).

(3) In paragraph (2)—

(a) for "The arrangements referred to in paragraph (1)(a) are" substitute "The following arrangements are excepted from being prescribed under regulation 10";

(b) in sub-paragraph (b) for "Chapter 3 of Part 7 of ICTA 1988 and Schedules 5B and 5BA" substitute "Part 5 of ITA 2007 and Schedule 5B";

(c) in sub-paragraph (c) for "section 842AA of, and Schedule 15B to, ICTA 1988" substitute "Part 6 of ITA 2007";

(d) after sub–paragraph (n) insert—

"(o) arrangements which would be prescribed by regulation 19 but for regulation 21."

8. In regulation 12 (Description 6: Loss schemes) for paragraph (b) substitute—

"(b) an informed observer (having studied the arrangements and having regard to all relevant circumstances) could reasonably be expected to conclude that—

(i) the main benefit or one of the main benefits which could be expected to accrue to some or all of the individuals participating in the arrangements is the provision of losses, and

(ii) the arrangements (including the way they are structured) contain an element which is, or elements which are, unlikely to have been entered into by the individuals concerned were it not for the provision of those losses, and

(iii) those individuals would be expected to use those losses to reduce their liability to income tax or capital gains tax."

9. After regulation 18 (Description 8: Employment income provided through third parties)(**10**) insert—

(**10**) Regulation 18 was substituted for regulation 17A by regulation 10 of S.I. 2013/2595.