STATUTORY INSTRUMENTS

2015 No. 549

INCOME TAX
CORPORATION TAX
CAPITAL GAINS TAX

The Finance Act 2014 (High Risk Promoters Prescribed Information) Regulations 2015

Made - - - -	*5th March 2015*
Laid before the House of Commons - - - -	*6th March 2015*
Coming into force - -	*27th March 2015*

The Commissioners for Her Majesty's Revenue and Customs(**1**) in exercise of the powers conferred by sections 249(3), (10) and (11), 253(2) and (4), 257(2), 259(9), 260(7), 261(2), 268(1), 282(4) and 283(1) of the Finance Act 2014(**2**) make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Finance Act 2014 (High Risk Promoters Prescribed Information) Regulations 2015 and come into force on 27th March 2015.

(2) In these Regulations—

"accounting period" for the purposes of corporation tax has the same meaning as that given in sections 9 to 12 of the Corporation Tax Act 2009(**3**) and "beginning of accounting period" and "end of accounting period" shall be construed accordingly;

"the Act" means the Finance Act 2014;

"audiovisual formats" means any method of presenting information that uses an audible and visible format including broadcasting by electronic means or transmission over, or publication on, the internet; "chargeable period" shall be construed—

(a) for the purposes of annual tax on enveloped dwellings, in accordance with section 94(8) of the Finance Act 2013(**4**);

(**1**) Section 283(1) of the Finance Act 2014 (c. 26) defines "the Commissioners" as the Commissioners for Her Majesty's Revenue and Customs.
(**2**) 2014 c. 26. Section 283(1) is an interpretation provision and is cited for the definition of the word "prescribed".
(**3**) 2009 c. 4.
(**4**) 2013 c. 29.

(b) for the purposes of petroleum revenue tax, in accordance with section 1(3) of the Oil Taxation Act 1975(**5**);

"effective date" has the meaning given by section 119 of the Finance Act 2003(**6**);

"tax year" means a year beginning on 6th April and ending on the following 5th April;

Prescribed publication or correspondence

2.—(1) The following publications and correspondence are prescribed for the purposes of subsection (10) of section 249 of the Act (publication by monitored promoter)—

(a) any publication or correspondence that—

(i) with the exception of correspondence with HMRC, contains information about any relevant arrangements or any relevant proposal offered or promoted by the monitored promoter;

(ii) is shown, given or sent to clients or prospective clients in relation to any relevant arrangements or any relevant proposal (whether or not the relevant arrangements or relevant proposal is provided by the monitored promoter);

(iii) is shown, given or sent to intermediaries or prospective intermediaries in relation to any relevant arrangements or any relevant proposal (whether or not the relevant arrangements or relevant proposal is provided by the monitored promoter);

(b) any correspondence with—

(i) a professional body referred to in paragraph 8(3) of Schedule 34 to the Act of which the monitored promoter is a member, prospective member or former member and which concerns any relevant arrangements or any relevant proposal;

(ii) a regulatory authority referred to in paragraph 9(3) of Schedule 34 to the Act which the monitored promoter is regulated by and which concerns the monitored promoter's conduct in respect of any relevant arrangements or any relevant proposal.

(2) In paragraph (1)—

(a) "correspondence" includes correspondence in writing or by electronic means;

(b) "publication" means publication in any format (including audiovisual formats).

Information publicised by a monitored promoter

3.—(1) For the purposes of subsection (11) of section 249 of the Act (publication by monitored promoter), the prescribed form and manner is as set out in paragraphs (2), (3) and (4).

(2) Notification given under subsection (1) of section 249 must—

(a) be in writing;

(b) set out clearly and precisely the information required to be stated under paragraphs (a) and (b) of section 249(1) of the Act so that—

(i) in respect of the information required by section 249(1)(a) of the Act, it is clear that the promoter is being monitored by HMRC because it breached a condition or conditions of a conduct notice identified under section 249(1)(b) of the Act, and

(**5**) 1975 c. 22.

(**6**) 2003 c. 14. Section 119 was amended by section 296 of, and paragraph 8 of Schedule 39 to, and section 326 of, and Part 4(2) of Schedule 42 to, the Finance Act 2004 (c. 12), section 47(3) of the Finance Act (No. 2) Act 2005 (c. 22), section 29 of, and paragraph 21 of Schedule 3 to, the Scotland Act 2012 (c. 11) and section 195 of, and paragraph 7 of Schedule 39 to, and section 197 of, and paragraph 5 of Schedule 41 to, the Finance Act 2013 (c. 29).

(ii) in respect of the information required by section 249(1)(b) of the Act, the specific details of each of the conditions which it has been determined that the person has failed to comply with.

(3) In respect of subsection (3) of section 249 of the Act, the monitored promoter shall publish on the internet the information mentioned in paragraph (a) and (b) of section 249(1) of the Act. The published information must—

(a) appear in a prominent position on the monitored promoter's or other websites promoting, or providing information on, the activities of the promoter;

(b) if in writing, be legible;

(c) if in an audiovisual format, be clearly audible or visible;

(d) not in any way be concealed;

(e) be specifically referred to or included in any promotional material (of whatever kind or format);

(f) not be presented in a way that it promotes the activity of tax avoidance.

(4) The information to be provided under subsection (10) of section 249 of the Act and regulation 2 to these Regulations (prescribed publication or correspondence) must—

(a) be prominent and not in any way be concealed;

(b) if in writing, be legible;

(c) if in an audiovisual format, be clearly audible or visible;

(d) not be presented in a way that promotes the activity of tax avoidance.

Duty of persons to notify the Commissioners: prescribed information

4.—(1) The following information is prescribed for the purposes of paragraphs 2(b) and 4(b) of section 253 of the Act (duty of persons to notify the Commissioners)—

(a) the full name and address (including postcode) of the person reporting the promoter reference number;

(b) the promoter reference number which is the subject of the report;

(c) the type of tax in respect of which the person expects to obtain a tax advantage;

(d) the unique identifier (as to the meaning of which see paragraph (3)(a));

(e) the relevant date of the transaction(s) (as to the meaning of which see paragraph (3)(b));

(f) a declaration that the information provided is correct and complete to the best of the knowledge and belief of the person making the report;

(g) the signature of the person making the report;

(h) the full name of the person signing the report;

(i) the date on which the report is made.

(2) For relevant arrangements involving annual tax on enveloped dwellings, stamp duty land tax or stamp duty reserve tax transactions under regulation 4 of the Stamp Duty Reserve Tax Regulations 1986(**7**) (notice of charge and payment), the unique identifier in sub-paragraph (1)(d) is to be replaced by the following additional prescribed information—

(a) for annual tax on enveloped dwellings—

(i) title number or numbers of the dwelling associated with the relevant arrangements;

(**7**) S.I. 1986/1711. Regulation 4 was amended by regulation 6 of S.I. 1999/3264 with effect from 6 February 2000.

(ii) full address of the dwelling including the postcode sufficient to be able to identify it;

(b) for stamp duty land tax—

(i) the unique transaction reference number(**8**) (if a land transaction return has been submitted to HMRC at the time the prescribed information is provided);

(ii) title number or numbers of the land associated with the relevant arrangements;

(iii) full address or situation of the land including (where available) the postcode, or information sufficient that the land can be uniquely identified;

(c) for stamp duty reserve tax transactions a full description of the shares or securities associated with the relevant arrangements, including the—

(i) number of shares or securities;

(ii) class or classes of the shares;

(iii) name of the company or other body to which the shares relate;

(iv) nominal value;

(v) consideration paid.

(3) For the purposes of paragraph (1)—

(a) "unique identifier" is to be construed as follows—

(i) where the promoter reference number is not reported in a tax return for an individual, the national insurance number and unique tax reference number of the person making the report;

(ii) where the promoter reference number is not reported in a tax return for a trust or company, the unique tax reference number for the trust or company (as the case may be);

(iii) for inheritance tax purposes, the unique tax reference number and any inheritance tax reference previously allocated by HMRC to the person making the report;

(iv) for stamp duty reserve tax transactions authorised by different arrangements under regulation 4A of the Stamp Duty Reserve Tax Regulations 1986(**9**), the unique transaction reference provided by the reporting system under the authorised arrangements;

(b) "relevant date of the transaction(s)" means—

(i) in respect of capital gains tax or income tax, the date on which the tax year, in which the relevant arrangements enable or seek to enable a tax advantage to be obtained, ends;

(ii) in respect of corporation tax, with the exception of partnerships where one or more of the partners is a company, either the date on which the accounting period, in which the relevant arrangements enable or seek to enable a tax advantage to be obtained, ends, or, where the company does not have an accounting period, the date of the first transaction forming part of the relevant arrangements;

(iii) in respect of corporation tax in relation to partnerships, including where one or more of the partners is a company, the date on which the tax year in which the relevant arrangements enable or seek to enable a tax advantage to be obtained, ends;

(**8**) The unique transaction reference is found, for a paper return, in the "Reference box" attached to the payslip on the Land Transaction Return (Form SDLT 1) referred to in Part 1 of Schedule 2 to S.I. 2003/2837 or, for an electronic return, on the electronic SDLT submission receipt.

(**9**) Regulation 4A was inserted by regulation 5 of S.I. 1997/2430 with effect from 20 October 1997.

(iv) in respect of annual tax on enveloped dwellings, the date on which the chargeable period, in which the relevant arrangements enable or seek to enable a tax advantage to be obtained, ends;

(v) in respect of inheritance tax, the date of the first transaction forming part of the relevant arrangements;

(vi) in respect of stamp duty land tax, the effective date of the land transaction that forms part of the relevant arrangements that enable a tax advantage to be obtained;

(vii) in respect of stamp duty reserve tax, the date of the transaction that forms part of the relevant arrangements that enable a tax advantage to be obtained;

(viii) in respect of petroleum revenue tax, the end of each chargeable period within which a tax advantage may arise.

Report of promoter reference number: prescribed form and manner

5.—(1) The report made under paragraphs 2(b) and 4(b) of section 253 of the Act (duty of persons to notify the Commissioners) must be made in the form prescribed in Schedule 1 to these Regulations. A separate report must be made for each tax which the relevant arrangements enable or seek to enable an advantage to be obtained.

(2) The completed report must be sent by post to one of the addresses listed in Schedule 2 to these Regulations.

Report of promoter reference number: prescribed time

6.—(1) A report under section 253 of the Act (duty of persons to notify the Commissioners) must be made by the deadlines set out in paragraphs (2), (3) and (4).

(2) Where a tax return for an individual, partnership, trustee, company or a return for the purposes of the annual tax on enveloped dwellings is not submitted by the date in section 253(3)(a) or (b) of the Act in relation to the period within which a tax advantage may arise, the report must be made by the end of the fifth working day following the date on which the return was required to be submitted.

(3) Where there is no tax return covering the period within which a tax advantage may arise, then the report must be made—

(a) in the case of an individual, partnership or trustee, by 31st January following the end of each tax year within which a tax advantage may arise;

(b) in the case of a company, not later than 12 months from the end of each accounting period within which a tax advantage may arise;

(c) in the case of an annual tax on enveloped dwellings return, not later than 30 days from the first day of the chargeable period in which the person is within the charge or would have been within the charge but for the relevant arrangements, for each period within which a tax advantage may arise.

(4) For the purposes of inheritance tax, stamp duty land tax, stamp duty reserve tax, and petroleum revenue tax, the report must be made—

(a) for inheritance tax, not later than the sixth month after the end of the month which the first transaction under the relevant arrangements was entered into;

(b) for stamp duty land tax, not later than 30 days from the effective date of each land transaction which forms part of the relevant arrangements within which a tax advantage may arise;

(c) for stamp duty reserve tax—