Draft Regulations laid before the House of Commons under paragraph 44(2) of Schedule 23 to the Finance Act 2011, for approval by a resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2012 No.

TAXES

The Data-gathering Powers (Relevant Data) Regulations 2012

Made - - - -	***
Coming into force - -	*1st April 2012*

A draft of these Regulations was laid before, and approved by a resolution of, the House of Commons under paragraph 44(2) of Schedule 23 to the Finance Act 2011(**1**).

Accordingly the Treasury make the following Regulations in exercise of the power conferred by paragraph 1(3) of Schedule 23 to the Finance Act 2011.

Citation, commencement and interpretation

1. These Regulations may be cited as the Data-gathering Powers (Relevant Data) Regulations 2012 and come into force on 1st April 2012.

2. In these Regulations "Schedule 23" means Schedule 23 to the Finance Act 2011.

Salaries, fees, commission etc

3.—(1) The relevant data for a data-holder of the type described in paragraph 9(1)(a) of Schedule 23 are information relating to all payments made by the employer that relate to the employment (referred to in this regulation as "employment related payments").

(2) The relevant data for a data-holder of the type described in paragraph 9(1)(b) are information relating to payments by any other person who has made employment related payments to the employer's employees or to the employees of another person.

(3) Information relating to apportioned expenses incurred partly in respect of employment related payments and partly in, or in connection with, other matters are relevant data for the purposes of paragraph 9(1)(a) and 9(1)(b).

(**1**) 2011 c. 11.

(4) The relevant data for a data-holder of the type described in paragraph 9(1)(c) are information and documents relating to the donations made under Part 12 of the Income Tax (Earnings and Pensions) Act 2003 (payroll giving)(**2**).

(5) For the purposes of paragraph 9(1)(d) and, where relevant, paragraph 9(4)—

(a) the relevant data are information relating to relevant payments made in connection with a business, or a part of a business;

(b) particulars of the following payments are not relevant data—

(i) payments from which income tax is deductible; and

(ii) payments made to any one person where the total of those payments, particulars of which would otherwise fall to be provided, does not exceed £500.

4. The relevant data for a data-holder of the type described in paragraph 11 of Schedule 23 are the data described in paragraph 11(2)(b).

Interest etc

5.—(1) The relevant data for a data-holder of the type described in paragraph 12 of Schedule 23 are information and documents relating to accounts or sums on which relevant interest is payable, including but not limited to the data in regulations 8, 9 and 10.

(2) "Relevant interest" means interest paid or credited—

(a) on money received or retained in the United Kingdom; and

(b) either without deduction of income tax or after deduction of income tax.

6. Information relating to the following payments is not relevant data for the purposes of a data-holder of the type described in paragraph 12—

(a) a payment in respect of a certificate of deposit within the meaning given by section 1019 of the Income Tax Act 2007(**3**);

(b) a payment in respect of an investment or a deposit held by a branch of a person to whom a data-holder notice is issued, where the branch is situated in a territory other than the United Kingdom;

(c) a payment falling within regulation 9(c) or 10(d) if the name and address of the person to whom the interest was paid or credited is not the person beneficially entitled to the interest;

(d) a payment in respect of an investment under a plan provided for by regulations made under Chapter 3 of Part 6 of the Income Tax (Trading and Other Income) Act 2005(**4**);

(e) a payment to or a receipt for a person other than an individual (in whatever capacity the individual is acting), except where the case falls within regulation 9(c) or 10(d);

(f) any other payment not falling within any of paragraphs (a) to (e) which is specified in the data-holder notice as being a payment in respect of which information is not required.

7.—(1) Information is not relevant data for the purposes of a data-holder of the type described in paragraph 12 if it is in respect of a relevant dormant account before the balance of the account is paid out to the account-holder following a repayment claim (such payment being referred to in this regulation as the repayment claim being "settled").

(**2**) 2003 c. 1; Part 12 was amended by paragraphs 103(a) and 118 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11); section 96 of the Finance Act 2009 (c. 10), S.I 2009/56, S.I. 209/3054 and paragraph 5 of Schedule 3 of the Finance Act 2011.

(**3**) 2007 c. 3.

(**4**) 2005 c. 5; Chapter 3 was amended by section 50 of and paragraphs 131 and 132 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11), section 40 of the Finance Act 2008 (c. 9) and section 40 of the Finance Act 2011 (c. 11).

(2) Where a repayment claim to the balance of a dormant account is settled, all interest paid, credited or included in the balance of the account, during and at the end of the relevant dormant period, is relevant data for the purposes of paragraph 12 and shall be treated—

(a) as paid at the time the repayment claim is settled; and

(b) as if the bank or building society in question had retained the balance of the account, in the ordinary course of the operations of its trade or business.

(3) If the data-holder notice specifies the year of assessment in which the relevant dormant period for any account ends, the notice shall (unless it states otherwise) be deemed to require as relevant data the inclusion of information for all relevant dormant accounts, in respect of which repayment claims were settled in that year.

(4) Information in respect of a relevant dormant account which, at the time it first became a relevant dormant account, was a plan provided for by regulations made under Chapter 3 of Part 6 of the Income Tax (Trading and Other Income) Act 2005 (individual investment plans) is not relevant data for the purpose of paragraph 12.

(5) In this regulation—

"relevant dormant account" has the meaning in section 39(2) of the Finance Act 2008(**5**);

"relevant dormant period" means the period between the time when a dormant account becomes a relevant dormant account and the time at which a repayment claim is settled; and

"repayment claim" means a repayment claim mentioned in section 5(6) of the Dormant Bank and Building Society Accounts Act 2008(**6**) ("the Dormant Accounts Act").

Other terms used have the same meaning as in the Dormant Accounts Act.

8. If a payment is made in circumstances in which a certificate has been supplied under regulation 4 of the Income Tax (Deposit-takers and Building Societies) (Interest Payments) Regulations 2008(**7**), that the person beneficially entitled to the payment is unlikely to be liable to pay any amount by way of income tax for the tax year in which the payment was made, the relevant data are—

(a) the name and address of the person or persons by or on behalf of whom a certificate has been given in connection with the payment ("the beneficiary") if other than the person or persons to whom the payment was made;

(b) the date of birth of the beneficiary;

(c) the national insurance number or tax identification number of the beneficiary (or confirmation that a national insurance number or tax identification number is not held) for any account in respect of which the payment was made opened on or after 6th April 2013, and for any account opened earlier if such number is provided to the deposit-taker or building society;

(d) notification of the fact that the account in respect of which the payment was made is or was one in connection with which a certificate or certificates had been given which had not ceased to be valid at the 5th April in the year in which the payment was made or at the date of closure of the account, if earlier in that year;

(e) the reference number of the account referred to in paragraph (d) and, where necessary for identifying the account, the branch of the payer where the account is held;

(f) where the payment was made to two or more account-holders each of whom was beneficially entitled to the payment, notification of that fact and, if known, the number of such persons;

(**5**) 2008 c. 9.
(**6**) 2008 c. 31.
(**7**) S.I. 2008/2682, to which there are amendments no relevant to these Regulations.

(g) the national insurance numbers or tax identification numbers of persons referred to in paragraph (f) other than the beneficiary referred to in paragraphs (b) and (c) (or confirmation that a national insurance number or tax identification number is not held) for any account opened on or after 6th April 2013, and for any account opened earlier if such number is provided to the deposit-taker or building society ;

(h) where a certificate was given by or on behalf of one, or more, but not all, of the persons referred to in paragraph (f) and had not ceased to be valid at the 5th April in the year in which the payment was made or at the date of closure of the account, if earlier in that year, notification of those facts;

(i) where the payment was the first payment made in respect of an account, notification of that fact;

(j) where the payment was in a currency other than sterling and the amount of the payment is recorded in that currency in the data provided under a data-holder notice notification of the fact that the amount is so recorded and the specification of the currency concerned.

9. In cases to which regulation 8 does not apply, the relevant data relating to payments in respect of deposits are—

(a) the reference number of the account in respect of which a payment was made and, where necessary for identifying the account, the branch of the payer where the account is held;

(b) where a payment was made to two or more account holders, notification of that fact and, if known, the number of such persons;

(c) where the payment was made without deduction of tax by virtue of a declaration made after 5th April 2001 under section 858, 859, 860 or 861 of the Income Tax Act 2007—

(i) the name and principal residential address of the individual beneficially entitled to the payment or, if more than one, of each individual entitled to the payment; or

(ii) where the person beneficially entitled to the payment is a Scottish partnership, all the partners in which are individuals, the name and principal residential address of each of the partners;

(d) in a case falling within paragraph (c) notification of the fact that the account in respect of which the payment was made was one in respect of which a declaration had been made as mentioned in that paragraph;

(e) the national insurance number or tax identification number (or confirmation that a national insurance number or tax identification number is not held) of the person or, where paragraph (b) applies, each person to whom a payment was made for any account opened on or after 6th April 2013, and for any account opened earlier if such number is provided to the deposit-taker or building society;

(f) where a payment made in the course of the year was the first payment in respect of an account, notification of that fact;

(g) where a payment was in a currency other than sterling and the amount of the payment is recorded in that currency in the data provided under a data-holder notice notification of the fact that the amount is so recorded and the specification of the currency concerned.

10. In cases to which regulation 8 does not apply, the relevant data relating to payments and receipts of interest other than payments in respect of deposits are—

(a) identification of the security or investment in respect of which the payment was made or received;

(b) where a payment or receipt was in a currency other than sterling and the amount of the payment is recorded in that currency in the data provided under a data-holder notice