Draft Regulations laid before the House of Commons under section 28(5) of the Saving Gateway Accounts Act 2009, for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2009 No.

INCOME TAX

The Saving Gateway Accounts (No. 2) Regulations 2009

Made - - - - ***

Coming into force - - in accordance with regulation 1

A draft of this instrument has been laid before the House of Commons in accordance with section 28(5) of the Saving Gateway Accounts Act 2009(**a**) and approved by a resolution of that House.

Accordingly, the Treasury make the following Regulations in exercise of the powers conferred by sections 14 and 28(1) and (2) of the Saving Gateway Accounts Act 2009:

Citation and commencement

1. These Regulations may be cited as the Saving Gateway Accounts (No. 2) Regulations 2009 and shall come into force on the appointed day.

Interpretation

2. In these Regulations—

"account", except in regulations 5(1)(d) and (e) and 6, means a Saving Gateway account;

"the Act" means the Saving Gateway Accounts Act 2009;

"the appointed day" means the day appointed under section 31 of the Act, for the purposes of section 8 of the Act;

"building society bonus" excludes any bonus, distribution of funds or the conferring of rights in relation to shares—

(i) in connection with an amalgamation, transfer of engagements or transfer of business of a building society, and

(ii) mentioned in section 96 or 100 of the Building Societies Act 1986(**b**),

and "payment under a building society bonus scheme" shall be construed accordingly;

"interest" in regulation 3, where paid by a building society or credit union, includes a dividend paid by, and in respect of a share account held with, the society or credit union (and "dividend" includes any distribution, whether or not described as a dividend);

"the principal Regulations" means the Saving Gateway Accounts Regulations 2009(**c**);

(**a**) 2009 c. 8.
(**b**) 1986 c. 33.
(**c**) S.I. 2009/

other expressions defined in the principal Regulations have the same meanings as they have in those definitions.

Exemption from tax of account income, maturity payments and death payments

3. Subject to compliance with the principal Regulations (and in particular with regulation 11 of those Regulations)—

(a) no tax shall be chargeable on the account provider or his nominee, or on the account holder, in respect of—

(i) interest paid or credited in respect of an account;

(ii) profit share return from arrangements falling within section 49 of the Finance Act 2005(**a**), paid or credited by a financial institution (within the meanings in Chapter 5 of Part 2 of that Act), in respect of an account;

(iii) a payment under a building society bonus scheme, so far as the bonus is calculated by reference to an account (and if paid directly by the society into the account, the payment shall not count towards the payment limits in regulation 11 of the principal Regulations);

(b) any gain or loss accruing on and attributable to a maturity payment or death payment shall not be a chargeable gain or allowable loss for capital gains tax purposes; and

(c) income arising from an account shall not be regarded as income for any income tax purposes (including section 629 of ITTOIA 2005(**b**)).

Tax liabilities and reliefs – account provider to act on behalf of account holder

4. An account provider may under these Regulations make tax claims, conduct appeals and agree on behalf of the account holder liabilities for and reliefs from tax in respect of an account.

Tax liabilities and reliefs – supplementary provisions

5.—(1) Where—

(a) any relief or exemption from tax given in respect of income or gains under an account is found not to be due or to be excessive;

(b) the account holder was not an eligible person at the relevant date;

(c) a person was—

(i) entitled to a benefit under the terms of section 3(1)(a) of the Act, or

(ii) an eligible person by reason of entitlement to working tax credit or child tax credit under the terms of regulation 3 of the principal Regulations,

but such entitlement has been overturned, or it has subsequently been determined that payment of the relevant benefit or tax credit should not have been made, or should have been made at a different rate;

(d) an account does not comply with the requirements imposed by section 4(2)(a) and (b) of the Act, or by regulations 10 to 21 of the principal Regulations; or

(e) there is a breach of section 6(2)(a) or (b) of the Act in relation to an account;

the persons mentioned in paragraph (2) shall account to the Commissioners for any tax from which relief has been incorrectly given under regulation 3 in respect of an account.

(2) The persons mentioned in paragraph (1) are—

(a) the account provider (to the extent that it has assets relating to the account, or directly or indirectly representing the tax, in its possession or control);

(**a**) 2005 c. 7.
(**b**) 2005 c. 5.

(b) the account holder, or former account holder;

(c) any person in whom the money in the account, or any property directly or indirectly representing it, is vested (whether beneficially or otherwise);

and they shall be jointly and severally liable.

(3) The relevant provisions of Part 5 of the Management Act(**a**) (within the meaning in section 48(3) of that Act) other than section 50 of that Act shall apply to tax appeals, with the necessary modifications mentioned in section 48(2)(b)(ii) of that Act.

Assessments for withdrawing relief and recovering tax

6.—(1) Where—

(a) any relief or exemption from tax given in respect of income or gains under an account is found not to be due or to be excessive, or

(b) the full amount of tax in respect of the income or gains under an account has not otherwise been fully accounted for and paid to the Commissioners on behalf of the account holder,

an assessment to tax may be made by the Commissioners in the amount or further amount which in their opinion ought to be charged.

(2) An assessment to which paragraph (1) refers may be made on the account provider or on the account holder.

(3) If the assessment is made to recover tax in respect of income under an account it shall be made under section 369 of ITTOIA 2005.

Name
Name
Two of the Lords Commissioners of Her Majesty's Treasury

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make detailed tax provision for Saving Gateway Accounts, under the Saving Gateway Accounts Act 2009 (c. 8).

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 provides for exemption of income (or gains) of a Saving Gateway Account for tax purposes.

Regulations 4 to 6 deal with ancillary tax matters (including recoupment of tax relief wrongly given).

A full Regulatory Impact Assessment for the Saving Gateway was published on 4 December 2008, the date of the introduction of the Saving Gateway Accounts Bill.

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(**a**) Part 5 was amended by paragraphs 25 to 38 of Schedule 1 to the Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009.

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£4.00

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