STATUTORY INSTRUMENTS

2007 No. 963

INCOME TAX

CAPITAL GAINS TAX

The Finance Act 1995, Section 127(12), (Designated Transactions) Regulations 2007

Made - - - -	*22nd March 2007*
Laid before the House of Commons	*22nd March 2007*
Coming into force - -	*12th April 2007*

The Treasury make the following Regulations in exercise of the powers conferred by section 127(12)(c) of the Finance Act 1995(**a**).

Citation and commencement

1. These Regulations may be cited as the Finance Act 1995, Section 127(12), (Designated Transactions) Regulations 2007 and shall come into force on 12th April 2007.

Transaction designated as an investment transaction

2.—(1) A transaction is designated as an investment transaction for the purposes of section 127 of the Finance Act 1995 (persons not treated as United Kingdom representatives) if conditions A to C are met.

(2) Condition A is that the transaction is a transaction—

(a) in Community tradeable emissions allowances, or

(b) in transferable units issued pursuant to the Kyoto Protocol.

(3) Condition B is that the transaction does not give rise to a chargeable gain falling within section 10 of the Taxation of Chargeable Gains Act 1992 (non-resident with United Kingdom branch or agency)(**b**).

(4) Condition C is that the transaction does not otherwise fall within section 127(12).

(5) For the purposes of this regulation—

"Community tradeable emissions allowances" are transferable allowances which relate to the making of emissions of greenhouse gases, and are allocated as part of a system made for the purpose of implementing any Community obligation of the United Kingdom relating to such emissions;

(**a**) 1995 c. 4.
(**b**) 1992 c. 12; section 10 was amended by paragraph 2(2) of Schedule 27 to the Finance Act 2003.

"Kyoto Protocol" means the Kyoto Protocol to the United Nations Framework Convention on Climate Change signed at Kyoto on 11th December 1997;

"section 127(12)" means section 127(12) of the Finance Act 1995 (meaning of "investment transaction" for the purposes of determining whether a person is capable of being the UK representative of a non-resident taxpayer); and

"units" include assigned amount units, certified emission reductions, emission reduction units and removal units.

Claire Ward
Alan Campbell

22nd March 2007 — Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 126 of and Schedule 23 to the Finance Act 1995 (c.4) impose obligations on the UK representative of a non-resident in relation to income tax and capital gains tax.

Section 127(1)(c) of the Finance Act 1995 sets out the circumstances in which an investment manager carrying out business relating to investment transactions is not capable of being the UK representative of a non-resident. The expression "investment transaction" is dealt with in section 127(12); section 127(12)(c) provides that the expression includes such other transactions as the Treasury may by regulations designate. These Regulations designate transactions in Community tradeable emissions allowances and in transferable units issued pursuant to the Kyoto Protocol as investment transactions for the purposes of section 127.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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