STATUTORY INSTRUMENTS

2012 No. 1258

INCOME TAX

The Finance Act 2004, Section 180(5) (Modification) Regulations 2012

Made - - - -	*10th May 2012*
Laid before the House of Commons	*11th May 2012*
Coming into force - -	*1st June 2012*

The Treasury, in exercise of the power conferred by section 70 of the Finance Act 2011(**a**), make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Finance Act 2004, Section 180(5) (Modification) Regulations 2012 and come into force on 1st June 2012.

(2) Regulation 2 has effect in relation to any payments made on or after 6th April 2012.

Disregard of section 180(5)(b) of the Finance Act 2004

2. In its application to a pension scheme established under section 67 of the Pensions Act 2008(**b**) (duty on Secretary of State to establish a pension scheme), section 180 of the Finance Act 2004(**c**) (scheme administration employer payments) has effect as if subsection (5)(b) were omitted.

Michael Fabricant
James Duddridge
10th May 2012 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the application of section 180(5)(b) of the Finance Act 2004 ("FA 2004") to a pension scheme established under section 67 of the Pensions Act 2008 ("PA 2008"). Regulation 2 has retrospective effect in relation to any payments made on or after 6th April 2012 pursuant to the power contained in section 70(4) of the Finance Act 2012. Regulation 2 is wholly relieving and will not therefore increase any person's liability to tax.

Section 180 of FA 2004 defines "scheme administration employer payments". Such payments will be authorised employer payments under section 175 of FA 2004 and will not be subject to income tax. Section 180(5)(b) of FA 2004 prevents a payment from being a scheme administration

(**a**) 2011 c. 11.
(**b**) 2008 c. 30.
(**c**) 2004 c. 12. Section 180 was amended by paragraph 12 of Schedule 23 to the Finance Act 2006 (c. 25).

employer payment if the payment was to acquire shares in the sponsoring employer and the total amount of shares in sponsoring employers held in the scheme is greater than 20% of the aggregate of the sums and assets in the scheme. Regulation 2 provides that section 180(5)(b) of FA 2004 is to be disregarded in the case of a pension scheme established under section 67 of PA 2008 when determining whether a payment to a sponsoring employer is a scheme administration employer payment.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm.

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