STATUTORY INSTRUMENTS

1990 No. 1671

INCOME TAX

The Movements of Capital (Required Information) Regulations 1990

Made - - - -	*10th August 1990*
Laid before the House of Commons	*13th August 1990*
Coming into force	*3rd September 1990*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 765A(2) of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Movements of Capital (Required Information) Regulations 1990 and shall come into force on 3rd September 1990.

Interpretation

2. In these Regulations unless the context otherwise requires–

"the Board" means the Commissioners of Inland Revenue;

"control" has, in relation to a body corporate, the meaning given by section 840 of the Income and Corporation Taxes Act 1988;

"the Directive" means the Directive of the Council of the European Communities dated 24th June 1988 No. 88/361/EEC;

"the non-resident body corporate" means the body corporate which is not resident in the United Kingdom and created or issued shares or debentures, or the shares or debentures of which were transferred to any person, in the course of a relevant transaction;

"the principal section" means section 765A of the Income and Corporation Taxes Act 1988;

"relevant transaction" means a movement of capital which would be unlawful under section 765(1) of the Income and Corporation Taxes Act 1988(b) if Article 1 of the Directive did not apply to it;

"the resident body corporate" means the body corporate resident in the United Kingdom which has carried out a relevant transaction;

and any question whether a person is connected with another shall be determined in accordance with the like provisions as are contained in section 839(2) to (8) of the Income and Corporation Taxes Act 1988.

(a) 1988 c.1; section 765A was inserted by section 68(2) of the Finance Act 1990 (c.29).
(b) Paragraphs (a) and (b) of section 765(1) were repealed, and paragraph (c) was amended, by section 105(6) of the Finance Act 1988 (c.39).

Information required for the purposes of the principal section

3.—(1) This regulation specifies the information relating to a relevant transaction and the persons connected with it (in this regulation referred to as "the required information") which, subject to paragraph (5) below, is required to be given to the Board by the resident body corporate within six months of the carrying out of a relevant transaction.

(2) The required information so far as it relates to the resident body corporate is–

(a) its name;

(b) the nature of its trade or business;

(c) the tax office to which its accounts are submitted and its reference number there.

(3) The required information so far as it relates to the non-resident body corporate is–

(a) its name;

(b) the territory from the laws of which it derives its status as a body corporate;

(c) where the relevant transaction was causing or permitting the non-resident body corporate to issue shares, or to create and issue debentures, the member State in which the non-resident body corporate is claimed to have been resident for the purposes of the Directive at the time of that issue, or of that creation and issue, as the case may be, the grounds on which that claim is made and the facts which support it;

(d) the nature of its trade or business;

(e) the extent to which the resident body corporate has control over it and the means by which, or the powers by virtue of which, that control is exercisable–

(i) before the relevant transaction was carried out, and

(ii) after the relevant transaction was carried out.

(4) The required information so far as it relates to the relevant transaction is a full description of the transaction and of all steps taken in the course of the transaction and, without prejudice to the generality of that requirement, includes in particular–

(a) the date on which the transaction was carried out;

(b) the name of any person to whom shares or debentures were issued or transferred;

(c) where that person is a body corporate, the territory from the laws of which it derives that status;

(d) the member State in which that person is claimed to have been resident for the purposes of the Directive at the time of the issue or transfer, the grounds on which that claim is made and the facts which support it;

(e) whether, and if so in what way, any such person is connected with the resident body corporate;

(f) where the relevant transaction was causing or permitting the non-resident body corporate to issue shares–

(i) the class or category of those shares,

(ii) the dividend rights attaching to them, and

(iii) if the terms on which they were issued included provision for their redemption, the circumstances in which they can be redeemed;

(g) where the relevant transaction was causing or permitting the non-resident body corporate to create and issue debentures–

(i) the rate at which interest is payable on the amount secured by them,

(ii) any amount by which the issue price was less than the amount payable on their redemption, and

(iii) whether any amount payable in respect of the debentures is determined by reference to the movement of an index of prices, earnings or any other indicator of an economic nature published in the United Kingdom or elsewhere;

(h) where the relevant transaction was transferring shares or debentures, or causing or permitting shares or debentures to be transferred–

(i) the name of any body corporate making the transfer if that body corporate was not the resident body corporate,

(ii) the territory from the laws of which that body corporate derives that status,

(iii) the member State in which it is claimed to have been resident for the purposes of the Directive at the time of the transfer, the grounds on which that claim is made and the facts which support it;

(i) the consideration given for any issue or transfer of shares or debentures and, if that issue or transfer was not for full consideration in money or money's worth, the reason why full consideration was not given;

(j) the reason for the transaction and an estimate of the effect of that transaction on the liability to tax in the United Kingdom of the resident body corporate and of any company which would be deemed to be a member of the group of companies which includes the resident body corporate for the purposes of Chapter IV of Part X of the Income and Corporation Taxes Act 1988, if in section 413(3) of that Act the words "51 per cent. subsidiary" were substituted for the words "75 per cent. subsidiary".

(5) Where a resident body corporate has caused or permitted shares or debentures to be created, issued or transferred, or has transferred shares or debentures, and another resident body corporate has already given the required information relating to the creation, issue or transfer in question and the persons connected with it, the first mentioned resident body corporate is not required to give any information relating to those matters or those persons.

Notice to give further particulars – prescribed period

4. The period prescribed by this regulation within which the resident body corporate shall give to the Board such further particulars as the Board may require in accordance with subsection (2)(b) of the principal section is 60 days from the date of the notice given by the Board under that subsection.

A. J. G. Isaac
L. J. H. Beighton
Two of the Commissioners of Inland Revenue

10th August 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 3rd September 1990, specify the information which is required to be given to the Commissioners of Inland Revenue ("the Board") by section 765A(2)(a) of the Income and Corporation Taxes Act 1988 ("the 1988 Act") within six months of the carrying out of a relevant transaction. A relevant transaction is a movement of capital to which Article 1 of the Directive of the Council of the European Communities of 24th June 1988 for the implementation of Article 67 of the EEC treaty (No.88/361/EEC) applies and which would be unlawful under section 765(1) of the 1988 Act if that Article did not apply to it. The movements of capital in question are those taking place on and after 1st July 1990 between persons resident in member States of the European Community which, if that Article did not apply to them, would require the consent of the Treasury given specially under that section.

These Regulations also prescribe the period within which further particulars required by the Board by notice given under section 765A(2)(b) of the 1988 Act are to be given.

Regulation 1 provides for citation and commencement.

Regulation 2 contains definitions.

Regulation 3 specifies the information relating to relevant transactions and the persons connected with them which is required to be given.

Regulation 4 prescribes the period within which further particulars are to be given as 60 days from the date of the notice requiring them to be given.

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