STATUTORY INSTRUMENTS

2015 No. 866

CAPITAL GAINS TAX

INCOME TAX

INHERITANCE TAX

The Offshore Asset Moves Penalty (Specified Territories) Regulations 2015

Made - - - - at 5.20 p.m. on 26th March 2015

Coming into force 27th March 2015

Laid before the House of Commons at 12.30 p.m. on 27th March 2015

The Treasury make the following Regulations in exercise of the powers conferred by paragraph 4(5) of Schedule 21 to the Finance Act 2015(**a**).

Citation and commencement

1. These Regulations may be cited as the Offshore Asset Moves Penalty (Specified Territories) Regulations 2015 and come into force on 27th March 2015.

Territories specified

2. The territories listed in the Schedule to these Regulations are specified for the purposes of Schedule 21 to the Finance Act 2015.

David Evennett
Gavin Barwell
5.20 p.m.26th March 2015 Two of the Lords Commissioners of Her Majesty's Treasury

(**a**) 2015 c.11. Royal Assent to the Finance Act 2015 was given at 4.30 p.m. on 26th March 2015. Section 4 of the Interpretation Act 1978 (c. 30) ("the Interpretation Act") provides that an Act or a provision of an Act (which, by virtue of section 23 of the Interpretation Act, includes in this context a Statutory Instrument) for which provision is made for it to come into force on a particular day, comes into force at the beginning of that day. Where no such provision is made, section 4 provides that the Act or provision of an Act concerned comes into force at the beginning of the day on which the Act receives Royal Assent. Accordingly, Schedule 21 to the Finance Act 2015 came into force at the beginning of the 26th March 2015 but, by virtue of paragraph 9(1) of that Schedule, only has effect in relation to relevant offshore asset moves (as described in paragraph 4 of that Schedule) occurring after that day. Regulation 1 of these Regulations provides that they come into force on 27th March 2015 and so, by virtue of section 4 of the Interpretation Act, come into force from the beginning of that day and so coincide with relevant offshore asset moves occurring after the beginning of that day (and with the further consequence that these Regulations come into force before the time when they were laid before the House of Commons later that day).

SCHEDULE

Regulation 2

Territories specified

Albania, Andorra, Anguilla, Antigua and Barbuda, Argentina, Aruba, Australia, Austria, The Bahamas, Barbados, Belgium, Belize, Bermuda, Brazil, British Virgin Islands, Brunei Darussalam, Bulgaria, Canada, Cayman Islands, Chile, China, Colombia, Costa Rica, Croatia, Curaçao, Cyprus, Czech Republic, Denmark, Dominica, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Grenada, Guernsey, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Korea (South), Latvia, Liechtenstein, Lithuania, Luxembourg, Macau, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Montserrat, Netherlands (including Bonaire, Sint Eustatius and Saba) New Zealand (not including Tokelau), Niue, Norway, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Seychelles, Singapore, Sint Maarten, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Turkey, Turks and Caicos Islands, United Arab Emirates, United States of America (not including overseas territories and possessions), Uruguay.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the territories for the purposes of determining whether a "relevant offshore asset move" described in paragraph 4 of Schedule 21 to the Finance Act 2015 (c. 11) ("the Schedule") has occurred. Under the Schedule, a person becomes liable to a penalty if there is "relevant offshore asset move" after the relevant time (determined in accordance with paragraph 5 of the Schedule) if the purpose or one of the main purposes of the move is to prevent or delay the discovery by Her Majesty's Revenue and Customs of a potential loss of income tax, capital gains tax or inheritance tax for which that person is liable for the penalties specified in paragraph 2 of the Schedule in respect of a "deliberate failure" (see paragraph 3 of the Schedule).

A "relevant offshore asset move" occurs upon the happening of any of the three events set out in paragraph 4(1) of the Schedule at the time when the person concerned beneficially owns the asset in question and remains its beneficial owner immediately after. One of the cases occurs where an asset ceases to be situated or held in a specified territory and becomes situated or held in a non-specified territory. Another case occurs where the person who holds the asset ceases to be resident in a specified territory and becomes resident in a non-specified territory. Any territory not specified by Regulations falls as a "non-specified territory" for these purposes.

A Tax Information and Impact Note covering this instrument was published on 10th December 2014 alongside the draft Finance Bill and is available on the HMRC website at http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply to this statement.

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