STATUTORY INSTRUMENTS

2015 No. 130

TAXES

The Promoters of Tax Avoidance Schemes (Prescribed Circumstances under Section 235) Regulations 2015

Made - - - -	*6th February 2015*
Laid before the House of Commons	*9th February 2015*
Coming into force - -	*2nd March 2015*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 235(6) and (7) and 283(1) of the Finance Act 2014(**a**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Promoters of Tax Avoidance Schemes (Prescribed Circumstances under Section 235) Regulations 2015 and come into force on 2nd March 2015.

(2) Regulations 2 and 3 have effect from 17th July 2014.

Company in same group not promoter

2.—(1) A company ("C") is not a promoter to the extent that—

(a) C carries on a business within the meaning of section 235(1);

(b) the other person (or each of the other persons) to whom C provides services in connection with the relevant proposal or relevant arrangements is a company in the same group as C(**b**); and

(c) C has not during the previous three years provided services of that kind to a person other than a company which is in the same group as C.

(2) If C at any subsequent time provides services of that kind to a person other than a company which is in the same group as C, paragraph (1) will be deemed not to have applied during the previous three years.

(3) A company cannot rely on paragraph (1) whilst a conduct notice or a monitoring notice has effect in relation to it(**c**).

(4) For the purposes of this regulation companies are members of the same group if one is the 51% subsidiary of the other, or both are 51% subsidiaries of a third company.

(**a**) 2014 c.26.
(**b**) See section 234(1) and (2) for the definitions of "relevant proposal" and "relevant arrangements".
(**c**) See section 283(1) for the definitions of "conduct notice" and "monitoring notice".

(5) In this regulation "51% subsidiary" has the same meaning as it does for the purposes of the Corporation Tax Acts(**a**).

Persons not promoters – special cases

3.—(1) A person ("P") is not a promoter on account of section 235(2)(a), or by virtue of being responsible to any extent for the design of arrangements within the meaning of section 235(3)(b), where any of the following conditions are met.

(2) P does not provide any tax advice in connection with the respective proposed arrangements or arrangements.

(3) P could not reasonably be expected to know that the proposed arrangements, or arrangements, are a relevant proposal or relevant arrangements respectively.

Edward Troup
Simon Bowles

6th February 2015 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe circumstances in which a person is not to be treated as a promoter in relation to tax avoidance schemes for the purposes of Part 5 of the Finance Act 2014 (the "2014 Act").

Regulation 2 prescribes circumstances in which a company is not to be a promoter. The circumstances prescribed are those in which the promoter and the company to whom services relating to tax avoidance schemes are provided are members of the same group (on the condition that the promoter has not within the last three years provided that kind of services to a person who is not a group company). However, if the company goes on to provide services outside of a group then this exclusion will be deemed not to have applied for the previous three years. A promoter subject to a conduct notice or a monitoring notice (see the respective definitions at section 283(1) of the 2014 Act) cannot rely on the exemption in regulation 2.

Regulation 3 prescribes the circumstances in which a person to some extent responsible for the design of proposed arrangements or arrangements is not to be a promoter despite section 235(2)(a) or (3)(b).

Regulations 2 and 3 have retrospective effect from 17th July 2014 (the date of royal assent of the 2014 Act). Power to make legislation with retrospective effect is contained in section 235(7).

A Tax Information and Impact Note covering this instrument was published on 17th July 2014 and is available on the HMRC website at https://www.gov.uk/government/publications/promoters-of-tax-avoidance-schemes. It remains an accurate summary of the impacts that apply to this instrument.

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(**a**) See sections 1154 to 1157 of the Corporation Tax Act 2010 (c.4) for the definition of "51% subsidiary" for the purposes of the Corporation Tax Acts.

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