STATUTORY INSTRUMENTS

2013 No. 2592

TAXES

The Tax Avoidance Schemes (Information) (Amendment, etc) Regulations 2013

Made - - - -	*9th October 2013*
Laid before the House of Commons	*10th October 2013*
Coming into force - -	*4th November 2013*

The Commissioners for Her Majesty's Revenue and Customs in exercise of the powers conferred by section 132 of the Finance Act 1999(**a**) and sections 308(1) and (3), 312B(2), 313(1), (3)(a) and (3)(b), 313ZA(3), 313ZB(2), 313ZB(3)(a), 317(2) and section 318(1) of the Finance Act 2004(**b**), and now vested in them(**c**), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Tax Avoidance Schemes (Information) (Amendment, etc) Regulations 2013 and come into force on 4th November 2013.

Time for providing information: transitional provisions

2.—(1) Where paragraph (2) applies, the period or time (as the case may be) to be found in accordance with regulation 5 of the Tax Avoidance Schemes (Information) Regulations 2012(**d**) shall end on 17th January 2014 instead of the day on which it would otherwise end by virtue of that regulation.

(2) This paragraph applies in respect of proposals or arrangements (as the case may be) that are notifiable by virtue of regulation 4 of the Annual Tax on Enveloped Dwellings Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2013(**e**) where—

(a) for the purposes of section 308(1) of the Finance Act 2004, the relevant date in relation to a proposal falls within the period beginning with 31st January 2013 and ending on 3rd November 2013; or

(**a**) 1999 c.16. Section 132 was amended by paragraph 156 of Schedule 17 to the Communications Act 2003 (c. 21).

(**b**) 2004 c.12. Sections 308 and 313 were amended by paragraphs 1, 2 and 5 of Schedule 8 to the Finance Act 2008 (c. 9). Section 313ZA was inserted by paragraph 6 of Schedule 17 to the Finance Act 2010 (c. 13). Sections 312B and 313ZB were inserted by section 223 of the Finance Act 2013 (c. 29). Section 317(2) was amended by paragraphs 1 and 8 of Schedule 17 to Finance Act 2010 (c. 13), and by paragraph 8 of Schedule 17 to the Finance Act 2010. Section 318(1), which was amended by paragraph 2 of Schedule 35 to Finance Act 2013, gives the meaning of "prescribed" for the purposes of Part 7 of the relevant provisions of Finance Act 2004.

(**c**) The functions of the Commissioners of Inland Revenue (who are referred to in section 318 of the Finance Act 2004 as "the Board") were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as it is appropriate in consequence of section 5, a reference, however expressed, to the Commissioners of Inland Revenue is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**d**) S.I. 2012/1836.

(**e**) S.I. 2013/2571.

(b) for the purposes of section 308(3) of the Finance Act 2004, the date on which the promoter first becomes aware of any transaction forming part of the arrangements falls within the period beginning with 31st January 2013 and ending on 3rd November 2013.

Amendments to the Tax Avoidance Schemes (Information) Regulations 2012

3. The Tax Avoidance Schemes (Information) Regulations 2012 are amended as follows.

Annual tax on enveloped dwellings

4. In regulation 2(2) for the definition of "the prescribed taxes" substitute—

> ""the prescribed taxes" means capital gains tax, corporation tax, income tax, inheritance tax, stamp duty land tax and annual tax on enveloped dwellings.".

5. In regulation 4(1)(b) after "the Arrangements Regulations," insert "the ATED Arrangements Regulations,".

6. In regulation 4(2)(c) after "the Arrangements Regulations," insert "the ATED Arrangements Regulations,".

7. In regulation 4(3)(b) after "the Arrangements Regulations," insert "the ATED Arrangements Regulations,".

8. In regulation 4(5) after the definition of "the Arrangements Regulations" insert—

> ""the ATED Arrangements Regulations" means the Annual Tax on Enveloped Dwellings Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2013;".

9. After regulation 9(5) insert—

"(6) Subject to regulation 10(7) and (8) in the case of a person who—

(a) expects an advantage to arise in respect of that person's liability to pay, entitlement to a repayment of, or deferment of the liability to pay, annual tax on enveloped dwellings as a result of notifiable arrangements; and

(b) is required to make a return to HMRC under section 159 of the Finance Act 2013(**a**) in respect of annual tax on enveloped dwellings;

the prescribed information shall be included in the return under that section.".

10. After regulation 10(6) insert—

"(6A) In the case of a person who—

(a) expects an advantage to arise in respect of that person's liability to pay, entitlement to a repayment of, or deferment of the liability to pay, annual tax on enveloped dwellings as a result of notifiable arrangements; and

(b) is not required to make a return to HMRC under section 159 of the Finance Act 2013 in respect of a transaction forming part of the notifiable arrangements within a period of 30 days beginning with the later of—

(i) the effective date of the first transaction which forms part of the arrangements; or

(ii) the date of the receipt of the reference number allocated under the provisions of section 311;

the prescribed information shall be provided separately to HMRC.".

11. In regulation 11(3) after "(apart from paragraph (2)" insert "and any case relating to annual tax on enveloped dwellings".

(**a**) 2013 c. 29.

12. After regulation 11(4) insert—

"(5) In the cases prescribed in regulation 10(6A), (7) and (8), where they relate to annual tax on enveloped dwellings, the prescribed information is—

(a) the name and address of the person providing the information;

(b) any tax reference number or other personal identifier allocated by HMRC or a foreign tax authority to the person to whom the information relates;

(c) where a foreign tax authority has allocated a personal identifier, the name of the country on behalf of which that foreign tax authority acts;

(d) the reference number (or if more than one, any one reference number) allocated by HMRC under section 311 to the notifiable arrangements or proposed notifiable arrangements;

(e) the address of the property forming the subject of the arrangements ("the property");

(f) the title number of the property (if any is allocated);

(g) the first chargeable period (within the meaning of section 94(8) of the Finance Act 2013) in which the person providing the information expects to obtain a tax advantage by virtue of the notifable arrangements;

(h) the name of the person providing the declaration as to the accuracy and completeness of the notification, where different from information provided under sub-paragraph (a); and

(i) the capacity in which the person mentioned in sub-paragraph (h) is acting.".

13. After regulation 12(5) insert—

"(5A) In the cases of regulation 10(6A), (7) and (8), where it relates to annual tax on enveloped dwellings, any time during the period of 30 days beginning with the later of—

(a) the effective date of the first transaction which forms part of the arrangements; or

(b) the date of the receipt of the reference number allocated under the provisions of section 311.".

14. In regulation 12(6) after "regulation 10(7) and (8)" insert ", except where they relate to annual tax on enveloped dwellings,".

Sections 312B and 313ZB

15. In regulation 2(3) after "In reckoning any period under regulation 5 (apart from paragraph (8)), or regulations" insert "8A, 13A,".

16. After regulation 8 insert—

"Prescribed information under section 312B: information and timing

8A.—(1) For the purposes of section 312B (duty of client to provide information to promoter)—

(a) the prescribed period is 10 days from the later of the date that the client receives the reference number allocated by HMRC under section 311 to the notifiable arrangements, and the date the client first enters into a transaction which forms part of the notifiable arrangements; and

(b) the prescribed information is—

(i) any identification number allocated to the client by HMRC ("unique taxpayer number") and the client's national insurance number; or

(ii) confirmation that the client does not have a unique taxpayer number or a national insurance number or has neither number.".

17. For regulation 13(1)(a) substitute—

"(a) the prescribed period is—

(i) 30 days; or

(ii) where the circumstances in sub-paragraph (d)(iii) apply, 60 days in respect of the information prescribed under sub-paragraph (b)(iii) only.".

18. For regulation 13(1)(b)(iii) and (iv) substitute—

"(iii) any identification number allocated by HMRC ("unique taxpayer number") and national insurance number for each client in relation to whom the relevant date (within the meaning of section 312(3)) occurs in the relevant period in relation to which the information is being provided;

(iv) the promoter's name and address; and

(v) the end date of the relevant period in relation to which the information is being provided.".

19. After regulation 13(1)(c) insert—

"(d) at the end of the prescribed period under sub-paragraph (a)(i), where the promoter is unable to provide any unique taxpayer number or national insurance number, the prescribed information under sub-paragraph (b) must include confirmation that one of the following applies—

(i) the client has complied with section 312B and does not have a unique taxpayer number or national insurance number or has neither number;

(ii) the client has not complied with section 312B;

(iii) on the sixteenth day after the end of the relevant period, the prescribed period under regulation 8A(1)(a) had not yet expired;

(e) at the end of the prescribed period under sub-paragraph (a)(ii), where the promoter is unable to provide any unique taxpayer number or national insurance number, the prescribed information under sub-paragraph (b) must include confirmation that either sub-paragraph (d)(i) or sub-paragraph (d)(ii) applies.".

20. After regulation 13 insert—

"**Prescribed information under section 313ZB: information and timing**

13A.—(1) For the purposes of section 313ZB (further information from promoters)—

(a) the prescribed period is 10 days from the date that the promoter receives the written notice under section 313ZB; and

(b) the prescribed information is—

(i) the name and address of any person described in section 313ZB(2) (but only those who will, or are likely to, either sell the arrangements to another person, or achieve a tax advantage by implementing the arrangements);

(ii) any identification number allocated by HMRC to any person mentioned at sub-paragraph (b)(i); and

(iii) sufficient information as might reasonably be expected to enable an officer of HMRC to comprehend the manner in which any person mentioned at sub-paragraph (b)(i) is involved in the arrangements.

(2) Paragraph (1)(b) only extends to information held by the promoter at the time of receipt of a written notice under section 313ZB(2).".

Simon Bowles
Jim Harra

9th October 2013 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Tax Avoidance Schemes (Information) Regulations 2012 (S.I. 2012/1836) in two tranches. These changes are made following the amendment of Part 7 of the Finance Act 2004 ("Part 7") by the Finance Act 2013.

Regulations 4 to 14 make consequential changes to S.I. 2012/1836 required in order to extend this regime to arrangements which enable, or might be expected to enable, any person to obtain a tax advantage in relation to annual tax on enveloped dwellings. This instrument should be read with Annual Tax on Enveloped Dwellings Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2013 (S.I. 2571).

Regulations 15 to 20 make amendments to the S.I. 2012/1836 to prescribe what information must be provided under new disclosure obligations introduced to Part 7, and by when this information must be provided.

Regulation 2 makes transitional provision for arrangements arising between 31st January 2013 and 3rd November 2013 which are prescribed under regulation 4 of S.I. 2571.

A Tax Information and Impact Note covering regulations 2 to 14 was published on 15th July 2013 and is available on the HMRC website at http://www.hmrc.gov.uk/tiin/high-val-res-prop-non-naturals.pdf. It remains an accurate summary of the impacts of those regulations.

A Tax Information and Impact Note covering regulations 15 to 20 was published on 11th December 2012 and is available on the HMRC website at http://www.hmrc.gov.uk/tiin/2012/tiin8003.htm. It remains an accurate summary of the impacts of those regulations.

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