

This Statutory Instrument has been made primarily in consequence of a defect in S.I. 2011/214 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2011 No. 2226

INHERITANCE TAX

**The Inheritance Tax (Delivery of Accounts) (Excepted Estates)
(Amendment) (No. 2) Regulations 2011**

<i>Made</i>	- - - -	<i>8th September 2011</i>
<i>Laid before the House of Commons</i>		<i>9th September 2011</i>
<i>Coming into force</i>	- -	<i>1st October 2011</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 256(1), (1A) and (3) of the Inheritance Tax Act 1984(a) and now vested in them(b).

In accordance with section 256(3A) of that Act(c), they have consulted the Lord Chancellor, the Scottish Ministers and the Lord Chief Justice of Northern Ireland.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Inheritance Tax (Delivery of Accounts) (Excepted Estates) (Amendment) (No. 2) Regulations 2011 and come into force on 1st October 2011.

(2) In these Regulations “the principal Regulations” means the Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004(d).

Amendment of the principal Regulations

2. In regulation 4 (excepted estates) of the principal Regulations after paragraph (9) insert—

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- (a) 1984 c. 51. By virtue of section 100(1) and (2) of the Finance Act 1986 (c. 41), on and after 25th July 1986 the Capital Transfer Tax Act 1984 may be cited as the Inheritance Tax Act 1984, and any reference in that Act to capital transfer tax is to have effect as a reference to inheritance tax, except where the reference relates to a liability to tax arising before 25th July 1986. Section 256(1) of the Inheritance Tax Act 1984 was amended by section 293(2) of the Finance Act 2004 (c. 12), section 256(1A) of the Inheritance Tax Act 1984 was inserted by section 293(3) of the Finance Act 2004 and section 256(3) of the Inheritance Tax Act 1984 was amended by section 293(5) of the Finance Act 2004.
- (b) The powers under section 256(1) of the Inheritance Tax Act 1984 are stated to be exercisable by the Board. The Board is defined in section 272 of that Act as the Commissioners of Inland Revenue. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, insofar as is appropriate in consequence of section 5, a reference to the Commissioners of Inland Revenue shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (c) Section 256(3A) of the Inheritance Tax Act 1984 was substituted by paragraph 176 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).
- (d) S.I. 2004/2543, amended by S.I. 2005/3230, 2006/2141 and 2011/214.

“(10) Paragraphs (2)(ca), (3)(ca) and (5)(ba)(a) shall not have effect in relation to deaths occurring on or after 6th April 2011.”.

3. In regulation 5A (IHT threshold)(b) of the principal Regulations—

(1) In paragraph (6) for “(7)” substitute “(8)(a)”.

(2) For paragraph (7) substitute—

“(7) In this regulation “the alternatively secured pension fund provisions” means the following sections of the 1984 Act—

- (a) section 151A (person dying with alternatively secured pension fund)(c);
- (b) section 151B (relevant dependant with pension fund inherited from member over 75); and
- (c) section 151C (dependant dying with other pension fund).

(8) In this regulation—

- (a) paragraph (6) shall have effect in relation to deaths occurring on or after 1st March 2011; and
- (b) paragraph (7) shall have effect in relation to deaths occurring on or after 6th April 2010.”.

4.—(1) Regulation 6 (production of information) of the principal Regulations is amended as follows.

(2) In paragraph (1)(d) for “paragraph (3)” substitute “paragraphs (3) and (4)”.

(3) After paragraph (3) insert—

“(4) Paragraph (2)(a)(v)(e) and (vi) shall not have effect in relation to information produced to the Board pursuant to paragraph (1) of this regulation on or after 1st March 2011.”.

Dave Hartnett
Mike Eland

8th September 2011

Two of the Commissioners for Her Majesty’s Revenue and Customs

(a) Paragraphs (2)(ca), (3)(ca) and (5)(ba) were inserted by S.I. 2006/2141.
(b) Regulation 5A was inserted by S.I. 2011/214.
(c) Sections 151A to 151C were inserted by paragraph 4 of Schedule 22 to the Finance Act 2006 (c. 25) and were omitted in relation to deaths occurring on or after 6th April 2011 by paragraph 48 of Schedule 16 to the Finance Act 2011 (c. 11).
(d) Paragraph (1) was substituted by S.I. 2011/214.
(e) Paragraph (2)(a)(v) was amended by S.I. 2005/3230.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations, which come into force on 1st October 2011, amend the Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004 (S.I. 2004/2543) (“the principal Regulations”).

Regulation 2 inserts new paragraph (10) into regulation 4 of the principal Regulations. This new paragraph provides that paragraphs (2)(ca), (3)(ca) and (5)(ba) of regulation 4 shall not have effect in relation to deaths on or after 6th April 2011. This takes into account the fact that the alternatively secured pension fund provisions (contained in sections 151A, 151B and 151C of the Inheritance Tax Act 1984 and referred to in paragraphs (2)(ca), (3)(ca) and (5)(ba) of regulation 4 of the principal Regulations) were repealed with effect from 6th April 2011 by paragraph 48 of Schedule 16 to the Finance Act 2011 (c. 11).

Regulation 3(2) substitutes paragraph (7) of regulation 5A of the principal Regulations (“regulation 5A”) with new paragraphs (7) and (8). New paragraph (7) inserts a definition of “alternatively secured pension fund provisions”, for the purpose of regulation 5A, in order to clarify the meaning of that expression in paragraph (4)(d) of regulation 5A. Regulation 5A was inserted by S.I. 2011/214, in relation to deaths occurring on or after 6th April 2010. Although the term “alternatively secured pension fund provisions” is defined in regulation 4 of the principal Regulations it is defined for the purposes of regulation 4 only. In its memorandum to the Select Committee on Statutory Instruments dated 24th March 2011, HMRC accepted that the term was undefined for the purposes of regulation 5A of the principal Regulations. Regulation 3(2) corrects this error.

New paragraph 8(b) provides that the substituted paragraph (7) has effect in relation to deaths occurring on or after 6th April 2010, in order to coincide with the date when regulation 5A took effect. New paragraph 8(a) replicates the provisions of the substituted paragraph (7) of regulation 5A and provides that paragraph (6) of regulation 5A shall have effect in relation to deaths occurring on or after 1st March 2011. Regulation 3(1) makes an amendment to paragraph (6) of regulation 5A, in consequence of the insertion of new paragraph (8)(a).

Regulation 4 amends regulation 6 of the principal Regulations, which sets out the information required to be produced to the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) in circumstances where a person is not required to produce an inheritance tax account to them. Paragraph (2) amends regulation 6(1) to refer to regulation 6(4) as well as regulation 6(3). Paragraph (3) inserts new paragraph (4) into regulation 6. This new paragraph provides that any information delivered to the Commissioners on or after 1st March 2011, pursuant to regulation 6(1) of the principal Regulations, need not provide details of any surviving spouse or civil partner, parent, brother or sister, children, step-children, adopted children or grandchildren of the deceased.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

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