STATUTORY INSTRUMENTS

2004 No. 2543

INHERITANCE TAX

The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004

Made - - - -	*27th September 2004*
Laid before the House of Commons - - - -	*28th September 2004*
Coming into force - -	*1st November 2004*

After consultation with the Lord Chancellor and the Scottish Ministers, the Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 256(1) of the Inheritance Tax Act 1984(**1**), make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004, shall come into force on 1st November 2004 and shall have effect in relation to deaths occurring on or after 6th April 2004.

Interpretation

2. In these Regulations—

"the Board" means the Commissioners of Inland Revenue;

"the 1984 Act" means the Inheritance Tax Act 1984;

"an excepted estate" has the meaning given in regulation 4;

"IHT threshold" means the lower limit shown in the Table in Schedule 1 of the 1984 Act applicable to—

(a) chargeable transfers made in the year before that in which a person's death occurred if—

(i) that person died on or after 6th April and before 6th August, and

(ii) an application for a grant of representation or, in Scotland, an application for confirmation, is made before 6th August in that year; or

(**1**) 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 was amended by section 293 of the Finance Act 2004 (c. 12).

(b) chargeable transfers made in the year in which a person's death occurred in any other case,

and for this purpose "year" means a period of twelve months ending with 5th April;

"the prescribed period" in relation to any person is the period beginning with that person's death and ending—

(a) in England, Wales and Northern Ireland, 35 days after the making of the first grant of representation in respect of that person (not being a grant limited in duration, in respect of property or to any special purpose); or

(b) in Scotland, 60 days after the date on which confirmation to that person's estate was first issued;

"spouse and charity transfer" has the meaning given in regulation 5;

"value" means value for the purpose of tax.

Accounts

3.—(1) No person is required to deliver an account under section 216 of the 1984 Act(**2**) of the property comprised in an excepted estate.

(2) If in reliance on these Regulations a person has not delivered an account paragraphs (3) and (4) apply.

(3) If it is discovered at any time that the estate is not an excepted estate, the delivery to the Board within six months of that time of an account of the property comprised in that estate shall satisfy any requirement to deliver an account.

(4) If the estate is no longer an excepted estate following an alteration of the dispositions taking effect on death within section 142(**3**) of the 1984 Act, the delivery to the Board within six months of the date of the instrument of variation of an account of the property comprised in that estate shall satisfy any requirement to deliver an account.

Excepted estates

4.—(1) An excepted estate means the estate of a person immediately before his death in the circumstances prescribed by paragraphs (2), (3) or (4).

(2) The circumstances prescribed by this paragraph are that—

(a) the person died on or after 6th April 2004, domiciled in the United Kingdom;

(b) the value of that person's estate is attributable wholly to property passing—

(i) under his will or intestacy,

(ii) under a nomination of an asset taking effect on death,

(iii) under a single settlement in which he was entitled to an interest in possession in settled property, or

(iv) by survivorship in a beneficial joint tenancy or, in Scotland, by survivorship in a special destination;

(c) of that property —

(**2**) Section 216 was amended by paragraph 11 of Schedule 26 to the Finance Act 1985 (c. 54), section 101(3) of and paragraph 29 of Schedule 19 to the Finance Act 1986, section 96 of and paragraph 4 of Schedule 7 to the Finance (No. 2) Act 1987 (c. 51) and section 105 of the Finance Act 1999.

(**3**) Section 142 was amended by paragraph 24 of Schedule 19 to the Finance Act 1986 (c. 41) and by section 120(1) and (4) of the Finance Act 2002 (c. 23).

(i) not more than £100,000 represented value attributable to property which, immediately before that person's death, was settled property; and

(ii) not more than £75,000 represented value attributable to property which, immediately before that person's death, was situated outside the United Kingdom;

(d) that person died without having made any chargeable transfers during the period of seven years ending with his death other than specified transfers where, subject to paragraph (7), the aggregate value transferred did not exceed £100,000; and

(e) the aggregate of—

(i) the gross value of that person's estate,

(ii) subject to paragraph (7), the value transferred by any specified transfers made by that person, and

(iii) the value transferred by any specified exempt transfers made by that person,

did not exceed the IHT threshold.

(3) The circumstances prescribed by this paragraph are that—

(a) the person died on or after 6th April 2004, domiciled in the United Kingdom;

(b) the value of that person's estate is attributable wholly to property passing—

(i) under his will or intestacy,

(ii) under a nomination of an asset taking effect on death,

(iii) under a single settlement in which he was entitled to an interest in possession in settled property, or

(iv) by survivorship in a beneficial joint tenancy or, in Scotland, by survivorship in a special destination;

(c) of that property—

(i) subject to paragraph (8), not more than £100,000 represented value attributable to property which, immediately before that person's death, was settled property; and

(ii) not more than £75,000 represented value attributable to property which, immediately before that person's death, was situated outside the United Kingdom;

(d) that person died without having made any chargeable transfers during the period of seven years ending with his death other than specified transfers where, subject to paragraph (7), the aggregate value transferred did not exceed £100,000;

(e) the aggregate of—

(i) the gross value of that person's estate,

(ii) subject to paragraph (7), the value transferred by any specified transfers made by that person, and

(iii) the value transferred by any specified exempt transfers made by that person,

did not exceed £1,000,000; and

(f) the aggregate of —

$$A - (B + C)$$

does not exceed the IHT threshold, where—

A is the aggregate of the values in sub-paragraph (e),

B, subject to paragraph (4), is the total value transferred on that person's death by a spouse or charity transfer, and

C is the total liabilities of the estate.

(4) In Scotland, if legitim could be claimed which would reduce the value of the spouse or charity transfer, the value of B is reduced—

(a) to take account of any legitim claimed, and

(b) on the basis that any part of the remaining legitim fund, which has been neither claimed nor renounced at the time of the application for confirmation, will be claimed in full.

(5) The circumstances prescribed by this paragraph are that—

(a) the person died on or after 6th April 2004;

(b) he was never domiciled in the United Kingdom or treated as domiciled in the United Kingdom by section 267 of the 1984 Act(**4**); and

(c) the value of that person's estate situated in the United Kingdom is wholly attributable to cash or quoted shares or securities passing under his will or intestacy or by survivorship in a beneficial joint tenancy or, in Scotland, by survivorship in a special destination, the gross value of which does not exceed £100,000.

(6) For the purposes of paragraphs (2) and (3)—

"specified transfers" means chargeable transfers made by a person during the period of seven years ending with that person's death where the value transferred is attributable to—

(a) cash;

(b) personal chattels or corporeal moveable property;

(c) quoted shares or securities; or

(d) an interest in or over land, save to the extent that sections 102 and 102A(2) of the Finance Act 1986(**5**) apply to that transfer or the land became settled property on that transfer;

"specified exempt transfers" means transfers of value made by a person during the period of seven years ending with that person's death which are exempt transfers only by reason of—

(a) section 18 (transfers between spouses),

(b) section 23 (**6**) (gifts to charities),

(c) section 24(**7**) (gifts to political parties),

(d) section 24A(**8**) (gifts to housing associations),

(e) section 27(**9**) (maintenance funds for historic buildings, etc), or

(f) section 28 (employee trusts)

of the 1984 Act.

(7) For the purpose of paragraphs (2)(d) and (e) and (3)(d) and (e), sections 104 (business property relief) and 116 (agricultural property relief) of the 1984 Act shall not apply in determining the value transferred by a chargeable transfer.

(8) Paragraph (3)(c)(i) does not apply to property which immediately before the person's death was settled property, to the extent that the property is transferred on that person's death by a spouse or charity transfer.

(**4**) Section 267(4) was amended by section 208(3) and (5) of and Schedule 23 Part 5 to the Finance Act 1993 (c. 34).
(**5**) Section 102 was amended by section 171(5) and (6) of the Finance Act 1989 (c. 26) and Schedule 27 Part 4 to the Finance Act 1998 (c. 36). Section 102A was inserted by section 104 of the Finance Act 1999 (c. 16).
(**6**) Section 23 was amended by section 171(2) and (6) of the Finance Act 1989.
(**7**) Section 24 was amended by section 137 of, and Part 10 of Schedule 14 to, the Finance Act 1988 (c. 39).
(**8**) Section 24A was inserted by section 171(1) and (6) of the Finance Act 1989 (c. 26) and amended by article 5(1) of, and paragraph 12(2) and (3) of Schedule 2 to, S.I. 1996/2325.
(**9**) Section 27 was amended by section 144 to the Finance Act 1998.

Spouse and charity transfers

5.—(1) For the purposes of these Regulations, a spouse or charity transfer means any disposition (whether effected by will, under the law relating to intestacy or otherwise) of property comprised in a person's estate—

(a) subject to paragraph (2), to the person's spouse within section 18(1) of the 1984 Act; and

(b) subject to paragraph (3), to a charity within section 23(1) of the 1984 Act or for national purposes within section 25(1) of the 1984 Act.

(2) A transfer is not a spouse transfer within paragraph (1)(a) if either spouse was not domiciled in the United Kingdom at any time prior to the transfer.

(3) A transfer is not a charity transfer within paragraph (1)(b) if the property becomes comprised in a settlement as a result of the disposition.

Production of information

6.—(1) Subject to paragraph (3), a person who by virtue of these Regulations is not required to deliver to the Board an account under section 216 of the 1984 Act(**10**) of the property comprised in an excepted estate, must produce the information specified in paragraph (2) to the Board in such form as the Board may prescribe.

(2) The information specified for the purpose of paragraph (1) is—

(a) the following details in relation to the deceased—

(i) full name;

(ii) date of death;

(iii) marital status;

(iv) occupation;

(v) any surviving spouse, parent, brother or sister;

(vi) the number of surviving children, step-children, adopted children or grandchildren;

(vii) national insurance number, tax district and tax reference;

(viii) if the deceased was not domiciled in the United Kingdom at his date of death, his domicile and address;

(b) details of all property to which the deceased was beneficially entitled and the value of that property;

(c) details of any specified transfers, specified exempt transfers and the value of those transfers;

(d) the liabilities of the estate; and

(e) any spouse or charity transfers and the value of those transfers.

(3) Paragraph (1) does not apply if the information specified in paragraph (2) has been produced in an account under section 216 of the 1984 Act of the property comprised in the excepted estate that has been delivered to the Board.

7.—(1) The information specified in regulation 6(2) must be produced to the Board by producing it to—

(a) a probate registry in England and Wales;

(**10**) Section 216 was amended by paragraph 11 of Schedule 26 to the Finance Act 1985 (c. 54), section 101(3) of and paragraph 29 of Schedule 19 to the Finance Act 1986, section 96 of and paragraph 4 of Schedule 7 to the Finance (No. 2) Act 1987 (c. 51) and section 105 of the Finance Act 1999.

(b) the sheriff in Scotland;

(c) the Probate and Matrimonial Office in Northern Ireland.

(2) Information produced in accordance with paragraph (1) is to be treated for all purposes of the 1984 Act as produced to the Board.

(3) The person or body specified in paragraph (1) must transmit the information produced to them to the Board within one week of the issue of the grant of probate or confirmation.

Discharge of persons and property from tax

8.—(1) Subject to paragraph (2) and regulation 9, if the information specified in regulation 6 has been produced in accordance with these Regulations, all persons shall on the expiration of the prescribed period be discharged from any claim for tax on the value transferred by the chargeable transfer made on the deceased's death and attributable to the value of the property comprised in an excepted estate and any Inland Revenue charge for that tax shall then be extinguished.

(2) Paragraph (1) shall not apply if within the prescribed period the Board issue a notice to—

(a) the person or persons who would apart from these Regulations be required to deliver an account under section 216 of the 1984 Act, or

(b) the solicitor or agent of that person or those persons who produced the specified information pursuant to regulation 6,

requiring additional information or documents to be produced in relation to the specified information produced pursuant to regulation 6.

9. Regulation 9 shall not discharge any person from tax in the case of fraud or failure to disclose material facts and shall not affect any tax that may be payable if further property is later shown to form part of the estate and, in consequence of that property, the estate is not an excepted estate.

Transfers reported late

10. An account of an excepted estate shall, for the purposes of section 264(8) of the 1984 Act (delivery of account to be treated as payment where tax rate nil), be treated as having been delivered on the last day of the prescribed period in relation to that person.

Revocation

11. The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2002(**11**) and the Inheritance Tax (Delivery of Accounts) (Excepted Estates) (Amendment) Regulations 2003(**12**) are revoked in relation to deaths occurring on or after 6th April 2004.

Dave Hartnett
Helen Ghosh
27th September 2004 — Two of the Commissioners of Inland Revenue

(**11**) S.I. 2002/1733
(**12**) S.I. 2003/1688

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations replace the Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2002 (S.I. 2002/1733) ("the 2002 Regulations") in relation to estates of persons who died on or after 6th April 2004. The 2002 Regulations and these Regulations make provision in relation to the delivery of accounts and other information for inheritance tax purposes. These Regulations make some new and different provisions, these are noted below.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 interprets some of the terms used in the Regulations.

Regulation 3 provides that a person is not required to deliver an account for inheritance tax purposes under section 216 of the Inheritance Tax Act 1984 (c. 51) ("the 1984 Act") of property comprised in an excepted estate. This regulation also includes a new provision in relation to estates which no longer qualify as an excepted estate following the alteration of the dispositions taking effect on death within section 142 of the 1984 Act.

Regulation 4 defines an excepted estate. There are three categories of excepted estate, these are as follows. The first category is where the aggregate of the gross value of the estate and the value of certain lifetime transfers of a person domiciled in the United Kingdom does not exceed a certain amount, determined by either the inheritance tax nil rate band for the year in which death occurred or the previous year. This is based on the first category of excepted estates in the 2002 Regulations but differs in the following respects. First, the limit on the aggregate of the gross value of the deceased estate and the value transferred by certain lifetime transfers is directly linked to the inheritance tax nil rate band. Second, as in the 2002 Regulations the lifetime transfers to be taken into account include specified transfers which are defined, but the definition differs in these Regulations as the property which may be transferred is extended to include personal chattels and corporeal moveable property. Third, in valuing specified transfers the Regulations now provide that business property relief and agricultural property relief in sections 104 and 116 of the 1984 Act shall not apply. Finally, a new class of lifetime transfer which must be taken into account is introduced in these Regulations, these are defined as specified exempt transfers.

The second category is a new category of excepted estate introduced in these Regulations where the aggregate of the gross value of the estate and the value of certain lifetime transfers of a person domiciled in the United Kingdom does not exceed £1,000,000 and that aggregate value after deduction of liabilities and the value of any spouse and charity transfers made on death does not exceed the inheritance tax nil rate band.

The third category is where the deceased was never domiciled or treated as domiciled in the United Kingdom and his estate in the United Kingdom consists only of cash or quoted shares or securities with a gross value not exceeding £100,000. This is the same as the equivalent provision in the 2002 Regulations.

Regulations 5, 6 and 7 are new provisions.

Regulation 5 defines spouse and charity transfer.

Regulation 6 specifies the information that must be produced to the Board of Inland Revenue in the case of excepted estates and regulation 7 specifies to whom it must be produced.

Regulations 8 and 9 provide for the discharge of persons and property from tax in relation to property comprised in an excepted estate. Regulation 8 differs from the equivalent provision in the 2002

Regulations to reflect the fact that specified information now must be produced to the Board for excepted estates. Regulation 9 is the same as the equivalent provision in the 2002 Regulations.

Regulation 10 makes provision for excepted estates in relation to transfers reported late under section 264 of the Inheritance Tax Act 1984. This has the same effect as the equivalent provision in the 2002 Regulations.

Regulation 11 revokes the Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2002 (S.I. 2002/1733) and the Inheritance Tax (Delivery of Accounts) (Excepted Estates) (Amendment) Regulations 2003 (S.I. 2003/1688) in relation to persons who died on or after 6th April 2004.

These Regulations do not impose new costs on business or charities.