
STATUTORY INSTRUMENTS

2011 No. 22

INCOME TAX

**The Dormant Bank and Building Society
Accounts (Tax) Regulations 2011**

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| <i>Made</i> | - - - - | <i>10th January 2011</i> |
| <i>Laid before the House of Commons</i> | - - - - | <i>11th January 2011</i> |
| <i>Coming into force</i> | - - | <i>1st February 2011</i> |

These Regulations are made by the Treasury and the Commissioners for Her Majesty's Revenue and Customs. The powers exercised by the Treasury are those conferred by sections 694 to 696, 699 and 701 of the Income Tax (Trading and Other Income) Act 2005(1) and the powers exercised by the Commissioners for Her Majesty's Revenue and Customs are those conferred by section 17(5) and (6) of the Taxes Management Act 1970(2), sections 852 and 871 of the Income Tax Act 2007(3) and section 39(1) of the Finance Act 2008(4).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Dormant Bank and Building Society Accounts (Tax) Regulations 2011 and shall come into force on 1st February 2011.

(2) Regulations 2 to 4 have effect in relation to notices under section 17(1)(5) of the Taxes Management Act 1970 served on or after 1st February 2011.

(3) Regulations 5 to 7 have effect in relation to interest paid or credited on or after 1st February 2011.

(4) Regulation 8 has effect in relation to interest arising on or after 1st February 2011.

(1) 2005 c. 5; section 701 was amended by section 40 of the Finance Act 2008 (c. 9).

(2) 1970 c. 9. Section 17(5) and (6) were inserted by section 92 of the Finance Act 1990 (c. 29), and amended by section 145(2) of the Finance Act 2000 (c. 17).

(3) 2007 c. 3.

(4) 2008 c. 9.

(5) Amended by section 92 of the Finance Act 1990 (c. 29), paragraph 11 of Schedule 37 to the Finance Act 1996 (c. 8), section 123 of the Finance Act 1998 (c. 36) and paragraph 247 of Schedule 1 to the Income Tax Act 2007 (c. 3).

Amendment of the Income Tax (Interest Payments) (Information Powers) Regulations 1992

2. The Income Tax (Interest Payments) (Information Powers) Regulations 1992(6) are amended as follows.

3. In regulation 2 (interpretation) after the definition of “payment”(7) insert—

““relevant dormant account” has the meaning in section 39(2) of the Finance Act 2008;

“repayment claim” means a repayment claim mentioned in section 5(6) of the Dormant Bank and Building Society Accounts Act 2008(8), and other terms used in regulation 3A and in that Act have the same meaning in that regulation as in that Act;”.

4. After regulation 3 (disapplication of section 17(1) and section 18(1))(9) insert—

“Dormant accounts – postponement of reporting obligations under section 17(1)

3A.—(1) A notice under section 17(1) shall be deemed not to require information in respect of a relevant dormant account before the time (if any) at which the balance of the account is paid out to the account-holder following a repayment claim (such payment being referred to in this regulation as the repayment claim being “settled”), subject to paragraph (4).

(2) In paragraph (3), the period between—

- (a) the time when a dormant account first becomes a relevant dormant account, and
- (b) the time at which a repayment claim to the balance of the account is settled,

is referred to, in relation to the account, as the “relevant dormant period”.

(3) Where a repayment claim to the balance of a dormant account is settled, all interest paid or credited to the account, or included in the balance of the account, during and at the end of the relevant dormant period, shall be treated for the purposes of section 17(1)—

- (a) as paid at the time the repayment claim is settled;
- (b) as if the bank or building society in question had retained the balance of the account, in the ordinary course of the operations of its trade or business; and
- (c) if notice under section 17(1) is given to the bank or building society, specifying the year of assessment in which the relevant dormant period for any account ends, the notice shall (unless it states otherwise) be deemed to require the inclusion of information for all relevant dormant accounts, in respect of which repayment claims were settled in that year.

(4) A notice under section 17(1) shall be deemed not to require information in respect of a relevant dormant account which, at the time it first became a relevant dormant account, was a plan provided for by regulations made under Chapter 3 of Part 6 of ITTOIA 2005 (individual investment plans).”.

Amendment of the Income Tax (Deposit-takers and Building Societies) (Interest Payments) Regulations 2008

5. The Income Tax (Deposit-takers and Building Societies) (Interest Payments) Regulations 2008(10) are amended as follows.

(6) S.I. 1992/15; relevant amending instruments are S.I. 2001/405 and S.I. 2008/2688.

(7) Inserted by S.I. 2008/2688.

(8) 2008 c. 31.

(9) Substituted by S.I. 2001/405.

(10) S.I. 2008/2682.

6. In regulation 2 (interpretation) insert at the appropriate places—

““relevant dormant account” has the meaning given in section 39(2) of the Finance Act 2008;”

““repayment claim” means a repayment claim mentioned in section 5(6) of the Dormant Bank and Building Society Accounts Act 2008, and other terms used in regulations 4A and 4B and in that Act have the same meaning in those regulations as in that Act;”.

7. After regulation 4 (gross payments) insert—

“Dormant accounts – postponement of obligation to deduct sum representing income tax

4A.—(1) Section 851 does not apply to a payment of interest in respect of a relevant dormant account before the time (if any) at which the balance of the account is paid out to the holder of the relevant dormant account following a repayment claim (such payment being referred to in this regulation as the repayment claim being “settled”), subject to paragraph (4).

(2) In paragraph (3) and regulation 4B, the period between—

- (a) the time when a dormant account first becomes a relevant dormant account, and
- (b) the time at which a repayment claim to the balance of the account is settled,

is referred to, in relation to the account, as the “relevant dormant period.”

(3) Where a repayment claim to the balance of a dormant account is settled, all interest paid or credited to the account, or included in the balance of the account, during and at the end of the relevant dormant period, shall be treated for the purposes of section 851—

- (a) as paid at the time the repayment claim is settled; and
- (b) as if the account were at that time an investment, and a relevant investment for the purposes of Chapter 2 of Part 15 of ITA 2007 (deduction by deposit-takers and building societies).

(4) Section 851 does not apply to a payment of interest in respect of a relevant dormant account which, at the time it first became a relevant dormant account, was a plan provided for by regulations made under Chapter 3 of Part 6 of ITTOIA 2005 (individual investment plans).

4B. The duty to deduct a sum representing income tax under section 874 of ITA 2007 (duty to deduct from certain payments of yearly interest) does not apply to a payment of interest in respect of a relevant dormant account, made by or through a reclaim fund, deposit-taker or building society, during or at the end of the relevant dormant period for the account.”.

Dormant accounts – postponement of charge to tax on interest

8.—(1) For the purposes of Chapter 2 of Part 4 of The Income Tax (Trading and Other Income) Act 2005 (Savings and investment income: interest), interest arising in respect of a relevant dormant account shall be treated as arising at the time (if any) at which the balance of the account is paid out following a repayment claim.

(2) In paragraph (1), “relevant dormant account” has the meaning given in section 39(2) of the Finance Act 2008 and other terms used in that paragraph and in section 39 of that Act have the same meaning in that paragraph as in that section.

Amendment of the Individual Savings Account Regulations 1998

9.—(1) The Individual Savings Account Regulations 1998⁽¹¹⁾ are amended as follows.

(2) In regulation 2(1)(a) (interpretation) add at the appropriate place—

““dormant account” means a cash account which is a “relevant dormant account” within the meaning given in section 39(2) of the Finance Act 2008, omitting the words—

- (a) “is to be, or”; and
- (b) “will apply, or” (in both places they appear);”.

(3) After regulation 5B⁽¹²⁾ insert—

“Treatment of certain sums held in dormant accounts

5C.—(1) Regulations 30 and 31 (information by account managers) shall not apply to a dormant account, while section 1 or 2 of the Dormant Bank and Building Society Accounts Act 2008 (“the 2008 Act”) applies in relation to that account.

(2) Where, following a repayment claim, the balance of a dormant account is paid—

- (a) back into the account (in a case where the original cash account can be reinstated with the same account manager, the same account investor and number), or
- (b) into another cash account in the same account investor’s name, with the same account manager (in any other case),

the payment into the account shall not count towards the subscription limits in regulation 4(2) and (3).

(3) In this regulation, “repayment claim” means a repayment claim mentioned in section 5(6) of the 2008 Act, and other terms used in this regulation and that Act have the same meaning in this regulation as in that Act.”.

10th January 2011

Michael Fabricant
James Duddridge
Two of the Lords Commissioners of Her
Majesty’s Treasury

10th January 2011

Mike Eland
Lesley Strathie
Two of the Commissioners for Her Majesty’s
Revenue and Customs

⁽¹¹⁾ S.I. 1998/1870, relevant amending instruments are S.I. 2000/3112, S.I. 2002/3158, S.I. 2004/2996, S.I. 2005/2561, S.I. 2007/2119, S.I. 2008/704 and S.I. 2009/1994.

⁽¹²⁾ Regulation 5B was inserted by S.I. 2010/835.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for tax on accounts with banks and building societies treated as “dormant accounts” under the Dormant Bank and Building Society Accounts Act 2008 (c. 31). The principal effects of these Regulations are (a) to defer requirements for the deduction from interest of tax, and reporting to H.M. Revenue and Customs, while an account is dormant, (b) to treat all interest credited to the account while dormant as paid or arising at the point (if any) where the customer has reclaimed the account and is repaid the amount in the account and (c) to reapply, except for individual savings accounts (“ISAs”), the deduction of tax and reporting requirements at the point mentioned in (b).

Regulation 1 provides for citation, commencement and effect.

Regulations 2 to 4 (made under the power contained in section 39(1)(a) of the Finance Act 2008 (c. 9) in particular) amend the Income Tax (Interest Payments) (Information Powers) Regulations 1992 (S.I. 1992/15). Regulation 4 postpones the reporting obligations under section 17 of the Taxes Management Act 1970 (c. 9) for dormant accounts (other than ISAs) until a payment in settlement of a repayment claim is made.

Regulations 5 to 7 (made under the power contained in section 39(1)(b) of the Finance Act 2008, in particular) amend the Income Tax (Deposit-takers and Building Societies) (Interest Payments) Regulations 2008 (S.I. 2008/2682). Regulation 7 postpones the obligation under section 851 of the Income Tax Act 2007 (c. 3) (“ITA 2007”) to deduct a sum representing income tax from interest, for dormant accounts (other than ISAs) until a payment in settlement of a repayment claim, and disapplies section 874 of ITA 2007.

Regulation 8 (made under the power in section 39(1)(c) of the Finance Act 2008) provides that, for the purposes of Chapter 2 of Part 4 of the Income Tax (Trading and Other Income) Act 2005 (c. 5) (“ITTOIA 2005”), interest arising on an account while dormant is treated as arising when a payment in settlement of a repayment claim is made.

Regulation 9 (made by the Treasury under the powers in sections 694 to 696, 699 and 701 of ITTOIA 2005) disapplies the information provisions in regulations 30 and 31 of the Individual Savings Account Regulations 1998 (S.I. 1998/1870) while a cash ISA is a dormant account and provides that on a repayment claim, if the balance of the dormant cash ISA is paid back into the same ISA (or another cash ISA with the same manager), it does not count as an ISA subscription.

An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.