

2000 No. 2314

INCOME TAX

The Personal Pension Schemes (Restriction on Discretion to Approve) (Establishment of Schemes under Trusts) Regulations 2000

Made - - - - - 29th August 2000

Laid before the House of Commons 31st August 2000

Coming into force 1st October 2000

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 638A of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Personal Pension Schemes (Restriction on Discretion to Approve) (Establishment of Schemes under Trusts) Regulations 2000 and shall come into force on 1st October 2000.

Interpretation

2. In these Regulations—

- (a) “the Board” means the Commissioners of Inland Revenue; and
- (b) “small self-administered scheme” means a scheme which, had it been a retirement benefits scheme, would have been a small self-administered scheme within the meaning of regulation 2 of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-Administered Schemes) Regulations 1991(b).

Restriction of Board’s discretion to approve some trust-based personal pension schemes

3.—(1) The Board shall not exercise their discretion to approve a personal pension scheme under section 631 of the Income and Corporation Taxes Act 1988(c), in circumstances where the scheme is established under a trust or trusts by a person other than one mentioned in section 632(1)(a) to (e) of that Act(d), unless either paragraph (2) or (3) of this regulation is satisfied.

(2) This paragraph is satisfied if—

(a) 1988 c. 1. Section 638A was inserted by section 94(1) of the Finance Act 1998 (c. 36).
(b) S.I. 1991/1614. The definition of “small self-administered scheme” was substituted by regulation 3(b) of S.I. 1998/728.
(c) Section 631 was amended by section 94(2) of the Finance Act 1998 (c. 36) and paragraph 6 of Schedule 13 to the Finance Act 2000 (c. 17).
(d) Section 632 was amended by S.I. 1997/2388, 1998/993 and the Personal Pension Schemes (Establishment of Schemes) Order 2000 (2000/2317).

- (a) the scheme is a trust scheme within the meaning given by section 124(1) of the Pensions Act 1995(a) or Article 121(1) of the Pensions (Northern Ireland) Order 1995(b); and
 - (b) the trust deed for the scheme contains a provision that—
 - (i) applies if the scheme is at any time a small self-administered scheme; and
 - (ii) falls within the description specified in regulation 9 of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991(c).
- (3) This paragraph is satisfied if—
- (a) an application has been made under section 2 of the Welfare Reform and Pensions Act 1999(d) or article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999(e) for the registration of the scheme as a stakeholder pension scheme; and
 - (b) the approval of the scheme by the Board as a personal pension scheme is conditional on that registration taking place.

*Nick Montagu
Ann Chant*

29th August 2000

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose a restriction on the Board of Inland Revenue's discretion to approve some personal pension schemes. The schemes affected are those established under trusts by persons other than those mentioned in paragraphs (a) to (e) of section 632(1) of the Income and Corporation Taxes Act 1988 (c. 1). The Board may approve such schemes only if the condition in either paragraph (2) or (3) of regulation 3 is satisfied.

The condition in paragraph (2) consists of two elements. The first is that, for the purposes of the Pensions Act 1995 (c. 26) or the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213), the scheme is an occupational pension scheme established under a trust. This second is a requirement that the trust deed contains provision for the appointment by the Board of an independent trustee in the event that there are at any time fewer than twelve members receiving benefits under the scheme.

The condition in paragraph (3) is that an application has been made for the registration of the scheme (by the Occupational Pensions Regulatory Authority) as a stakeholder pension scheme within the meaning of section 2 of the Welfare Reforms and Pensions Act 1999 (c. 30) or article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147), and the Board's approval is to be conditional on registration.

(a) 1995 c. 26.

(b) S.I. 1995/3213.

(c) Regulation 9 was inserted by S.I. 1998/728 and amended by S.I. 1998/1315.

(d) 1999 c. 30.

(e) S.I. 1999/3147 (N.I. 11).

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