



STATUTORY INSTRUMENTS.

S.I. No. 28 of 2015



MANDATORY DISCLOSURE OF CERTAIN TRANSACTIONS
(AMENDMENT) REGULATIONS 2015

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The Revenue Commissioners, in exercise of the powers conferred on them by section 817Q (inserted by section 149 of the Finance Act 2010 (No. 5 of 2010)) of the Taxes Consolidation Act 1997 (No. 39 of 1997), and with the consent of the Minister for Finance, hereby make the following regulations:

1. These Regulations may be cited as the Mandatory Disclosure of Certain Transactions (Amendment) Regulations 2015.

2. These Regulations shall apply to a transaction the commencement of which occurs (or has occurred) after 23 October 2014.

3. The Mandatory Disclosure of Certain Transactions Regulations 2011(S.I. No.7 of 2011) are amended—

(a) by substituting the following for Regulation 2:

“2. In these Regulations ‘Principal Act’ means the Taxes Consolidation Act 1997 (No. 39 of 1997).”,

(b) by deleting Regulation 3 to 27,

(c) in Regulation 29(1)(b) by substituting “which is or forms” for “forming”,

(d) in Regulation 30 by—

(i) substituting “A person shall not be treated as a promoter, pursuant to paragraph (a) of the definition of a ‘promoter’ in section 817D(1) of the Principal Act, for the purposes of Chapter 3 of Part 33 of the Principal Act where” for “A person shall not be treated as a promoter for the purposes of Chapter 3 of Part 33 of the Principal Act where”, and

(ii) deleting paragraph (a),

and

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 30th January, 2015.

(e) by substituting the following for the Schedule:

“SCHEDULE

Transactions to which certain subsections of section 817DA do not apply

1. A Profit Sharing Scheme approved by the Revenue Commissioners under Part 2 of Schedule 11 to the Principal Act.
2. An Employee Share Ownership Trust approved by the Revenue Commissioners under paragraph 2 of Schedule 12 to the Principal Act.
3. A Savings Related Share Option Scheme approved by the Revenue Commissioners under paragraph 2 of Schedule 12A to the Principal Act.
4. A Contractual Savings Scheme certified by the Revenue Commissioners under Schedule 12B to the Principal Act.
5. A Share Option Scheme approved by the Revenue Commissioners under paragraph 2 of Schedule 12C to the Principal Act.
6. An approved salary sacrifice arrangement referred to in section 118B of the Principal Act.
7. A Retirement Benefits Scheme within the meaning of section 771 of the Principal Act, for the time being approved by the Revenue Commissioners for the purposes of Chapter 1 of Part 30 of that Act.
8. An Annuity Contract or a Trust Scheme, or part of a Trust Scheme, for the time being approved by the Revenue Commissioners under section 784 of the Principal Act.
9. A PRSA contract, within the meaning of section 787A of the Principal Act, in respect of a PRSA product, within the meaning of that section.
10. A Qualifying Overseas Pension Plan, within the meaning of Chapter 2B of Part 30 of the Principal Act.
11. A transaction qualifying for relief for investment in films under section 481 of the Principal Act.
12. A transaction qualifying for relief for investment in renewable energy generation under section 486B of the Principal Act.
13. A transaction qualifying for exemption for profits or gains arising from the occupation of certain woodlands under section 232 of the Principal Act.

14. A transaction qualifying for exemption from capital gains tax of certain proceeds of sale of woodlands under section 564 of the Principal Act.
15. A transaction qualifying for relief for investment in corporate trades under Part 16 of the Principal Act.
16. A transaction qualifying for the tax treatment of certain venture fund managers under section 541C of the Principal Act.
17. A transaction qualifying for repayment of tax for relevant employees where earnings are not remitted under section 825B of the Principal Act.
18. A transaction with trustees of a special trust for permanently incapacitated individuals, within the meaning of section 189A of the Principal Act.
19. A transaction with trustees of a trust where the trust is of a type specified in section 17 of the Capital Acquisitions Tax Consolidation Act 2003 (No.1 of 2003), or a trust which is established under the laws of another Member State which would be of a type specified in that section if the trust were established under the laws of the State.
20. A transaction with the trustees of a trust used to hold plant or machinery for finance and lease transactions where the beneficiary under the trust arrangement is treated as the beneficial owner of those assets for the purposes of corporation tax and the transaction relates to the holding, disposing, financing, leasing of, or the dealing in, those assets.
21. A transaction with the trustees of a trust used to hold assets which are securitised by a company to which the provisions of section 110 of the Principal Act apply, where the beneficiary under the trust arrangement being that company, is treated as the beneficial owner of those assets for the purposes of corporation tax and the transaction relates to the holding of those assets.
22. A transaction with the trustees of a trust used to hold debt issued by a company to which the provisions of section 110 of the Principal Act apply, where the beneficiary under the trust arrangement is treated as the beneficial owner of the debt for the purposes of the Principal Act or any other enactment relating to tax and the transaction relates to the holding of that debt.
23. A transaction with the trustees of a trust used to hold the share capital of a company to which the provisions of section 110 of the Principal Act apply, where the trust is established for charitable purposes and the transaction relates to the holding of that share capital.

24. A trust that is an investment undertaking within the meaning of section 739B or 731(5)(a)(i) of the Principal Act, or a special investment scheme within the meaning of section 737 of the Principal Act, or any similar investment undertaking which is regulated in another Member State or a territory with the government of which arrangements having the force of law by virtue of section 836(1) of the Principal Act have been made.
25. A transaction with trustees of a trust in respect of securities to which the provisions of section 128D of the Principal Act apply.”.

The Minister for Finance consents to the making of these Regulations.



GIVEN under my Official Seal,
23 January 2015.

MICHAEL NOONAN,
Minister for Finance.

GIVEN under my hand,
26 January 2015.

NIALL CODY,
Revenue Commissioner.

EXPLANATORY NOTE.

(This is note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations are made by the Revenue Commissioners under section 817Q of the Taxes Consolidation Act 1997 (inserted by the Finance Act 2010) with the consent of the Minister for Finance.

These amending Regulations reflect amendments made to the Mandatory Disclosure regime (Chapter 3 of Part 33 of the Taxes Consolidation Act 1997) by section 80 Finance Bill 2014 which incorporate into the Taxes Consolidation Act 1997 many of the rules relating to the Mandatory Reporting regime that were previously dealt with by Regulation. In addition, certain additional transactions are included in the Schedule to the Regulations which excludes certain types of transaction from the scope of the Mandatory Reporting regime.

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