

2011 No. 1785

BANK LEVY

CORPORATION TAX

**The Corporation Tax (Instalment Payments) (Amendment)
Regulations 2011**

<i>Made</i>	- - - -	<i>20th July 2011</i>
<i>Laid before the House of Commons</i>		<i>21st July 2011</i>
<i>Coming into force</i>	- -	<i>11th August 2011</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 59E of the Taxes Management Act 1970(a), section 826A of the Income and Corporation Taxes Act 1988(b) and section 30(2) of the Finance Act 1998(c).

Citation and commencement

1.—(1) These Regulations may be cited as the Corporation Tax (Instalment Payments) (Amendment) Regulations 2011 and come into force on 11th August 2011.

(2) These Regulations have effect in relation to accounting periods ending on or after 1st January 2011.

Amendment of the Corporation Tax (Instalment Payments) Regulations 1998

2. The Corporation Tax (Instalment Payments) Regulations 1998(d) are amended as follows.

Substitution of regulation 2

3. For regulation 2 (interpretation) substitute—

“Interpretation

2.—(1) In these Regulations—

“accounting period” shall be construed in accordance with Chapter 2 of Part 2 of CTA 2009(e);

(a) 1970 c. 9; section 59E was inserted by section 30 of the Finance Act 1998 (c. 36) and has been amended by section 92(2) of the Finance Act 2002 (c. 23); by paragraph 155 of Schedule 1 to the Corporation Tax Act 2010 (c.4) and by paragraph 58 of Schedule 19 to the Finance Act 2011(c. 11).

(b) 1988 c. 1; section 826A was inserted by paragraph 1 of Schedule 4 to the Finance Act 1998.

(c) 1998 c. 36.

(d) S.I. 1998/3175; amended by section 92(5) to (7) of the Finance Act 2002; and by S.I. 1999/1929; 2000/892; 2001/3629; 2005/889; 2008/2649 and 2009/56.

(e) 2009 c. 4.

“applicable accounting period” means any accounting period for which bank levy is chargeable in respect of the chargeable period determined in accordance with—

- (a) paragraph 50 of Schedule 19 where bank levy is charged in relation to a relevant group; or
- (b) paragraph 51 of that Schedule where bank levy is charged in relation to a relevant entity;

“large company” has the meaning given by regulation 3;

“Schedule 18” means Schedule 18 to the Finance Act 1998;

“Schedule 19” means Schedule 19 to the Finance Act 2011(a);

“the bank levy” means the tax charged in accordance with Schedule 19;

“the chargeable period” has the meaning given by paragraph 4 or paragraph 5 of Schedule 19 (as the case may be);

“the relevant entity” has the meaning given by paragraph 5 of Schedule 19;

“the relevant group” has the meaning given by paragraph 4 of Schedule 19;

“the responsible member” has the meaning given by paragraph 54 of Schedule 19;

“the Management Act” means the Taxes Management Act 1970; and

“the Taxes Act” means the Income and Corporation Taxes Act 1988.

(2) References in these Regulations to profits of a company in any accounting period are references to the company’s augmented profits within the meaning given by section 32 of CTA 2010(b).

(3) References in these Regulations to the total liability of a company for an accounting period are references to the amount of tax payable for that period by the company as calculated in accordance with paragraph 8(1) of Schedule 18.”.

Amendment of regulation 3

4.—(1) Regulation 3 (large companies)(c) is amended as follows.

(2) In paragraph (1)—

- (a) for “(2)” substitute “(1A)”; and
- (b) for “relevant maximum amount” substitute “limit”.

(3) After paragraph (1) insert—

“(1A) In relation to any applicable accounting period an entity which is the relevant entity or the responsible member for the purposes of Schedule 19 is a large company for that period for the purposes of these Regulations.”.

(4) In paragraph (2) at the end insert—

“This paragraph does not apply if a company is the relevant entity or the responsible member.”.

(5) In paragraph (3) at the end insert—

“This paragraph does not apply if a company is the relevant entity or the responsible member.”.

(6) In paragraph (3A)(d) for “section 501A of the Taxes Act (supplementary charge in respect of ring fence trades)” substitute “sections 330 (supplementary charge in respect of ring fence trades) and 331 (meaning of “financing costs” etc) of CTA 2010”.

(a) 2011 c. 11.

(b) 2010 c. 4.

(c) Regulation 3 has been amended by section 92 of the Finance Act 2002 and by S.I. 2000/892 and 2008/2649.

(d) Paragraph (3A) was inserted by section 92 of the Finance Act 2002.

(7) Omit paragraph (4).

(8) For paragraph (5) substitute—

“(5) Sections 24 to 30 of CTA 2010 (the lower limit and the upper limit) shall apply so as to reduce the amount specified in paragraph (3)(a) in accordance with those sections as they apply to reduce the upper and lower limits, except that—

(a) the number of associated companies referred to in section 24(3) of CTA 2010 shall be determined by reference to the number existing at the end of the immediately preceding accounting period of the company or, if there is no immediately preceding accounting period or the immediately preceding accounting period did not end on the day before the accounting period concerned commenced, by reference to the number existing at the commencement of the accounting period concerned; and

(b) section 434(3A) of the Taxes Act (franked investment income)(a) and section 88(4) of the Finance Act 1989 (corporation tax policy holders’ share of profits)(b) shall be disregarded.”.

(9) After paragraph (7) insert—

“(8) In this regulation “upper limit” and “lower limit” shall be construed in accordance with section 24 of CTA 2010 (the lower limit and the upper limit).”.

Insertion of regulations 4A to 4D

5. After regulation 4 (instalment payments – transitional provision) insert—

“Instalment payments – transitional provisions: the bank levy (applicable accounting periods ending on or before 19th July 2011 where company becomes a large company by virtue of regulation 3(1A))

4A.—(1) This regulation applies if—

(a) an entity (“E”) is the relevant entity or the responsible member in relation to an applicable accounting period (“the period”) which ended on or before 19th July 2011;

(b) E is a large company for the purposes of these Regulations only by virtue of regulation 3(1A); and

(c) accordingly, E would not otherwise be liable to make instalment payments in relation to the period.

(2) The total liability of E for the period shall be treated as becoming due and payable in accordance with regulation 5, but this is subject to paragraphs (3) to (5).

(3) An instalment payment which apart from this regulation would be treated as becoming due and payable on a date falling before 11th August 2011 shall be treated as not being due and payable.

(4) If there is no instalment payment which is treated as becoming due and payable on a date falling on or after 11th August 2011, the total liability of E shall be treated as becoming due and payable on 18th August 2011.

(5) If in relation to the period there is an instalment payment which is treated as becoming due and payable on a date falling on or after 11th August 2011, the amount of that instalment payment, or the amount of the first of those instalment payments, shall be increased by the adjustment amount.

(a) Subsection (3A) was substituted for subsection (3) by paragraph 3 of Schedule 8 to the Finance Act 1989 (c. 26) and amended by paragraph 12(2) of Schedule 33 to the Finance Act 2003 (c. 14) and by paragraph 45 of Schedule 1 to the Corporation Tax Act 2010.

(b) Subsection (4) has been amended by section 45(2) of the Finance Act 1990 (c. 29) and by paragraph 214 of Schedule 1 to the Corporation Tax Act 2010.

(6) In paragraph (5) the adjustment amount is the aggregate of the amounts of the instalment payments which would have been treated as being due and payable, on a date falling before 11th August 2011, determined on the basis that—

- (a) the provisions of Schedule 19 had effect on the date on which each instalment payment would have been treated as becoming due and payable; and
- (b) paragraph (3) does not apply in relation to each instalment payment.

Instalment payments – transitional provisions: the bank levy (applicable accounting periods ending on or before 19th July 2011 where company is a large company otherwise than by virtue of regulation 3(1A))

4B.—(1) This regulation applies if—

- (a) an entity (“E”) is the relevant entity or the responsible member in relation to an applicable accounting period (“the period”) which ended on or before 19th July 2011; and
- (b) E is a large company for the purposes of these Regulations otherwise than by virtue of regulation 3(1A).

(2) The total liability of E for the period shall be treated as becoming due and payable in accordance with regulation 5, but this is subject to paragraphs (3) to (5).

(3) An instalment payment which apart from this regulation would be treated as becoming due and payable on a date falling before 11 August 2011 shall be treated as not being due and payable to the extent that it includes an amount in respect of the bank levy.

(4) If, apart from paragraph (5), in relation to the period there is an instalment payment, or more than one instalment payment, which is treated as becoming due and payable on a date falling or after 11th August 2011, the amount of that instalment payment, or the amount of the first of those instalment payments, shall be increased by the adjustment amount.

(5) If, apart from this paragraph, in relation to the period there is no instalment payment which is treated as becoming due and payable on a date falling on or after 11th August 2011, a further instalment payment of an amount equal to the adjustment amount shall be treated as becoming due and payable on 18th August 2011.

(6) For the purposes of paragraphs (4) and (5) the adjustment amount is the difference between—

- (a) the aggregate amount of the instalment payments which were treated as becoming due and payable before 11th August 2011, determined on the basis that the total liability of E did not include any liability to the bank levy; and
- (b) the aggregate amount of those instalment payments including E’s liability to the bank levy determined on the basis that paragraph (3) does not apply in relation to those instalment payments.

Instalment payments – transitional provisions: the bank levy (applicable accounting periods beginning on or before 19th July 2011 and ending after that date where company is a large company by virtue of regulation 3(1A))

4C.—(1) This regulation applies if—

- (a) an entity (“E”) is the relevant entity or the responsible member in relation to an applicable accounting period (“the period”) which began on or before 19th July 2011 and ends after that date;
- (b) E is a large company for the purposes of these Regulations only by virtue of regulation 3(1A); and
- (c) accordingly, E would not otherwise be liable to make instalment payments in relation to the period.

(2) The total liability of E for the period shall be treated as becoming due and payable in accordance with regulation 5, but this is subject to paragraphs (3) and (4).

(3) An instalment payment which apart from this regulation would be treated as becoming due and payable on a date falling before 11th August 2011 shall be treated as not being due and payable.

(4) The amount of the first instalment payment which is treated as becoming due and payable on a date falling on or after 11th August 2011 shall be increased by the adjustment amount.

(5) In paragraph (4) the adjustment amount is the aggregate of the amounts of instalment payments which would have been treated as becoming due and payable before 11th August 2011, determined on the basis that—

- (a) the provisions of Schedule 19 had effect at the date on which each instalment payment would have been treated as becoming due and payable; and
- (b) paragraph (3) does not apply in relation to each instalment.

Instalment payments – transitional provisions: the bank levy (applicable accounting periods beginning on or before 19th July 2011 but ending after that date where company is a large company otherwise than by virtue of regulation 3(1A))

4D.—(1) This regulation applies if—

- (a) an entity (“E”) is the relevant entity or the responsible member in relation to an applicable accounting period (“the period”) which began on or before 19th July 2011 and ends after that date; and
- (b) E is a large company for the purposes of these Regulations otherwise than by virtue of regulation 3(1A).

(2) The total liability of E for the period shall be treated as becoming due and payable in accordance with regulation 5, but this is subject to paragraphs (3) and (4).

(3) An instalment payment which apart from this regulation would be treated as becoming due and payable on a date falling before 11 August 2011 shall be treated as not being due and payable to the extent that it includes an amount in respect of the bank levy.

(4) In relation to the period, the amount of the first instalment payment which is treated as becoming due and payable on a date falling on or after 11th August 2011 shall be increased by the adjustment amount.

(5) For the purposes of paragraph (4) the adjustment amount is the difference between—

- (a) the aggregate amount of the instalment payments which were treated as becoming due and payable on a date falling before 11th August 2011, determined on the basis that the total liability of E did not include any liability to the bank levy; and
- (b) the aggregate amount of those instalment payments including E’s liability to the bank levy determined on the basis that paragraph (3) does not apply in relation to those instalment payments.”.

Amendment of regulation 5A

6.—(1) Regulation 5A (instalment payments – ring fence profits and adjusted ring fence profits)(a) is amended as follows.

(2) In paragraph (9) in the definition of—

- (a) “adjusted ring fence profits” for “501A(2) of the Taxes Act” substitute “330(2) of CTA 2010”;
- (b) “ring fence profits” for “502(1) of the Taxes Act” substitute “276 of CTA 2010”; and

(a) Regulation 5A was inserted by regulation 4 of S.I. 2005/889.

- (c) “supplementary charge” for “501A(1) of the Taxes Act” substitute “330(1) of CTA 2010”.

Insertion of regulation 5B

7. After regulation 5A (instalment payments – ring fence profits and adjusted ring fence profits) insert—

“Instalment payments – the bank levy – anti-avoidance

5B.—(1) Paragraphs (3) and (4) apply if on or after 31st March 2011 there is a relevant amendment—

- (a) in relation to the accounting period of an entity (E) which is the chargeable member; or
- (b) in relation to the accounting periods of E and any other chargeable member; and

as a consequence of the relevant amendment there is no chargeable member which meets, or would meet, the requirements of paragraph 54(3) or (5) of Schedule 19 (meaning of the responsible member) at the end of the chargeable period.

(2) In relation to E and, where relevant, any other chargeable member a relevant amendment is an alteration to—

- (a) the ending of an accounting period, as a result of an event referred to in section 10 (end of accounting period) or section 12 (companies being wound up) of CTA 2009(a); or
- (b) the commencement of an accounting period, as a result of an event referred to in section 9 (beginning of an accounting period) or section 12(5) of CTA 2009;

the main purpose, or one of the main purposes, of which is to obtain a tax advantage.

(3) Where this paragraph applies for the purposes of ascertaining the dates on which instalment payments are treated as becoming due and payable in accordance with regulation 5(3), the applicable accounting period of the entity that is the responsible member in relation to the chargeable period is to be treated as beginning and ending on the dates on which the chargeable period begins and ends (“the assumption”).

(4) Where paragraph (3) applies, the assumption will apply in relation to any applicable accounting periods that relate to a subsequent chargeable period where there is no chargeable member which meets the requirements of paragraph 54(3) or (5) of Schedule 19.

(5) In this regulation—

“tax advantage” has the same meaning as in section 1139 of CTA 2010; and

“the chargeable member” has the meaning given by paragraph 54(2) of Schedule 19(b).
”.

Amendment of regulation 6

8.—(1) Regulation 6 (repayment of amounts in respect of a large company’s total liability for an accounting period)(c) is amended as follows.

(2) In paragraph (1)(a) for “5 or 5A” substitute “4A, 4B, 4C, 4D, 5, 5A or 5B (as the case may be)”.

(3) In paragraph (2) for “the Board” substitute “Revenue and Customs” in both places that it occurs.

(a) 2009 c. 4.

(b) 2011 c. 11.

(c) Regulation 6 has been amended by regulation 5 of S.I. 2005/889.

Insertion of regulation 6A

9. After regulation 6 (repayment of amounts in respect of a large company's total liability for an accounting period) insert—

“Allocation of payments

6A.—(1) This regulation applies where—

- (a) an entity (E) is either—
 - (i) the relevant entity; or
 - (ii) the responsible member; and
- (b) there has been an underpayment of E's total liability for an applicable accounting period.

(2) Any payment made by E in respect of that applicable accounting period shall be treated—

- (a) as a payment in respect of any amount of the bank levy which is unpaid for the applicable accounting period; and
- (b) to the extent that the payment exceeds the unpaid amount of the bank levy, as a payment in respect of corporation tax other than the bank levy for the applicable accounting period.

(3) Whether there has been an underpayment of E's total liability shall be ascertained in accordance with the provisions of Schedule 18.”.

Amendment of regulation 7

10. In regulation 7 (interest on unpaid amounts of a large company's total liability for an accounting period)(a), in paragraph (2) (interest on overdue corporation tax), in the inserted text—

- (a) for “5 or 5A” substitute “4A, 4B, 4C, 4D, 5, 5A or 5B (as the case may be)”; and
- (b) for “that regulation” substitute “the regulation in question”.

Amendment of regulation 8

11.—(1) Regulation 8 (interest on overpaid amounts of a company's total liability for an accounting period)(b) is amended as follows.

(2) In paragraph (1) for “5 or 5A” substitute “4A, 4B, 4C, 4D, 5, 5A or 5B”.

(3) In paragraph (2)—

- (a) in sub-paragraph (a)—
 - (i) the inserted paragraph (d) becomes paragraph (ca), and in that paragraph for “5 or 5A” substitute “4A, 4B, 4C, 4D, 5, 5A or 5B”; and
 - (ii) the inserted paragraph (e) becomes paragraph (cb); and
- (b) in sub-paragraph (b)—
 - (i) for “(d)” substitute “(ca)”; and
 - (ii) for “(e)” substitute “(cb)”.

(4) In paragraph (3)—

- (a) the inserted subsection (3A) becomes subsection (3ZA) and in that subsection—
 - (i) for “(1)(d)” substitute “(1)(ca)”; and

(a) 1970 c. 9. Section 87A was inserted by section 85 of the Finance (No. 2) Act 1987 (c. 51). Regulation 7 has been amended by regulation 6 of S.I. 2005/889.

(b) Regulation 8 has been amended by regulation 7 of S.I. 2005/889.

- (ii) for “5(3) or 5A(3)” substitute “4A, 4B, 4C, 4D, 5(3), 5A(3) or 5B(3)”; and
- (b) the inserted subsection (3B) becomes subsection (3ZB) and in that subsection—
 - (i) for “(1)(e)” substitute “(1)(cb)”; and
 - (ii) for “(3A)” substitute “(3ZA)”.

Substitution of regulation 9

12. For regulation 9 (consequential amendment of section 102 of the Finance Act 1989)(a) substitute—

“Consequential amendment of Chapter 4 of Part 22 of CTA 2010

9.—(1) Chapter 4 of Part 22 of CTA 2010 (surrender of tax refund within a group) applies with the modifications specified in paragraphs (2) to (5) in any case where a tax refund is due to be made to the surrendering company in respect of an amount paid in respect of its total liability for an accounting period and—

- (a) either the surrendering company or the recipient company referred to in that Chapter is a large company as respects that accounting period; or
- (b) both the surrendering company and the recipient company referred to in that Chapter are large companies as respects that accounting period.

(2) In section 963 (power to surrender tax refund), after subsection (2) insert—

“(2A) If, and to the extent that, the tax refund surrendered is within subsection (4)(c) and is of an amount paid in respect of the surrendering company’s bank levy liability for the accounting period, the requirement in subsection (2)(b) is to be read as a requirement that the surrendering company and the recipient company are both entities which are jointly and severally liable for the surrendering company’s bank levy liability for that period in accordance with paragraph 53 of Schedule 19 to the Finance Act 2011.

(2B) In subsection (2A) the reference to the surrendering company’s bank levy liability for the accounting period is to any liability within paragraph 53(8) of that Schedule which the company has for that accounting period.”.

(3) In subsection (4) of that section—

- (a) omit the “or” at the end of paragraph (a); and
- (b) after paragraph (b) insert—

“; or

- (c) the repayment in whole or in part of any amount paid by way of an instalment under the Corporation Tax (Instalment Payments) Regulations 1998 in respect of the company’s total liability for the period (within the meaning of regulation 2(3)).”.

(4) In section 964 (effects of surrender of tax refund), in subsection (6), after “refund” insert “other than a refund of instalment corporation tax”.

(5) After that subsection insert—

“(6A) For the purpose of this Chapter “the relevant date”, in relation to a refund of instalment corporation tax, means—

- (a) in so far as the refund falls to be treated in accordance with subsections (6C) to (6E) as consisting of a repayment of the whole or any part of a payment made on or before the earliest due date, that date, and

(a) Regulation 9 has been amended by regulation 3 of S.I. 1999/1929 and regulation 8 of 2005/889.

- (b) in so far as the refund falls to be treated in accordance with those subsections as consisting of the repayment of the whole or any part of a payment made after the earliest due date, the date on which the payment was made.

(6B) For the purposes of subsection (6A), the earliest due date, in relation to a refund of instalment corporation tax, is—

- (a) where the surrendering company is a large company for the relevant accounting period, the earliest date on which any amount is treated as having become due and payable by that company under regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of the Corporation Tax (Instalment Payments) Regulations 1998 in respect of that company's total liability for that period, and
- (b) where the surrendering company is not a large company for that accounting period, the date that would have been the earliest due date under paragraph (a) had it been a large company for that period.

(6C) For the purposes of subsection (6A), at the same time as giving notice under section 963(2) in the case of any refund of instalment corporation tax relating to any accounting period, the surrendering company must also give notice to an officer of Revenue and Customs identifying the extent to which it requires the refund to be treated as consisting of amounts comprised in any payment or payments made for that period.

(6D) Where, in a case to which subsection (6C) applies, an officer of Revenue and Customs notifies the surrendering company that the amount of the refund of instalment corporation tax relating to the accounting period is less than the aggregate of the amounts identified under that subsection, the company must, no later than 30 days after the notification, give a revised notice under that subsection to the officer of Revenue and Customs.

(6E) Where in a case to which subsection (6D) applies—

- (a) a notification has been given to the surrendering company under that subsection, and
- (b) the surrendering company does not give a revised notice in accordance with the requirements of that subsection,

the same consequences follow as if a notice had not been given in accordance with section 963(2) in relation to the refund.

(6F) In this section—

- (a) references to a refund of instalment corporation tax are references to any refund of tax for any accounting period which falls in relation to that accounting period within paragraph (c) of the definition of "tax refund" in section 963(4),
- (b) "large company" has the same meaning as in regulation 3 of the Corporation Tax (Instalment Payments) Regulations 1998, and
- (c) references to the total liability of a company for an accounting period are to be construed in accordance with regulation 2(3) of those Regulations."."

Insertion of regulation 9A

13. After regulation 9 insert—

"Entity not liable to the bank levy

9A.—(1) This regulation applies where—

- (a) a relevant entity (E) has made a payment for an accounting period which includes an amount in respect of the bank levy for the chargeable period; but

- (b) another member of the relevant group (OM) is the responsible member for that chargeable period.
- (2) Where this regulation applies—
- (a) no repayment of the amount paid by E in respect of the bank levy shall be made to or be due to E;
 - (b) E shall not be entitled, as a result of the payment of the amount in respect of the bank levy, to set off or otherwise treat as discharged any liability to corporation tax or to any other tax or duty for any period;
 - (c) the amount of the payment made by E in respect of the bank levy for the chargeable period shall be treated as if it were a payment made by OM, on the date on which the payment was made by E; and
 - (d) if OM does not have an applicable accounting period which is the same as the chargeable period,
 - (i) the payment made by E shall be treated as a payment of an amount of the bank levy due and payable in respect of the earliest instalment payment in relation to the earliest applicable accounting period of OM for the chargeable period; and
 - (ii) the balance, if any, shall be treated as a payment of the bank levy due and payable in respect of OM's next instalment payment in relation to the earliest applicable accounting period and so on in relation to that applicable accounting period and any subsequent applicable accounting period.
- (3) In paragraph (2)(d) the reference to an applicable accounting period being the same as the chargeable period shall be construed in accordance with paragraph 54 of Schedule 19.”.

Amendment of regulation 10

- 14.—(1) Regulation 10 (information to be provided to the Board)(a) is amended as follows.
- (2) In the heading to the regulation for “the Board” substitute “HMRC”.
- (3) In paragraph (1)—
- (a) for “The Board” substitute “HMRC”; and
 - (b) for “5 or 5A” in both places that it occurs substitute “4A, 4B, 4C, 4D, 5, 5A or 5B, as the case may be,”.

Insertion of regulation 10A

15. After regulation 10 insert—

“Additional information to be provided to HMRC where the large company is an entity which is responsible for the payment of the bank levy

10A.—(1) This regulation applies if the relevant entity or the responsible member (“E”) makes an instalment payment which includes an amount in respect of the bank levy.

(2) Subject to paragraph (4), E must provide written notice (a “quantification notice”) identifying the amount of the instalment payment which is in respect of the bank levy.

(3) A quantification notice must be given to an officer of Revenue and Customs on or before the date on which payment is made.

(4) Where E is a member of a group payment arrangement under section 59F of the Management Act (arrangements for paying tax on behalf of group members)(b), but E is

(a) Regulation 10 has been amended by regulation 9 of S.I. 2005/889.
 (b) 1970. c 9; section 59F was inserted by paragraphs 78 and 79 of Schedule 7 to the Taxation (International and Other Provisions) Act 2010 (c. 8) and has been amended by paragraph 59 of Schedule 19 to the Finance Act 2011 (c. 11).

not the member which is responsible for discharging the liability of the group under that arrangement—

- (a) E shall provide the quantification notice to the member (M) which, in accordance with the group payment arrangement, is responsible for discharging the liability of all the members of the group; and
- (b) accordingly M shall be responsible for providing the quantification notice to the officer of Revenue and Customs as required by paragraphs (2) and (3) and for the purposes of paragraph (5).

(5) The requirement to provide a quantification notice under this regulation shall be treated as a requirement to comply with an information notice for the purposes of Part 7 of Schedule 36 to the Finance Act 2008 (information and inspection powers)(a).”.

Amendment of regulation 11

16.—(1) Regulation 11 (production of records)(b) is amended as follows.

(2) In paragraph (1)—

- (a) for “the Board” substitute “HMRC”; and
- (b) for “5 or 5A” in both places that it occurs substitute “4A, 4B, 4C, 4D, 5, 5A or 5B (as the case may be)”.

(3) In paragraph (2)(b) for “the Board” substitute “Revenue and Customs”.

Amendment of regulation 12

17. In regulation 12(1) (inspection of records)(c)—

- (a) for “of the Board” substitute “of Revenue and Customs”; and
- (b) omit “by the Board”.

Amendment of regulation 13

18. In regulation 13(a) (penalty for unpaid tax)(d) for “5 or 5A” substitute “4A, 4B, 4C, 4D, 5, 5A or 5B (as the case may be)”.

Revocations

19. Omit—

- (a) regulation 14 (anti-avoidance provision)(e); and
- (b) regulation 15 (insurance companies and friendly societies – supplementary provision).

Angela Watkinson

Jeremy Wright

20th July 2011

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 2008 c. 9; Part 7 has been amended by paragraphs 13 to 20 of Schedule 47 to the Finance Act 2009 (c. 10) and by paragraph 471 of Schedule 1 to S.I. 2009/56.
(b) Regulation 11 has been amended by regulation 10 of S.I. 2005/889.
(c) Regulation 12 has been amended by regulation 4 of S.I. 1999/1929.
(d) Regulation 13 has been amended by regulation 11 of S.I. 2005/889.
(e) Regulation 14 has been amended by article 81 of S.I. 2001/3629.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175) (“the principal Regulations”) following the introduction of the bank levy by section 73 of, and Schedule 19 to, the Finance Act 2011 (c. 11) (“Schedule 19”). The principal Regulations provide that a large company’s liability to corporation tax for an accounting period is due and payable in instalments on the dates calculated in accordance with regulation 5(3) of those Regulations. These Regulations ensure that the principal Regulations apply to the bank levy, so that companies responsible for paying the bank levy are required to make payments by way of instalments. These Regulations also amend the principal Regulations to reflect the re-writing of the Income and Corporation Taxes Act 1988 (c. 1) (“ICTA”) by the Corporation Tax Act 2010 (c. 4).

Regulation 1 deals with citation, commencement and effect. These Regulations will come into force on 11th August 2011 and will have effect in relation to accounting periods ending on or after 1st January 2011. The power to make regulations with retrospective effect is contained in section 59E(8) of the Taxes Management Act 1970 (c. 9) (as amended by paragraph 58 of Schedule 19) and in paragraph 65 of Schedule 19.

Regulation 3 substitutes a new regulation 2 of the principal Regulations which defines the terms used in those Regulations.

Regulation 4 amends regulation 3 of the principal Regulations. The amendment ensures any company responsible for paying bank levy is a “large company” for the purposes of the principal Regulations. Regulation 4 also updates the statutory references in regulation 3 of the principal Regulations to reflect the re-writing of ICTA.

Regulation 5 inserts new regulations 4A to 4D into the principal Regulations. These new regulations contain transitional provisions dealing with the payment of the bank levy in relation to applicable accounting periods which have ended before, or which straddle, the date of coming into force of Schedule 19.

Regulation 6 amends regulation 5A of the principal Regulations to reflect the re-writing of ICTA.

Regulation 7 inserts new regulation 5B into the principal Regulations. New regulation 5B contains an anti-avoidance provision which prevents changes to the start and end dates of an accounting period of a chargeable member (as defined in regulation 7 of these Regulations) or chargeable members in conjunction with each other, having the effect of making no entity responsible for paying bank levy. The provision applies to changes made on or after 31st March 2011 in cases where the changes are designed to secure a tax advantage.

Regulation 8 makes a consequential amendment to regulation 6 of the principal Regulations which deals with the situation where there has been an overpayment. Regulation 8 also makes consequential amendments to reflect the Commissioners for Revenue and Customs Act 2005 (c. 11) (“CRCA”).

Regulation 9 inserts new regulation 6A into the principal Regulations. New regulation 6A applies where there has been an underpayment of the total liability in cases where the total liability includes liability to the bank levy. It specifies that any payments are treated as discharging liability to bank levy first and then as discharging liability to corporation tax.

Regulation 10 makes a consequential amendment to regulation 7 of the principal Regulations which deals with the case where an instalment payment is not paid on the due date.

Regulation 11 makes consequential amendments to regulation 8 of the principal Regulations which provides for the payment of interest where there has been an overpayment of a company’s total liability.

Regulation 12 substitutes a new regulation 9 of the principal Regulations to make provision for the surrender of repayments of the bank levy and to update the statutory references to reflect the re-writing of ICTA.

Regulation 13 inserts new regulation 9A into the principal Regulations. New regulation 9A deals with the case where an entity (E) has made payments in respect of the bank levy but another entity (OM) is the entity responsible for paying the bank levy. New regulation 9A is a step in shoes provision and provides that the payment by E is to be treated as though it had been a payment by OM and that the payment is not repayable to E.

Regulation 14 makes consequential amendments to regulation 10 of the principal Regulations as a consequence of CRCA.

Regulation 15 inserts new regulation 10A into the principal Regulations. New regulation 10A requires a company, upon making an instalment payment which includes a sum in respect of the bank levy, to notify an officer of HMRC as to the quantum of the payment in respect of the bank levy and ensures that penalties for non-compliance may be imposed under Part 7 of Schedule 36 to the Finance Act 2008 (c. 9).

Regulations 16 and 17 make consequential amendments to regulations 11 and 12 of the principal Regulations as a consequence of CRCA.

Regulation 18 makes consequential amendments to regulation 13 of the principal Regulations which identifies the circumstances prescribed for the purposes of section 59E of the Management Act.

Regulation 19 repeals regulations 14 and 15 of the principal Regulations.

A Tax Information and Impact Note covering this instrument was published on 23rd March 2011 alongside draft legislation on the bank levy and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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BANK LEVY

CORPORATION TAX

The Corporation Tax (Instalment Payments) (Amendment)
Regulations 2011

£5.75