

2009 No. 3227

CORPORATION TAX

INCOME TAX

STAMP DUTY

STAMP DUTY RESERVE TAX

The Northern Rock plc (Tax Consequences) Regulations 2009

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| <i>Made</i> - - - - | <i>8th December 2009</i> |
| <i>Laid before the House of Commons</i> | <i>8th December 2009</i> |
| <i>Coming into force</i> - - | <i>1st January 2010</i> |

The Treasury make the following Regulations in exercise of the powers conferred by section 10 of the Banking (Special Provisions) Act 2008(a).

Citation and commencement

1. These Regulations may be cited as the Northern Rock plc (Tax Consequences) Regulations 2009 and shall come into force on 1st January 2010.

Interpretation

2. In these Regulations—

“ACo” means Northern Rock plc, company registered number 03273685, or, except in relation to regulation 7, any wholly owned subsidiary of that company;

“BCo” means Gosforth Subsidiary No.1 plc, company registered number 06952311, or any wholly owned subsidiary of that company;

“CTA 2009” means the Corporation Tax Act 2009(b);

“relevant time” means any time when both ACo and BCo are wholly owned by the Treasury;

“relevant transfer” means—

(a) a transfer or novation of any securities, or of any property, rights or liabilities, between ACo and BCo, or

(b) the grant of a lease, sublease, licence or sub-licence by ACo to BCo or by BCo to ACo,

(a) 2008 c. 2.
(b) 2009 c. 4.

in relation to, in connection with, or by or under, the Northern Rock plc Transfer Order 2009(a) at a relevant time.

Chargeable gains: no gain or loss disposal

3.—(1) For the purposes of the Taxation of Chargeable Gains Act 1992(b), a disposal constituted by a relevant transfer is to be treated in relation to ACo and BCo as being for a consideration such that neither a gain nor a loss accrues to the transferor.

(2) For the purposes of any tax provision, paragraph (1) is to be treated as one of the no gain/no loss provisions in section 288(3A) of the Taxation of Chargeable Gains Act 1992(c) (meaning of “the no gain/no loss provisions”).

Corporation tax: trading assets and trading liabilities

4.—(1) For the purposes of Part 3 of CTA 2009 (trading income) (“Part 3”), a relevant transfer of a trading asset or a trading liability is to be treated in relation to ACo and BCo as being for a consideration such that neither a profit nor a loss accrues to the transferor.

(2) For the purposes of this regulation—

“trading asset” means an asset the proceeds of disposal of which would, but for this regulation, be brought into account as a receipt under Part 3 otherwise than in accordance with section 297 (trading credits and debits to be brought into account under Part 3), section 573 (trading credits and debits to be brought into account under Part 3) or section 747 (assets held for purposes of trade) of CTA 2009;

“trading liability” means a liability the payment for the assumption of which would, but for this regulation, be brought into account as an expense under Part 3 otherwise than in accordance with section 297 or section 573 of CTA 2009.

(3) Schedule 28AA to the Income and Corporation Taxes Act 1988(d) (provisions not at arm’s length) does not apply in relation to a relevant transfer to which paragraph (1) applies.

Corporation tax: loan relationships

5.—(1) For the purposes of Chapter 4 of Part 5 of CTA 2009 (continuity of treatment on transfers within groups or on reorganisations), in relation to a relevant transfer, ACo and BCo are to be treated as if, for the purposes of the transfer, they were members of the same group.

(2) But a relevant transfer within paragraph (1) is not to be treated as a case within section 336 of CTA 2009 (transfers of loans on group transactions) for the purposes of section 344 of the Act (introduction).

Corporation tax: intangible assets

6.—(1) For the purposes of Part 8 of CTA 2009 (intangible fixed assets), a relevant transfer of a chargeable intangible asset is to be treated as tax-neutral.

(2) Schedule 28AA to the Income and Corporation Taxes Act 1988 (provisions not at arm’s length) does not apply in relation to a relevant transfer to which paragraph (1) applies.

(3) For the purposes of section 882 of CTA 2009 (application of Part 8 to assets created or acquired on or after 1st April 2002), assets acquired by ACo or BCo on a relevant transfer are to be treated as if they were acquired from a person who at the time of the acquisition is a related party.

(a) S.I. 2009/3226.

(b) 1992 c. 12.

(c) Subsection (3A) was inserted by paragraph 57 of Schedule 2 to the Finance Act 2008 (c. 9).

(d) Schedule 28AA was inserted by Schedule 16 to the Finance Act 1998 (c. 36).

(4) Expressions used in this regulation and Part 8 of CTA 2009 have the same meaning in this regulation as they have in that Part.

Income tax: interest paid by banks

7.—(1) For the purposes of section 878 of the Income Tax Act 2007^(a) (interest paid by banks), ACo is to be treated as a bank in relation to payments of interest made by ACo after 31st December 2009 on any securities or liabilities to which this regulation applies.

(2) This regulation applies to—

(a) securities issued by ACo on or before 31st December 2009, and

(b) liabilities incurred under an agreement entered into by ACo on or before that date,

which are not transferred by a relevant transfer and in relation to which section 878 of the Income Tax Act 2007 applied to payments of interest made on or before 31st December 2009, or would have applied if a payment of interest had been made on or before that date.

Stamp duty

8. No stamp duty is chargeable on an instrument effecting or implementing a relevant transfer.

Stamp duty reserve tax

9.—(1) No stamp duty reserve tax is chargeable on an agreement to transfer chargeable securities made in relation to, in connection with, or by or under, the Northern Rock plc Transfer Order 2009.

(2) In paragraph (1) “chargeable securities” has the meaning given in section 99 of the Finance Act 1986^(b) (interpretation).

Steve McCabe

Dave Watts

8th December 2009

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations deal with the tax consequences of a transfer (“a relevant transfer”) of any securities, or of any property, rights or liabilities, or the grant of a lease, sublease, licence or sub-licence between Northern Rock plc, or a wholly owned subsidiary, (“ACo”) and Gosforth Subsidiary No.1 plc, or a wholly owned subsidiary, (“BCo”), pursuant to an order made under the Banking (Special Provisions) Act 2008 (the Northern Rock plc Transfer Order 2009).

Regulation 1 provides for citation and commencement.

Regulation 2 provides for interpretation.

Regulation 3 provides that for the purposes of the Taxation of Chargeable Gains Act 1992 a disposal constituted by a relevant transfer is to be treated in relation to ACo and BCo, as being for a consideration such that neither a gain nor a loss accrues to the transferor. This regulation also provides that such a disposal is to be treated as one of the no gain/no loss provisions within section 288(3A) of the Taxation of Chargeable Gains Act 1992.

(a) 2007 c. 3.

(b) 1986 c. 41; section 99 has been amended by section 144 of the Finance Act 1988 (c. 39), section 113 of the Finance Act 1990 (c. 29), section 196(5) of the Finance Act 1996 (c. 8), section 151 of the Finance Act 1998, section 118(2) and (4) of, and paragraph 12 of Schedule 19 to, the Finance Act 1999 (c. 16), section 57 of the Finance (No. 2) Act 2005 (c. 22) and S.I. 2001/3629, 2003/2868 and 2009/1890.

Regulation 4 provides that for the purposes of Part 3 of the Corporation Tax Act 2009 (“CTA 2009”) a relevant transfer of “trading assets” or “trading liabilities” is to be treated in relation to ACo and BCo, as being for a consideration such that neither a profit nor a loss accrues to the transferor. A “trading asset” is defined as an asset the proceeds of disposal of which would be brought into account under Part 3 of CTA 2009 but which is not a loan relationship, derivative contract or intangible asset. A “trading liability” is defined as a liability the payment for the assumption of which would be brought into account under Part 3 of CTA 2009 but which is not a loan relationship or derivative contract. The transfer pricing rules are excluded in relation to such a transfer.

Regulation 5 provides for continuity of treatment in relation to loan relationships transferred by a relevant transfer by providing that for the purposes of Chapter 4 of Part 5 of CTA 2009 (continuity of treatment on transfers within groups or on reorganisations), in relation to a relevant transfer, ACo and BCo are to be treated as if, for the purposes of the transfer, they were members of the same group.

Regulation 6 makes provision for the purposes of Part 8 of CTA 2009 (intangible fixed assets). Paragraph (1) provides that a relevant transfer of a chargeable intangible asset is to be treated as a tax-neutral transfer and paragraph (2) excludes the transfer pricing rules in relation to such a relevant transfer. Paragraph (3) makes provision so that Part 8 does not apply in relation to transferred intangible assets which were pre-FA 2002 assets in ACo’s hands.

Regulation 7 provides that ACo shall continue to be treated as a bank for the purposes of section 878 of the Income Tax Act 2007 (interest paid by banks) in relation to payments of interest on any securities or liabilities issued or incurred by ACo on or before 31st December 2009 which are not transferred by a relevant transfer and to which section 878 applied or would have applied on or before 31st December 2009.

Regulation 8 provides that no stamp duty is chargeable on an instrument effecting or implementing a relevant transfer.

Regulation 9 provides that no stamp duty reserve tax is chargeable on an agreement to transfer chargeable securities made in relation to, or in connection with, or by or under, the Northern Rock plc Transfer Order 2009.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.