SPECIAL SAVINGS INCENTIVE ACCOUNTS REGULATIONS, 2001

(S. I. No. 176 of 2001)

ARRANGEMENT OF REGULATIONS

Miscellaneous

The Revenue Commissioners, in exercise of the powers conferred on them by section 848S (inserted by the Finance Act, 2001 (No. 7 of 2001)) of the Taxes Consolidation Act, 1997 (No. 39 of 1997), hereby make the following Regulations:

General

Citation and commencement.

1. (1) These Regulations may be cited as the Special Savings Incentive Accounts Regulations, 2001.

(2) These Regulations shall come into operation on 1 May 2001.

Interpretation.

2. (1) In these Regulations, except where the context otherwise requires—

"annual return" means the return referred to in section 848Q of the Principal Act;

"monthly return" means the return referred to in section 848P of the Principal Act;

"net amount" has the same meaning as it has in section 848P(a)(iii) of the Principal Act;

"PPS Number" has the meaning assigned to it in section 848B(1) of the Principal Act;

"Principal Act " means the Taxes Consolidation Act, 1997;

"qualifying savings manager" has the meaning assigned to it in section 848B(1) of the Principal Act;

“special savings incentive account” has the same meaning as it has in section 848C of the Principal Act;

“tax credit” has the meaning assigned to it in section 848B(1) of the Principal Act.

(2) For the purposes of these Regulations, a special savings incentive account commences on the day the first subscription is made to the special savings incentive account.

(3) A word or expression that is used in these Regulations and is also used in the Tax Acts has, except where the context otherwise requires, the same meaning in these Regulations that it has in those Acts.

(4) In these Regulations–

(a) a reference to a Regulation is to a Regulation of these Regulations, and

(b) a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs,

unless it is indicated that reference to some other provision is intended.

Registration of Qualifying Savings Managers, etc.

Registration.

3. (1) Where a qualifying savings manager applies to the Revenue Commissioners to be registered in accordance with section 848R(5) of the Principal Act, the qualifying savings manager shall do so in a form prescribed by the Revenue Commissioners for that purpose.

(2) (a) Where the Revenue Commissioners are in receipt of an application in accordance with paragraph (1) and they are satisfied that the person making the application is entitled to be registered for the purposes of section 848R(5) of the Principal Act, they shall notify the person in writing that the person has been so registered with effect from the date specified in that notice.

(b) In this paragraph “writing”, in relation to a notification, includes the use of facsimile or electronic means where a record in a permanent or machine retrievable form of the notification is made or kept at the time of notification.

Indemnity.

4. (1) Where at any time, whether before or after a qualifying savings manager has been duly registered, the Revenue Commissioners have reasonable grounds to believe—

(a) that the qualifying savings manager does not have, or no longer has, adequate resources to discharge the obligations imposed on qualifying savings managers by Part 36A of the Principal Act, or

(b) that the qualifying savings manager may fail, or has failed, to materially comply with those obligations,

then, the Revenue Commissioners may require the qualifying savings manager to give a bond or guarantee to the Revenue Commissioners sufficient to indemnify them against any loss arising by virtue of fraud or negligence of the qualifying savings manager in relation to the operation of that Part of that Act.

(2) Where a qualifying savings manager on being so required by the Revenue Commissioners, fails or refuses to indemnify them in the manner set out in paragraph (1), the Revenue Commissioners may –

(a) refuse to register the qualifying savings manager in accordance with section 848R(5) of the Principal Act, or

(b) where the qualifying savings manager has already been registered in accordance with that section, the Revenue Commissioners may cancel such registration in accordance with section 848R(6) of the Principal Act.

Commencing a Special Savings Incentive Account

Declaration on commencement.

5. (1) A qualifying savings manager shall not permit an individual to commence a special savings incentive account unless the qualifying savings manager is in possession of a declaration, of a kind referred to in section 848F of the Principal Act, made by the individual.

(2) Subject to paragraph (3), a declaration of a kind referred

to in paragraph (1) may be completed and signed by an individual who intends to commence a special savings incentive account at any time in the month, or in the immediately preceding month, in which the special savings incentive account commences.

(3) A declaration of a kind referred to in paragraph (1) shall not be completed and signed by an individual at any time before 1 May 2001 or after 30 April 2002.

Verification of PPS Number.

6. The Revenue Commissioners shall include in the guidance notes provided for by Regulation 17 procedures which set out how a qualifying savings manager is to take reasonable measures to establish that a PPS Number, contained in a declaration referred to in Regulation 5(1), is the PPS Number in relation to the individual who completed the declaration.

Monthly returns and payment of net amount

Payment of net amount.

7. (1) (a) The Revenue Commissioners shall establish procedures with each qualifying savings manager who is registered in accordance with section 848R(5) of the Principal Act in relation to the payment of the net amount which is due from or, as the case may be, to the Revenue Commissioners.

(b) The net amount referred to in subparagraph (a) shall be specified in the monthly return to be made by the qualifying savings manager in accordance with section 848P of the Principal Act.

(c) Without prejudice to the generality of paragraph (a), such procedures shall govern the method by which the net amount is to be paid, including the debiting or, as the case may be, crediting by the qualifying savings manager of a specified bank account set up by the Revenue Commissioners for that purpose.

(2) If the Revenue Commissioners are satisfied that the net amount specified in a monthly return made by a qualifying savings manager is payable to the qualifying savings manager, they shall pay that amount to the qualifying savings manager and, if they are not so satisfied, they shall pay any lesser amount which they are satisfied is so payable.

Additional information.

8. In addition to the matters which a qualifying savings manager is required to include in a monthly return under section 848P of the Principal Act, the qualifying savings manager shall also specify in respect of all special savings incentive accounts managed by the qualifying savings manager in that month the aggregate amount of subscriptions made to those accounts in that month.

Correction of errors.

9. (1) Where a qualifying savings manager discovers that the net amount which has been specified in a monthly return is not correct, then, subject to this Regulation, the qualifying savings manager shall take account of that error in the next monthly return required to be made by the qualifying savings manager after that discovery.

(2) (a) Subject to subparagraph (b), where the holder of a special savings incentive account dies, the qualifying

savings manager shall not specify in a monthly return any subscription made to the special savings incentive account subsequent to the date of death.

(b) Where a monthly return includes a subscription which should not have been specified in the return by virtue of subparagraph (a), the qualifying savings manager shall correct that error by accounting for any such subscription and the tax credit in relation to any such subscription in the next monthly return to be made by the qualifying savings manager after the qualifying savings manager is made aware of the death.

(3) (a) Subject to subparagraph (b), where a special savings incentive account is treated as ceasing on any date, the qualifying savings manager shall not include in a monthly return any subscription made to the special savings incentive account subsequent to that date.

(b) Where a monthly return includes a subscription which should not have been specified in the return by virtue of subparagraph (a), the qualifying savings manager shall correct that error by accounting for any such subscription and the tax credit in relation to any such subscription in the next monthly return to be made by the qualifying savings manager after the special savings incentive account has been treated as ceasing.

(4) Where a monthly return made by a qualifying savings manager takes account of an error made in a monthly return

previously made, and the error has not arisen because of the death of the holder of a special savings incentive account or because a special savings incentive account has been treated as ceasing, the qualifying savings manager shall attach to the monthly return, in a form prescribed by the Revenue Commissioners, details of the adjustment which has been made to the monthly return to account for the error.

Cessation of Special Savings Incentive Accounts

Cessation.

10. (1) Where an individual fails to subscribe an amount to the special savings incentive account in the month the special savings incentive account is commenced and in any of the 11 months immediately succeeding that month, which amount was agreed with the qualifying savings manager when the special savings incentive account was commenced, the qualifying savings manager shall, when such failure first occurs, treat the special savings incentive account as ceasing for the purposes of Part 36A of the Principal Act.

(2) Where an individual who has commenced a special savings incentive account subscribes–

(a) in the period from 1 May 2001 to 31 December 2001, an amount greater than £200 in any month, or

(b) on or after 1 January 2002, an amount greater than €254 in any month,

the qualifying savings manager shall on the first day of that month treat the special savings incentive account as ceasing for the purposes of Part 36A of the Principal Act.

(3) Where an individual who has commenced a special savings incentive account informs the qualifying savings manager of the account that he or she is neither resident nor ordinarily resident in the State, the qualifying savings manager shall treat the account as ceasing for the purposes of Part 36A of the Principal Act.

(4) Where an individual who has commenced a special savings incentive account fails to complete the declaration referred to in section 848I of the Principal Act within the period provided for in section 848C(h) of that Act, the qualifying savings manager shall treat the special savings incentive account as ceasing for the purposes of Part 36A of that Act.

(5) Where a qualifying savings manager has reasonable grounds to suspect that—

(a) an individual who has commenced a special savings incentive account was less than 18 years of age at the time the special savings incentive account was commenced,

(b) a person, other than the individual who has commenced a special savings incentive account or the spouse of that individual, is subscribing to the special savings incentive account,

(c) an individual who has commenced a special savings incentive account is funding subscriptions to it from borrowings or the deferral of repayment (whether in respect of capital or interest) of sums already borrowed,

(d) the assets held in a special savings incentive account have been pledged as security for a loan, or

(e) the person who completed the declaration referred to in section 848F of the Principal Act on commencing a special savings incentive account, is not the person who beneficially owns all or any of the assets held in that special savings incentive account,

the qualifying savings manager shall inform the Revenue Commissioners accordingly.

(6) Where the Revenue Commissioners have been informed in accordance with paragraph (5), they shall make such enquires as they consider necessary to determine whether the special savings incentive account in respect of which they have been so informed should be treated as ceasing for the purposes of Part 36A of the Principal Act.

(7) Where in accordance with paragraph (6), or otherwise, the Revenue Commissioners determine that a special savings incentive account should be treated as ceasing at any time, they shall so inform the qualifying savings manager of that special savings incentive account by notice in writing accordingly and on receipt of that notice the qualifying savings manager shall treat the account as ceasing for the purposes of part 36A of the Principal Act, at that time.

Transfer of Special Savings Incentive Accounts

Qualifying savings manager ceasing to act.

11. (1) Where—

(a) an individual commences a special savings incentive account managed by a qualifying savings manager,

(b) the qualifying savings manager acquires qualifying assets to be held in the special savings incentive account, and

(c) the individual does not comply with the terms under which the qualifying assets were acquired,

the qualifying savings manager may, subject to paragraph (2), cease to act as the qualifying savings manager of the special savings incentive account.

(2) Where in accordance with paragraph (1) a qualifying savings manager intends to cease to act as the qualifying savings manager of a special savings incentive account, the qualifying savings manager shall –

(a) not less than 30 days before the qualifying savings manager intends to cease to act, give notice to the individual concerned of that intention, and

(b) inform that individual of their right to transfer the special savings incentive account to another qualifying savings manager.

(3) Where a qualifying savings manager has given notice to an individual in accordance with paragraph (2), and the individual fails or refuses to request the qualifying savings manager to transfer his or her special savings incentive account to another qualifying savings manager, the qualifying savings manager may refuse to accept further subscriptions to the special savings incentive account.

Procedure on transfer.

12. Where arrangements are made by an individual to transfer his or her special savings incentive account from one qualifying savings manager (in this Regulation referred to as the "transferor") to another qualifying savings manager (in this Regulation referred to as the "transferee")—

(a) the transferor shall give to the transferee, within 30 days after the date of the transfer, the notice referred to in section 848N(3) of the Principal Act, in a form prescribed by the Revenue Commissioners, and

(b) the individual shall, on the date of transfer or at any time in the previous 30 days, make a declaration of a kind referred to in section 848O of the Principal Act, to the transferee.

Annual returns

Additional information.

13. In addition to the matters which a qualifying savings manager is required to include in an annual return under section 848Q(a) of the Principal Act, the qualifying savings manager shall also specify in respect of each special savings incentive account managed by the qualifying savings manager, the date of birth of the individual who commenced the special

savings incentive account.

Transferred accounts.

14. Where, during a year of assessment, a special savings incentive account has been transferred from a qualifying savings manager (in this Regulation referred to as the “transferor”) to another qualifying savings manager (in this Regulation referred to as the “transferee”)—

(a) the transferor shall include in the annual return in respect of that year of assessment, the total amount of subscriptions and tax credits in relation to those subscriptions which the transferor included in a monthly return in respect of that year, and

(b) the transferee shall include in the annual return in respect of that year of assessment, the total amount of subscriptions and tax credits in relation to those subscriptions which the transferee included in a monthly return in respect of that year.

Miscellaneous

Delegation.

15. The Revenue Commissioners may nominate any officer of the Revenue Commissioners to perform any acts and discharge any functions authorised by these Regulations to be performed or discharged by the Revenue Commissioners.

Guidance notes.

16. (1) The Revenue Commissioners shall publish guidance notes to assist qualifying savings managers in complying with their statutory obligations in relation to the management of special savings incentive accounts.

(2) The guidance notes referred to in paragraph (1) may be revised by the Revenue Commissioners from time to time.

Given this 30th day of April, 2001.

D. B. Quigley,
Revenue Commissioner.

Explanatory Note

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

These Regulations relate to Special Savings Incentive Accounts introduced in the Finance Act, 2001. They provide procedures whereby the managers of special savings incentive accounts register with the Revenue Commissioners in order to obtain tax credits from the Revenue Commissioners in relation to subscriptions made to special savings incentive accounts managed by them.

In addition, the Regulations also provide procedures to correct errors made in monthly returns; the circumstances where a special savings incentive account is to be treated as ceasing; and the circumstances where a qualifying savings manager can refuse to take further subscriptions to a special savings incentive account.

Finally provision is made for the issue of guidance notes to assist qualifying savings managers to comply with their obligations in relation to the management of special savings incentive accounts.

The Regulations take effect from 1 May 2001.

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