

S. I. No 317 of 2005

R E G U L A T I O N S

entitled

European Communities (Taxation of Savings Income in the form of Interest Payments)

Regulations 2005

Made by the Minister for Finance

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S.I. No. 317 of 2005
European Communities (Taxation of Savings Income in the form of Interest Payments)
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I, Brian Cowen, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive 2003/48/EC of 3 June 2003¹ and Council Decision 2004/587/EC of 19 July 2004², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Taxation of Savings Income in the form of Interest Payments) Regulations 2005.

2. Notwithstanding section 144(3) of the Finance Act 2005 (No. 5 of 2005), section 898P (substituted by subsection (1)(h) of that section 144) of the Taxes Consolidation Act 1997 (No. 39 of 1997) applies on and from 1 July 2005.

3. Chapter 3A (Implementation of Council Directive 2003/48/EC of 3 June 2003 on Taxation of Savings Income in the Form of Interest Payments and Related Matters) of Part 38 of the Taxes Consolidation Act 1997 (No. 39 of 1997) is amended in section 898E, by substituting—

(a) in subsection (1)(g), for subparagraph (iii) the following subparagraph:

“(iii) an undertaking for collective investment established in a territory other than the State or a relevant territory,”

(b) in subsection (1)(h), for subparagraph (iii) the following subparagraph:

¹ OJ No. L 157, 26.6.2003, p. 38.

² OJ No. L 257, 8.8.2004, p. 7.

“(iii) an undertaking for collective investment established in a territory other than the State or a relevant territory.”,

(c) for subsection (5) the following subsection:

“(5) Income referred to in paragraphs (g) and (h) of subsection (1) shall not be regarded as an interest payment in the case of such income from a UCITS (being an undertaking for collective investment in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989 (S. I. No. 78 of 1989)) or a deemed UCITS (being a person established in the State) where the UCITS or deemed UCITS investment either directly or indirectly, via an entity referred to in subparagraph (i), (ii) or (iii) of paragraph (g) of subsection (1) or a residual entity, in assets referred to in paragraphs (a) to (h) of subsection (1) does not exceed 15 per cent of its total assets.”,

and

(d) in subsection (7)(b), for subparagraph (i) the following subparagraph:

“(i) a residual entity established in the State where the residual entity’s investment either directly or indirectly, via an entity referred to in subparagraph (i), (ii) or (iii) of paragraph (g) of subsection (1) or another residual entity, in

assets referred to in subsection (1) does not exceed 15 per cent of the total investments of the residual entity, and”.

GIVEN under my Official Seal,

28th June 2005.

Brian Cowen
Minister for Finance.

Explanatory Note

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

These Regulations, made under the European Communities Act 1972, relate to the legislation contained in Chapter 3A of Part 38 of the Taxes Consolidation Act 1997 dealing with the implementation in Ireland of Council Directive 2003/48/EC of 3 June 2003 on the taxation of savings income in the form of interest payments (referred to as the Savings Tax Directive) and Council Decision 2004/587/EC of 19 July 2004 on the date of application of Council Directive 2003/48/EC.

Regulation 1 provides for the citation of the Regulations.

Regulation 2 ensures that the Irish legislation implementing the Savings Tax Directive will apply to interest payments made from Ireland to individuals resident in the dependent and associated territories of the UK and the Netherlands that have put in place arrangements to ensure that either exchange of information with Ireland takes place on an automatic basis in respect of interest payments made from those territories to Irish residents or that a withholding tax will apply to interest payments made from those territories to residents of Ireland as and from 1 July 2005. Such arrangements to apply from 1 July 2005 have been put in place by all the relevant dependent and associated territories.

Regulation 3 amends the implementing legislation contained in Chapter 3A of Part 38 of the Taxes Consolidation Act 1997 in a number of respects.

Paragraphs (a) and (b) amend an incorrect reference which includes a collective investment undertaking established in Ireland within the terms of the provisions. The intention was to exclude such entities.

Paragraphs (c) and (d) amends the Irish legislation implementing the Savings Tax Directive to reflect the correct interpretation of the derogations contained in article 6.6 of the Savings Directive.