

2010 No. 2913

INCOME TAX

CORPORATION TAX

**The London Olympic Games and Paralympic Games Tax
Regulations 2010**

<i>Made</i>	- - - -	<i>7th December 2010</i>
<i>Laid before the House of Commons</i>		<i>8th December 2010</i>
<i>Coming into force</i>	- -	<i>1st January 2011</i>

The Treasury, in exercise of the powers conferred by section 68 of the Finance Act 2006^(a) and sections 966(6) and 970(5) of the Income Tax Act 2007^(b), make the following Regulations.

Citation and commencement

1. These Regulations may be cited as the London Olympic Games and Paralympic Games Tax Regulations 2010 and come into force on 1 January 2011.

Interpretation

2.—(1) In these Regulations—

“accreditation card” means an Olympic Identity and Accreditation Card, or a Paralympic Identity and Accreditation Card, issued and validated by LOCOG;

“CAS” means the Court of Arbitration for Sport;

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

“CTA 2010” means the Corporation Tax Act 2010^(d);

“IF” means an organisation recognised by the IOC as an International Federation;

“IOC” means the International Olympic Committee;

“IPC” means the International Paralympic Committee;

“IPSF” means an organisation recognised by the IPC as an International Paralympic Sport Federation;

“ITA 2007” means the Income Tax Act 2007;

“ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003^(e);

(a) 2006 c. 25. Section 68(1)(d) was amended by paragraphs 601 and 614 of Part 2 of Schedule 1 to the Income Tax Act 2007 (c. 3).

(b) 2007 c. 3.

(c) 2009 c. 4.

(d) 2010 c. 4.

(e) 2003 c. 1.

“ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005(a);
“LOCOG” means the London Organising Committee of the Olympic Games and Paralympic Games Limited registered at Companies House under Company No. 05267819;
“London 2012” means the Olympic Games and Paralympic Games;
“NOC” means a National Olympic Committee recognised by the IOC;
“NPC” means a National Paralympic Committee recognised by the IPC;
“Olympic Games” means the Games of the XXX Olympiad that are to take place in 2012;
“Paralympic Games” means the Games of the XIV Paralympics that are to take place in 2012;
“WADA” means the World Anti-Doping Agency.

(2) In these Regulations “income” means—

- (a) employment income as defined by section 7(2) of ITEPA 2003 (meaning of employment income), including income that would be employment income but for the provisions of regulation 3;
- (b) profits of a trade, profession or vocation that are chargeable under section 5 (charge to tax on trade profits), section 229 (adjustment income: income charged) and section 242 (charge to tax on post-cessation receipts) of ITTOIA 2005;
- (c) annual payments that are chargeable under section 683 of ITTOIA 2005 (annual payments not otherwise charged); and
- (d) income that is chargeable under section 687 of ITTOIA 2005 (income not otherwise charged);

including profits, annual payments and income that would be so chargeable but for the provisions of regulation 3.

(3) In regulations 4(1)(b), 6(1)(b) and 7(1)(b)—

- (a) a payment or transfer is made to the individual carrying out the London 2012 activity where it is made to that individual or where it is treated for income tax purposes as made to that individual in the course of a trade, profession or vocation pursuant to section 13(5) of ITTOIA 2005(b) (visiting performers: treatment of payment or transfer);
- (b) a payment or transfer is connected with a London 2012 activity where the London 2012 activity is a relevant activity for the purposes of section 13 of ITTOIA 2005 (visiting performers) and the payment or transfer has a connection of the prescribed kind with that activity pursuant to that section(c).

Exemption from income tax etc

3.—(1) Income to which regulation 4, 6, 7 or 8 applies—

- (a) shall not be taxable earnings or taxable specific income as defined by section 10 of ITEPA 2003(d) (meaning of “taxable earnings” and “taxable specific income”);
- (b) shall be exempt from income tax that would otherwise be chargeable on that income under—
 - (i) section 5 (charge to tax on trade profits), section 229 (adjustment income: income charged) and section 242 (charge to tax on post cessation receipts) of ITTOIA 2005;
 - (ii) section 683 of ITTOIA 2005 (annual payments); or
 - (iii) section 687 of ITTOIA 2005 (income not otherwise charged).

(a) 2005 c. 5.

(b) Section 13 was amended by paragraphs 492 and 495 of Part 2 of Schedule 1 and Part 1 of Schedule 3 to ITA 2007.

(c) For the purposes of section 13 of ITTOIA 2005 regulation 3 of the Income Tax (Entertainers and Sportsmen) Regulations 1987 (SI 1987/530) sets out the circumstances in which a payment or transfer has a connection of a prescribed kind with a relevant activity and regulation 6 provides the meaning of “relevant activity”.

(d) Section 10(2) was amended by paragraphs 2, 4(1) and 4(2) of Part 1 of Schedule 7 to the Finance Act 2008 (c. 9). Section 10(4) was inserted by paragraphs 2, 4(1) and 4(3) of Part 1 of Schedule 7 to the Finance Act 2008.

(2) A payment or transfer to which regulation 4, 6 or 7 applies is exempt from income tax that would otherwise be chargeable on that payment or transfer by virtue of section 13 of ITTOIA 2005 (visiting performers).

(3) Sections 900 and 901(a) (duty to deduct from annual payments) and section 966 (duty to deduct and account for sums representing income tax) of ITA 2007 do not apply to income, a payment or transfer to which regulation 4, 6, 7 or 8 applies.

(4) This regulation is subject to regulations 9 and 11.

Accredited individual

4.—(1) This regulation applies to—

- (a) income received by an individual to whom regulation 5 applies where that income is received wholly and exclusively in return for that individual carrying out a London 2012 activity in the UK during the relevant period;
- (b) a payment or transfer—
 - (i) connected with a London 2012 activity carried out in the UK during the relevant period by an individual to whom regulation 5(2)(a) or (b) applies; and
 - (ii) made to the individual carrying out that London 2012 activity.

(2) In this regulation and regulation 5 “London 2012 activity” means—

- (a) in relation to a competitor—
 - (i) performing in a sporting event at London 2012; or
 - (ii) activity primarily to support or promote London 2012, the Olympic or Paralympic Movement;
- (b) in relation to any other individual to whom regulation 5 applies the activity necessary to perform the London 2012 function listed in regulation 5—
 - (i) for which that individual receives an accreditation card; or
 - (ii) for which that individual would have received an accreditation card if it were his or her only London 2012 function.

(3) In this regulation “relevant period” means 30th March 2012 to 8th November 2012.

Accredited individual: London 2012 functions

5.—(1) This regulation applies to an individual who—

- (a) is neither resident nor ordinarily resident in the UK in the tax year during which the London 2012 activity is carried out;
- (b) has an accreditation card; and
- (c) has one or more of the London 2012 functions specified in paragraph (2).

(2) The London 2012 functions are—

- (a) competitor;
- (b) media worker;
- (c) representative of an Official Body;
- (d) service technician;
- (e) team official;
- (f) technical official.

(3) In this regulation—

(a) Section 901(4) was amended by paragraphs 1 and 29 of Part 1 of Schedule 1 to the Finance Act 2008 (c. 9).

“competitor” means an individual who has been entered by a NOC or NPC to perform in a sporting event which forms part of London 2012;

“media worker” means a media manager, a media producer, a media technician, a media support worker, a radio or television worker or a written, photographic or electronic journalist;

“Official Body” means a Sovereign, a Head of State, a Government, a NOC, a NPC, a city that has been selected by the IOC or IPC to host a future Olympics and Paralympics or Youth Olympics, a city that has been selected by the IOC or IPC to be a candidate to host a future Olympics and Paralympics or Youth Olympics, a city that the IOC or IPC recognises as an applicant to host a future Olympics and Paralympics or Youth Olympics, the IOC, the IPC, an IF, an IPSF, CAS or WADA;

“representative of an Official Body” means an individual who represents, is part of the support staff of, or is a closing ceremony production worker of, an Official Body, or provides observer, drug testing, analysis or arbitration services to CAS or WADA;

“service technician” means an individual who repairs, operates or maintains the equipment on which competitors rely for their performance or safety;

“team official” means an individual who is part of the reserve athlete, support athlete, coaching, technical, carer or medical staff of a NOC or NPC;

“technical official” means an individual who has been selected by LOCOG, an IF or IPSF to officiate at London 2012 and includes technical delegates, classifiers, judges and referees.

Ceremony performer

6.—(1) Where an individual is neither resident nor ordinarily resident in the UK in the tax year during which he or she carries out a London 2012 activity, this regulation applies to—

- (a) income received by that individual wholly and exclusively in return for that activity;
- (b) a payment or transfer connected with that activity and made to the individual carrying out that activity.

(2) In this regulation “London 2012 activity” means a performance at, or at the rehearsal of, an opening or closing ceremony of London 2012.

RHB worker and OBS worker

7.—(1) Where a RHB worker or an OBS worker carries out a London 2012 activity in the UK during the relevant period this regulation applies to—

- (a) income received by that worker wholly and exclusively in return for carrying out that activity;
- (b) a payment or transfer connected with that activity and made to the individual carrying out that activity.

(2) A RHB worker is an individual who is neither resident nor ordinarily resident in the UK in the tax year during which the London 2012 activity is carried out and is—

- (a) employed by a RHB;
- (b) directly contracted to work for a RHB; or
- (c) employed by a person that is directly contracted to work for a RHB.

(3) An OBS worker is an individual who is neither resident nor ordinarily resident in the UK in the tax year during which the London 2012 activity is carried out and is—

- (a) employed by the OBS;
- (b) directly contracted to work for the OBS; or
- (c) employed by a person that is directly contracted to work for the OBS.

(4) In this regulation—

“London 2012 activity” means activity which is necessary for the broadcast of London 2012;

“OBS” means the organisation responsible for producing international television and radio signals and providing broadcasters with the facilities and services necessary for broadcasting London 2012 (the Olympic Broadcasting Services);

“relevant period” means 6th April 2011 to 5th April 2013;

“RHB” means an organisation to whom the IOC or LOCOG has granted the exclusive television, Internet or radio rights to broadcast the Olympic Games or the Paralympic Games in a particular territory (a Rights-Holding Broadcast Organisation).

London 2012 Partner worker

8.—(1) This regulation applies to income received by a London 2012 Partner worker, wholly and exclusively in return for carrying out a London 2012 activity in the UK during the relevant period.

(2) A London 2012 Partner worker is an individual who is neither resident nor ordinarily resident in the UK in the tax year during which the London 2012 activity is carried out and—

- (a) is employed by a London 2012 Partner; or
- (b) holds an accreditation card, or is providing timing, scoring or on-venue result services, and is—
 - (i) directly contracted to work for a London 2012 Partner; or
 - (ii) employed by a person that is directly contracted to work for a London 2012 Partner.

(3) A London 2012 Partner is a Commercial Delivery Partner or a connected person to that Commercial Delivery Partner.

(4) A Commercial Delivery Partner is a person that—

- (a) holds a London 2012 association right;
- (b) has been granted a paragraph 4 authorisation; and
- (c) provides services to LOCOG, for the purposes of delivering London 2012, wholly or partly in return for which it receives its paragraph 4 authorisation.

(5) In this regulation—

“connected person” has the meaning given by section 1122 and 1123 of CTA 2010 (“connected” persons);

“London 2012 association right” means a London Olympics association right as defined by paragraph 1 of Schedule 4 to the London Olympic Games and Paralympic Games Act 2006(a);

“London 2012 activity” means a service provided to LOCOG, for the purposes of delivering London 2012, wholly or partly in return for which a Commercial Delivery Partner receives its paragraph 4 authorisation;

“paragraph 4 authorisation” means authorisation by LOCOG under paragraph 4 of Schedule 4 to the London Olympic Games and Paralympic Games Act 2006 to market and advertise themselves or their products for commercial purposes by reference to their association with London 2012;

“relevant period” means 30th March 2012 to 8th November 2012.

Exclusion of certain income, payments or transfers

9.—(1) Regulation 3 does not apply to income, a payment or transfer in the circumstances set out in paragraph (2) or (3).

(a) 2006 c. 12. Paragraph 1 of Schedule 4 was amended by articles 3(1), 3(2)(d) and 5 of and paragraph 6(1)(t) of the Schedule to the Transfer of Functions (Olympics and Paralympics) Order 2007 (2007/2129) and by article 11 of and paragraph 8(1)(t) of Part 1 of the Schedule to the Secretary of State for Culture, Olympics, Media and Sport Order 2010 (2010/1551).

(2) Where the income, payment or transfer arises in relation to a competitor performing in a sporting event of the Olympic Games, as a result of—

- (a) a contract entered into on or after the 25th July 2012; or
- (b) any amendment, on or after the 25th July 2012, of a contract entered into before the 25th July 2012.

(3) Where the income, payment or transfer arises in relation to a competitor performing in a sporting event of the Paralympic Games, as a result of—

- (a) a contract entered into on or after the 29th August 2012; or
- (b) any amendment, on or after the 29th August 2012, of a contract entered into before the 29th August 2012.

(4) In this regulation “competitor” has the same meaning as in regulation 5.

Permanent establishment

10.—(1) Activity carried out for which income is received or a payment or transfer is made to which regulation 4, 7 or 8 (as modified by paragraph (3)) applies will not create a permanent establishment of the employer of the individual carrying out the activity for the purposes of section 5(2) of CTA 2009 (territorial scope of charge).

(2) Income received by the employer of the individual for carrying out activity to which paragraph (1) applies is exempt from income tax that would otherwise be chargeable on that income by virtue of section 6(2) of ITTOIA 2005 (territorial scope of charge to tax).

(3) For the purposes of this regulation—

- (a) in regulation 7—
 - (i) a RHB worker or an OBS worker includes an individual who is resident or ordinarily resident in the UK in the tax year during which the activity is carried out;
 - (ii) the relevant period is 30th March 2012 to 8th November 2012.
- (b) in regulation 8—
 - (i) a London 2012 Partner worker who is providing timing, scoring or on-venue result services includes an individual who is resident or ordinarily resident in the UK in the tax year during which the activity is carried out;
 - (ii) the relevant period for the activity of providing timing, scoring or on-venue result services is 1st January 2011 to 31st December 2012.

(4) This regulation is subject to regulation 11.

Tax avoidance

11.—(1) Regulation 3 does not apply if conditions A and B are met.

- (a) Condition A is that arrangements have been made which, but for this regulation would result in a person obtaining an exemption under regulation 3 in respect of income, a payment or transfer.
- (b) Condition B is that those arrangements have, or form part of arrangements which have, as their main purpose, or one of their main purposes, the obtaining of that exemption.

(2) Regulation 10(1) does not apply if conditions C and D are met.

- (a) Condition C is that arrangements have been made which, but for this regulation would result in a person obtaining the benefit of regulation 10(1) in respect of an activity.
- (b) Condition D is that those arrangements have, or form part of arrangements which have, as their main purpose, or one of their main purposes, the obtaining of that benefit.

(3) Regulation 10(2) does not apply if conditions E and F are met.

- (a) Condition E is that arrangements have been made which, but for this regulation would result in a person obtaining an exemption under regulation 10(2) in respect of income, a payment or transfer.
- (b) Condition F is that those arrangements have, or form part of arrangements which have, as their main purpose, or one of their main purposes, the obtaining of that exemption.

Michael Fabricant
Brooks Newmark

7th December 2010

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 2011, implement tax commitments made by the UK in bidding to host the Olympic and Paralympic Games (“the Games”). The Regulations exempt from income tax the income and profits of specified individuals who come to the UK temporarily to take part in or assist in the hosting of the Games. They also prevent the activities of certain of those individuals from creating a permanent establishment of their employer for corporation tax purposes, if one does not already exist.

Regulation 1 provides for citation and commencement.

Regulation 2 details how terms used throughout the Regulations should be interpreted.

Regulation 3 provides exemptions from the charge to income tax for certain income, payments or transfers. It also removes the duty to deduct an amount representing income tax from certain payments or transfers to which these Regulations apply.

Regulations 4 to 8 specify the individuals and their activities whose income, payments or transfers will be exempt from income tax under regulation 3.

Regulation 9 provides that certain of the competitors’ exemptions from income tax under regulation 3 will not apply to income, a payment or transfer received as a result of a contract entered into, or an amendment to a contract made, after the commencement of the Games relevant to that competitor.

Regulation 10 provides that the activity for which specified individuals receive income, a payment or transfer which is exempt from income tax under regulation 3 will not create a permanent establishment of their employer for corporation tax purposes. It also provides that the employer will be exempt from income tax that otherwise may have been chargeable.

Regulation 11 provides that persons will not be entitled to the exemption under regulation 3, or the exemption under or benefit of regulation 10, where the arrangements have as their main purpose, or one of their main purposes, the obtaining of that exemption or benefit.

A full and final Impact Assessment has not been prepared for these Regulations as a negligible impact on the private or voluntary sectors is foreseen.

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