

2014 No.

TAXES

The Promoters of Tax Avoidance Schemes (Prescribed Circumstances) Regulations 2014

Made - - - - 2014
Laid before the House of Commons 2014
Coming into force - - [*] 2014

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 235(6) and (7) and 233(1) of the Finance Act 2014(a).

Citation, commencement and effect

1.—(1) — These Regulations may be cited as the Promoters of Tax Avoidance Schemes (Prescribed Circumstances) Regulations 2014 and come into force on XXX 2014.

(2) Regulations 2 and 3 have effect from 17 July 2014.

Company in same group not promoter

2.—(1) A company (“company A”) is not a promoter to the extent that—

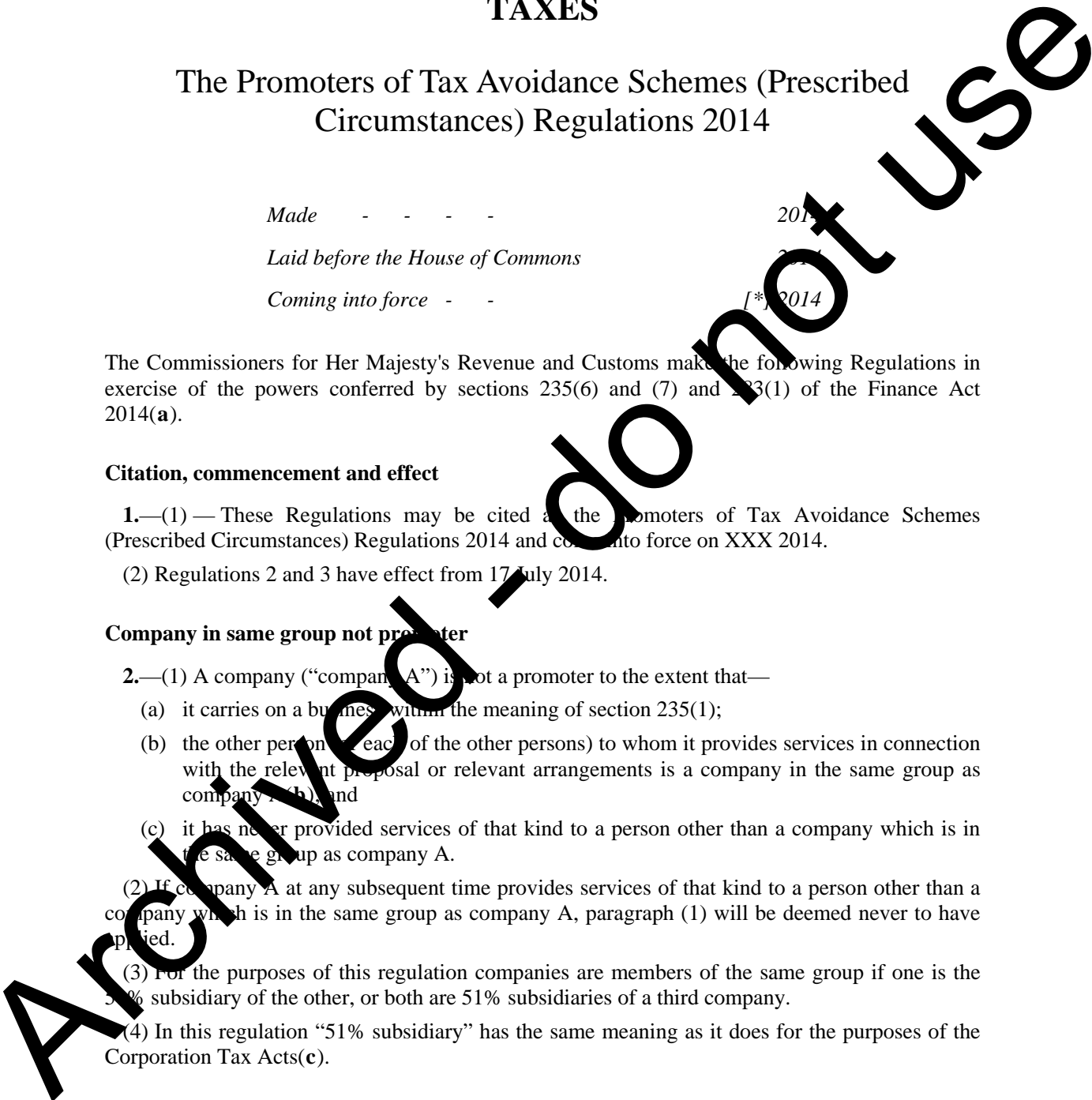
- (a) it carries on a business within the meaning of section 235(1);
- (b) the other person (or each of the other persons) to whom it provides services in connection with the relevant proposal or relevant arrangements is a company in the same group as company A; and
- (c) it has never provided services of that kind to a person other than a company which is in the same group as company A.

(2) If company A at any subsequent time provides services of that kind to a person other than a company which is in the same group as company A, paragraph (1) will be deemed never to have applied.

(3) For the purposes of this regulation companies are members of the same group if one is the 51% subsidiary of the other, or both are 51% subsidiaries of a third company.

(4) In this regulation “51% subsidiary” has the same meaning as it does for the purposes of the Corporation Tax Acts(c).

(a) 2014 c.26.
(b) See section 234(1) and (2) for the definitions of “relevant proposal” and “relevant arrangements”.
(c) See sections 1154 to 1157 of the Corporation Tax Act 2010 (c.4) for the definition of “51% subsidiary” for the purposes of the Corporation Tax Acts.



Persons not promoters – special cases

3.—(1) A person is not a promoter on account of section 235(2)(a), or by virtue of being responsible to any extent for the design of arrangements within the meaning of section 235(3)(b), where any of the following conditions are met.

(2) The person is not a bank or securities house, and does not provide any tax advice in connection with the respective proposed arrangements or arrangements.

(3) The person could not reasonably be expected to know that the proposed arrangements, or arrangements, are a relevant proposal or relevant arrangements respectively.

(4) In this regulation “bank” and “securities house” have the same meaning as in section 1009(3) of the Corporation Tax Act 2010(a).

Date 2014

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe circumstances in which a person is not to be treated as a promoter in relation to tax avoidance schemes for the purposes of Part 5 of the Finance Act 2014 (the “2014 Act”).

Regulation 2 prescribes circumstances in which a company is not to be a promoter. The circumstances prescribed are those in which the promoter and the company to whom services relating to tax avoidance schemes are provided are members of the same group (on the condition that the promoter has never provided that kind of services to a person who is not a group company). However, if the company goes on to provide services outside of a group then this exclusion will be deemed never to have applied.

Regulation 3 prescribes the circumstances in which a person to some extent responsible for the design of proposed arrangements or arrangements is not to be a promoter because of section 235(2)(a) or (3)(b).

Regulations 2 and 3 have retrospective effect from 17 July 2014 (the date of Royal Assent of the Finance Act 2014). Power to make legislation with retrospective effect is contained in section 235(7).

A Tax Information and Impact Note covering this instrument was published on 17 July 2014 and is available on the HMRC website at <https://www.gov.uk/government/publications/promoters-of-tax-avoidance-schemes>. It remains an accurate summary of the impacts that apply to this instrument.

(a) 2010 c.4. Section 1120 (to which section 1009(3) refers) was amended by paragraph 12 of the Schedule to S.I. 2013/636 and by paragraph 129 of Schedule 18 to the Financial Services Act 2012 (c.21). Further amendment is to be made by section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (c.7) on a date to be appointed.