

## Guidance note for TMA section 17 return 2008/09

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### Contents

<b>1.</b>	<b>Glossary .....</b>	<b>3</b>
<b>2.</b>	<b>Section 17 reports 2008/09 .....</b>	<b>5</b>
2.1	Reporting for previous years and other types of reports .....	5
2.2	Background .....	5
2.3	Law regarding returns of interest paid.....	6
2.4	Enquiries, Help Visits and Flowchart.....	6
<b>3.</b>	<b>Returns .....</b>	<b>7</b>
3.1	Who makes returns? .....	7
3.2	Delegation of the responsibility to make a return.....	7
3.3	When are notices issued? .....	7
3.4	Contact with HMRC.....	8
3.5	Link to the HMRC website.....	8
3.6	Format of the return.....	8
3.7	Data Protection Act .....	9
3.8	What is the time limit for making returns? .....	9
3.9	Penalties.....	10
<b>4.</b>	<b>What is reportable? .....</b>	<b>11</b>
4.1	Which accounts must you report on? .....	11
4.2	Reporting on persons and bodies of persons, other than individuals .....	11
4.3	What information must be included? .....	12
4.4	What interest should not be included on the return? .....	13
4.5	Designated client accounts .....	14
4.6	Invalid ISAs and PEPs .....	14
4.7	Approved Pension Schemes (now registered schemes) .....	14
4.8	Addresses.....	15
4.8.1	Customers with more than one address .....	15
4.8.2	Changes of address .....	16
4.8.3	Closed accounts.....	16
4.8.4	P.O. Box addresses .....	16
4.8.5	BFPO and C/o addresses .....	16
4.8.6	'Hold Mail' addresses .....	17
4.8.7	Whereabouts unknown .....	17
4.9	R85 cases.....	17
4.10	R105 cases .....	18
4.10.1	Declaration on R105 form received on or before 5 April 2001 .....	19
4.10.2	Declaration on R105 form received on or after 6 April 2001 .....	19
4.11	Investors with more than one account .....	19
<b>5.</b>	<b>Particular cases .....</b>	<b>21</b>
5.1	Partnership and joint accounts.....	21
5.2	Professional partnerships.....	21
5.3	Foreign currency accounts .....	22
5.4	Reporting on Trusts.....	22
5.5	Deceased Investors.....	23
<b>6.</b>	<b>Audit .....</b>	<b>24</b>
6.1	Systems and controls .....	24
6.2	Accuracy of returns .....	24
6.3	Completeness .....	24
6.4	Independent audit of excluded accounts.....	24
6.5	Results.....	25
6.6	Retention of records .....	25

## Guidance note for TMA section 17 return 2008/09

---

<b>7.</b>	<b>European Savings Directive (ESD)</b> .....	<b>26</b>
7.1	Interaction between section 17 reporting and ESD.....	26
7.2	Time limits for combined ESD and section 17 returns .....	26
<b>8.</b>	<b>Data Protection and security of returns</b> .....	<b>27</b>
8.1	Your responsibilities under the Data Protection Act 1998 (DPA).....	27
8.2	What encryption do HMRC use?.....	27
8.3	What encryption can HMRC accept? .....	27
8.4	Where should I send the Password for my self-decrypting file? .....	28
8.5	Are other methods going to be available?.....	28
8.6	What if I want to use the spreadsheet?.....	28
<b>9.</b>	<b>Annex A</b> .....	<b>30</b>
9.1	List of Organisations and Communities (referred to in paragraph 4.4).....	30
<b>10.</b>	<b>Appendix 1 What to put on the return</b> .....	<b>31</b>

### 1. Glossary

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AIF	Authorised Investments Funds – financial products including AUTs, OEICs and any others that may be covered by the Authorised Investment Funds (Tax) Regulations 2006 SI 2006/964:
AUT	Authorised Unit Trust – a financial product for which a form R105(AUT) is sometimes used to show the beneficial recipient of the interest is NOR and eligible to receive interest gross (i.e. without deduction of tax) (see paragraph 4.10);
OEIC	Open Ended Investment Company – a financial product for which a form R105(OEIC) is sometimes used to show that the beneficial recipient of the interest is NOR and eligible to receive interest gross (i.e. without deduction of tax) (see paragraph 4.10);
ESD	European Savings Directive – EU agreement (2003/48/EC) which is transposed into UK law as the Reporting of Savings Income Information Regulations 2003 (SI 2003/3297) reports via SIR (see below);
FR	Fully Reportable – if you pay interest to an individual investor who is resident in a fully reportable country you must include them on your section 17 return.
HMRC	Her Majesty’s Revenue and Customs “us” in these notes;
LRT	Lower rate tax;
NINOs	National Insurance Numbers;
NOR	Not Ordinarily Resident in the UK (see R105 below);
Person	a legal person. In this guidance covers companies, associations and clubs as well as individuals. For partnerships, see paragraph 5.1;
PIBS	Permanent Interest Bearing Shares – interest on these may be reported using the section 17 rules rather than section 18 ones (see paragraph 3.1);
PT	Prescribed Territories. The EU version of FR. Reports under ESD must be made of interest paid to persons living in prescribed territories (see SIR guidance notes for a list);
R85	An HMRC form signed by an individual who does not ordinarily pay tax in the UK. Their interest is paid to them gross of LRT. See paragraph 4.9.
R105	An HMRC form in which a person declares themselves to be NOR. (See AIF above and paragraph 4.10).

## Guidance note for TMA section 17 return 2008/09

---

- SIR Savings Income Returns – those returns made under the Reporting of Savings Income Information Regulations 2003 (SI 2003/3297) (see section 7).
- TMA Taxes Management Act 1970 - the primary law covering the main themes and powers for Income Tax and Corporation Tax.

**Note:** We use phrases such as “you need not report here” or “do not report” in several places in these notes. In each place it means, “You need not report on a return made under section 17 TMA 1970”. Information you do not need to report under section 17 you **might** need to report on another return, e.g. under section 18 TMA 1970 or the ESD. The phrase does **not** mean that just because the information is not reportable on your section 17 return you do not need to report it to HMRC at all.

### LATEST INFORMATION

**We try and provide you with the most up-to-date information. It is possible, however, that we may need to make changes at short notice or add further help to the website after this guidance note has been published. Where we do make changes after publication we will bring them to your attention in the notice we send you to tell you that you must make a return.**

### 2. Section 17 reports 2008/09

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#### 2.1 Reporting for previous years and other types of reports

**These notes only relate to reporting information to HMRC under section 17 for the tax year 2008/09.** Guidance on reporting for 2007/08 is on our website (see link in paragraph 3.5). The latest version of the guidance note for reporting under the ESD is also on our website, at: [www.hmrc.gov.uk/esd-guidance/sir-guidance.pdf](http://www.hmrc.gov.uk/esd-guidance/sir-guidance.pdf).

#### 2.2 Background

People and businesses receive interest on their investments and savings. They may declare such interest on their tax returns and pay any tax due. Section 17 of the Taxes Management Act 1970 ('TMA') (see paragraph 2.3) allows HMRC to require returns of the interest paid or credited so that we/ our computers can compare the interest received with that declared on tax returns. The information we receive on individuals in some countries outside the UK - the Fully Reportable (FR) countries - is exchanged with the Tax Authorities in those countries. Those Authorities send us details of UK resident people who have received interest in their country.

We tell you when we want you to make a return by sending you a notice. We issue such notices to banks, building societies and other deposit takers who, in the ordinary course of their business, receive or retain money on which interest becomes payable. Generally, we send out the notices at the end of February (see paragraph 3.3). The notice requires that you make a return of interest you have paid or credited and the persons to whom you have paid or credited it over the tax year specified in the notice. You must report your information in one of the formats we specify in the notice. You have an obligation under the Data Protection Act 1998 (see paragraph 3.7) to protect the information while it is on its way to us.

We now include in notices to report under section 17 a reminder to make a report of European savings income (see section 7). In general terms both reports can be combined but each will contain different types of information.

**Throughout these notes you should take the meaning of 'interest' to include dividends paid by building societies.**

#### 2.3 Law regarding returns of interest paid

The primary law under which these returns must be made is section 17 of the Taxes Management Act 1970. It allows us to make regulations on how the returns system will operate. These regulations are called the Income Tax (Interest Payments) (Information Powers) Regulations 1992 (SI 1992/15 as amended). The definitions of Alternative Financial Arrangements, such as accounts compatible with Sharia law, are laid down in sections 46-57 of the Finance Act 2005. Paragraph 2 of schedule 2 to that act lays down that alternative finance returns and profit share returns are to be treated in the same way as interest for section 17 TMA.

These notes are based on our view of what the law means. They set out how we apply the section 17 rules. They are to help those who get notices under section 17 to send in returns that are accurate and on time.

#### 2.4 Enquiries, Help Visits and Flowchart

If, after reading these notes, you feel you need further advice please see the contacts information on our website (see link in paragraph 3.5). Deposit-takers or building societies, in particular those who have not made these information returns before, can request a help visit by contacting us at the address shown in paragraph 3.4.

The flowchart at Appendix 1 shows when you must make a return and what to report on it.

### 3. Returns

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#### 3.1 Who makes returns?

Every person who receives a section 17 notice must make a return. Sometimes you may also receive a notice under section 18 TMA. If this is the case, you must not report the interest under section 18 if the information has been or will be reported under section 17.

The following types of interest, which should normally be reported under section 18 TMA, may be switched to your section 17 return using the section 17 format and guidance:-

- **Building societies** that pay interest on 'Permanent Interest Bearing Shares' (PIBS);
- **Local Authorities** reporting interest paid or credited to individuals; and,
- **National Savings & Investments** reporting interest paid on some of their products.

The Guidance note for making section 18 returns is available separately on our website (see link in paragraph 3.5).

#### 3.2 Delegation of the responsibility to make a return

If you receive a notice to make a return, you can arrange for a third party to complete it on your behalf. **You**, however, remain responsible that the return gets to us on time and is accurate.

#### 3.3 When are notices issued?

We normally issue notices in the February before the end of the tax year that they relate to, for example, the 2006/07 notices were sent out at the end of February 2007. We can, however, issue notices at any time up to three years after the end of the tax year. If you think that you may still receive a notice to report you should retain your records for three years from the end of the tax year.

The notice we send you will include instructions about where to send your completed return.

#### 3.4 Contact with HMRC

You can make your returns on magnetic media (tape or disk) or paper. You must send in magnetic media return using the format we specify on our website(see link in paragraph 3.5) . You can also get a copy from:

Audit Unit (Information Returns)  
HM Revenue and Customs  
St Johns House  
Merton Road  
LIVERPOOL  
L75 1BB

Dorinda Jack  
(Technical Queries)  
HM Revenue and Customs  
IMS Security  
Langley House  
Benton Park View  
NEWCASTLE UPON TYNE  
NE98 1ZZ

Centre for Research & Intelligence (CRI)  
HM Revenue and Customs  
Data Capture Unit  
Ground Floor  
Ty Glas Road  
Llanishen  
CARDIFF  
CF14 5ZG  
Tel: **0292 032 7373**

Tel: **0151 472 6136 or 6129**  
Fax: **0151 472 6124**

Tel: **0191 225 7016**  
email via HMRC website

#### 3.5 Link to the HMRC website

All the help, guidance notes and forms you will need to make a prompt and timely return are on our website at:

[www.hmrc.gov.uk/esd-guidance/s17-s18-si-reporting.htm](http://www.hmrc.gov.uk/esd-guidance/s17-s18-si-reporting.htm)

## Guidance note for TMA section 17 return 2008/09

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### 3.6 Format of the return

We will accept data on ½" tape, 3.5" floppy disks, CD-ROM, DVD, USB datastick or paper. You may make your report on a single disk or separate disks can be sent for each FR country. Once we have received and uploaded your data we degauss tapes and datasticks to completely remove all data and return them to you for reuse. CDROM and DVDs are retained for a short while and then recycled.

If you want to make your section 17 return on paper, ring our Orderline on 0172 620 9024 and ask for the paper forms. The return must be on the paper forms we send you; **we cannot accept photocopies**. Instructions on how to complete the forms are on our website (see link in paragraph 3.5). The notice we send you will include instructions about where to send your completed return.

For those who want to use it, we have produced a spreadsheet, which you can download from our website from April 2008. The completed spreadsheet can be encrypted, copied to a disk or tape and posted to us at the address in the notice. See section 8 for further details of the spreadsheet.

The information that you must report has not changed greatly from tax year 2005/06. The section 17 forms and spreadsheet are structured so that you can combine your returns for section 17 and for ESD. The combined form includes some items just for section 17, some just for ESD and some to be used in both sorts of return. The instructions for completing the forms will tell you which boxes to complete when making section 17 returns.

### 3.7 Data Protection Act

Section 17 TMA requires you to provide the information specified in the notice we send you. This information is, therefore, exempt from the non-disclosure provisions of the Data Protection Act 1998 by virtue of Section 35(1) of that Act. This exemption, however, only applies to the information specified in the notice we send you. To be certain of fulfilling your Data Protection Act responsibilities, only report the information that we have specified in the section 17 notice.

The detail of section 35(1) means that you must still protect the information in your return while it is in transit to us. We have added a section at the end of this note that details the provisions we have made for encrypting your return (see section 8)

### 3.8 What is the time limit for making returns?

The last date for making a return will be specified in the notice. This will normally be the later of, either **30 June** following the end of the tax year that the notice relates to, or **four months** after the date of issue of the notice.

For example, notices sent out in February 2006 for the tax year 2005/06 specified that return must be with us by 30 June 2006. If the notice were issued on 31 March 2006 it would normally say, "Send us your return by 31 July 2006." See paragraph 7.2 for an exception to these time limits when you send in your section 17 and ESD returns together. You may send in your return before it is due.

### 3.9 Penalties

If you are given a notice to make a return, but fail to do so, you will be liable to an initial penalty of up to £300. If you still do not make a return, we can impose a further penalty of up to £60 for each day that the return is outstanding, after the date the initial penalty is imposed.

There is a penalty of up to £3,000 if you fraudulently or negligently make an **incorrect** return.

### 4. What is reportable?

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#### 4.1 Which accounts must you report on?

You must report on all accounts that have interest paid or credited for any of your investors who are:

- persons, including associations, companies and clubs, with UK addresses; or,
- individual investors who have an address in a 'Fully Reportable' (FR) country.

In the rest of these notes persons who meet this definition are called reportable persons. You must include payments on Sharia compatible accounts and other types of alternative financial arrangements in your report as if these amounts were interest (see paragraph 2.3). Some queries have come in as to whether the UK is a Fully Reportable country. As you can see from the above definition such a question is misleading since the definition of reportable person covers the UK and the Fully Reportable countries.

The list of FR countries for 2008/09 is on our website (see link in paragraph 3.5). We give 6 months notice of any change to the list of FR countries. From 6 April 2006 countries that are Prescribed Territories for ESD have no longer been FR countries for section 17 reporting.

The concession, under which some people made returns of all interest they paid or received for all investors, irrespective of their address or status, was withdrawn on 6 April 2005 and cannot be used for tax year 2008/09.

Under almost all circumstances the information you need to report you will have needed to collect for your Know Your Customer (KYC) checks.

#### 4.2 Reporting on persons and bodies of persons, other than individuals

Other than individuals or partnerships of individuals (see paragraphs 5.1 and 5.2), you do not have to report on the accounts of persons or bodies of persons, who have an address outside the UK. This means that you do not have to report on companies that are not resident in the UK.

#### 4.3 What information must be included?

You must report the same information whatever type of account or person you are reporting on. You must always include:

- the name(s) and address(es) of the payees to whom you have paid or credited the interest. In some cases, details of the beneficial owner are required in addition to, or instead of, those of the payee (see paragraphs 4.9 and 4.10.2);
- the amount of interest paid before deduction of any tax. If an overseas withholding tax has been deducted, you may report either the amount after the deduction of that tax or the gross amount before deduction, provided you report consistently;
- any UK tax deducted;
- an indicator to identify a joint account and, if you know it, the total number of parties to that account;
- the dates of birth and National Insurance Numbers (NINOs) of the payees where this information has been provided to you in relation to the account (where you hold an R85 form see paragraph 4.9);
- the account number including, where applicable, the sort code or branch. If you use a unique identifier to link a number of money market accounts, you should report this identifier on your return instead of an account number;

## Guidance note for TMA section 17 return 2008/09

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- an indicator to identify accounts on which interest has been paid for the first time;
- an indicator to show where the interest reported is in a currency other than sterling and the SWIFT code denoting which foreign currency you have reported;
- interest on Qualifying Time Deposits (QTDs). (This is paid without deduction of tax. For years up to and including 2000/01 interest on QTDs was not reportable if a valid R105 form was held and the investor had asked for the interest to be excluded from the return. For 2001/02 and later years, you must include in your return interest you pay to reportable persons.)

### 4.4 What interest should not be included on the return?

Do not report interest payable:

- to persons outside the UK who are not individuals or partnerships of individuals (see paragraph 5.1). If the account has an address outside the UK and the account holder is expressed on your system as an 'entity' rather than an individual, no report is required. Such an 'entity' does not include a partnership of individuals;
- to central monetary institutions and international organisations designated by order under section 774 of ITTOIA (formerly section 324 of ICTA). A list of these is at Annex A;
- on certificates of deposit (including transferable paper);
- on ISAs or PEPs (but see paragraph 4.6);
- in respect of inter-bank (including building society) deposits (including deposits via a broker). This exclusion only covers the situation where a deposit-taker or building society pays interest to a broker in the knowledge that the deposit is beneficially owned by a deposit-taker or building society. It **does not** exclude **all** deposits placed via a broker;
- on investments held at a branch situated outside the UK;
- on SAYE/Share Save Schemes;
- to approved or registered pension schemes. You do not need to report interest paid to the trustees of a pension scheme, including a SIPP or SSAS, which has been approved or registered by us (see paragraph 4.7 for the changes from approved to registered);
- to the trustees of a non-resident pension scheme for interest on the scheme;
- in respect of syndicated loan interest; and
- on Child Trust Funds.

### 4.5 Designated client accounts

You should report general information in accordance with paragraph 4.3. You should also report the additional information detailed in paragraphs 4.9 and 4.10.2 for beneficial owners who have registered for payment of interest without deduction of LRT.

If the account is held by a professional firm on behalf of a client, you do not need to report details of the partners in the firm (see paragraph 5.2).

### 4.6 Invalid ISAs and PEPs

You should report interest paid or credited to:

- an invalid ISA;

## Guidance note for TMA section 17 return 2008/09

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- an invalid PEP; or,
- an ISA that has been repaired, up to the date of repair.

If the ISA is repaired or the ISA/PEP is found to be invalid before you send us the return, show the correct position on the return. If you have already sent us the return do not send us a further return but keep details for production to us at the audit.

### 4.7 Approved Pension Schemes (now registered schemes)

We (HMRC) used to approve pension schemes that met certain criteria and issue them with an approval letter. Where this letter was provided to an interest payer, that payer did not have to report the pension scheme's interest on their section 17 return. This scheme changed on 6 April 2006. Pension schemes are now registered with us not approved by us. Almost all schemes that had been approved by us by the change date were transferred directly to the register on that date. Where a pension scheme opens an account after April 2006 it must download details of its registration and give these to the interest payer as evidence of its registration. Interest payers can rely on previously lodged approval letters as proof of registration for existing accounts / schemes unless they have evidence that the scheme is no longer registered.

### 4.8 Addresses

Reportable addresses are those that are in the UK or an FR country.

**You must be able to show the auditor:**

- **why you have included, or excluded, any payment or credit of interest from your return; and,**
- **that the addresses reported (or not) are the addresses of the persons interest has been paid or credited to.**

#### 4.8.1 Customers with more than one address

##### **Individuals**

The investor's address you should report is their residential address. Where your system only holds a correspondence address, and it is not possible to report the residential address, only then can you report the correspondence address. The auditors will investigate where you report an address other than the residential address.

You **must** report the permanent residential address if you hold an R85 or R105 completed on or after 6 April 2001 (see paragraphs 4.9 and 4.10.2).

This may mean that some interest need not be reported. For example, if you hold a correspondence address in Norway, an FR country, for a Russian investor, you need not return details of the account if you also hold their residential address in Russia, which is not an FR country.

##### **Company**

The address to be reported is the registered office address but the correspondence address is acceptable if your system only holds that and you cannot report the registered office address.

For example, you would not normally report interest paid to what appears to be a French company but if you only have a UK correspondence address for that company, you should include it on your return.

#### 4.8.2 Changes of address

Generally, it is an individual's address at 5 April (the end of the tax year) that matters (but see paragraphs 4.8.3 and 5.5). If an investor has a reportable address at that date, include them on your return for that year.

## Guidance note for TMA section 17 return 2008/09

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If your system is set up so that the decision whether to report is based on information available on the date any interest is paid or credited we will accept your report of that information.

### 4.8.3 Closed accounts

Report any interest paid or credited to the account if there was a reportable address on the date that it was closed. If you hold a later address on your system, it can be used as the basis for reporting (or non-reporting if the later address is not in the UK or an FR country).

### 4.8.4 P.O. Box addresses

A P.O. Box address can be reported as a correspondence or payee address. It can be reported as a principal residential address **only** if it is an acceptable residential address for the country in question, or that part of the country, and allows the investor to be traced. It is for you to check that a P.O. Box address is the norm in a particular country. You may accept confirmation from the investor that a P.O. Box address is their residential address and the norm for the country, or for that part of the country, unless you have information to the contrary, for example from your dealings with other investors in that country. You must get confirmation in all cases where you put a P.O. Box address on your return as the principal residential address and keep this information for our audit.

### 4.8.5 BFPO and C/o addresses

You must query a BFPO or C/o address whenever it is shown on form R105 as the investor's principal residential address. You must get confirmation from the investor that it is their principal residential address and keep the confirmation for the auditor.

### 4.8.6 'Hold Mail' addresses

For accounts opened on or before 5 April 2001 'Hold-Mail' can be reported, if that is the address held on your system (even if the address is held in a file or paper record). For accounts opened on or after 6 April 2001, we will not accept 'Hold-mail' and you must report a full address. Normally that will be the address you would send correspondence to if there were no 'Hold mail' instruction. The only exception is for additional accounts, opened by existing NOR investors, who gave you a valid R105 before 6 April 2001 and whose circumstances have not changed (see paragraphs 4.10.1 and 4.11). In such cases, we will accept a 'Hold-mail' address.

For example, if the address held is "Hold mail c/o XYZ Bank, Sheffield branch", this must be reported, but if the address is neither in the UK nor an FR country, for example, "Hold mail c/o XYZ Bank, Dubai branch", this need not be reported.

### 4.8.7 Whereabouts unknown

If you are reporting a payment of interest made before the payee went "whereabouts unknown" report based on their last known address. Do not report if you were unable to pay interest because the investor's whereabouts were unknown. If you subsequently discover the investor's new address and pay the outstanding interest you should report the full payment for the year in which it is actually made and for the new address.

If your system reports by the date interest is payable you may report that interest as if it had been paid (using the last known address), provided this only happens in a small number of cases and suppressing the report, and reporting in the tax year the payment is actually made, would be disproportionately expensive.

## Guidance note for TMA section 17 return 2008/09

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### 4.9 R85 cases

Some investors will complete an R85 form for their accounts. They will give the form to you to receive interest without you taking tax off. When reporting these you must report the beneficial owner details shown on the R85 form **in addition** to the payee details if they are different (see paragraph 4.1). You **must** report the following details for the beneficial owner(s):

- Name(s) and permanent residential address(es) including postcode;
- Date(s) of birth; and,
- National Insurance Numbers (NINOs) where they have been provided.

You must also report indicators that:

- show that the beneficial owner has registered for payment of interest without deduction of Lower Rate Tax (LRT) using form R85 (the 'R85 signal'). This indicator must not be used where interest has been paid without deduction of LRT for any other reason;
- identify joint accounts and, if you know, the number of parties to the account;
- show where you have paid the interest partly after deduction of LRT and partly without deduction of LRT (i.e. gross). For example, where there is partial registration. For accounts where part of the interest has been paid gross and part after deduction of LRT, report the dates of birth and NINOs of joint account holders who have **not** registered for payment of interest without deduction of LRT if that information has been provided in connection with the account;
- identify accounts on which interest has been paid for the first time;
- show interest paid in a currency other than sterling, together with the SWIFT standard code for that foreign currency.

### 4.10 R105 cases

An R105 declaration that an investor is Not Ordinarily Resident in the UK (NOR) gives you authority to pay them interest without deducting tax. It also includes an undertaking by the investor to notify you immediately if they cease to be NOR. From 6 April 2001, the declaration must include the names and addresses of the persons beneficially entitled to the interest.

#### 4.10.1 Declaration on R105 form received on or before 5 April 2001

For an R105 received on or before 5 April 2001, you must report the information laid down in paragraph 4.3. If the form includes the principal residential addresses of the persons beneficially entitled to the interest, you may report those details instead of the payee details.

#### 4.10.2 Declaration on R105 form received on or after 6 April 2001

For an R105 received on or after 6 April 2001, you must report:

- the name(s) and principal residential address(es) of the persons beneficially entitled to the interest, **not those** of the payee; and,
- an indicator to show that the interest has been paid gross because of an R105 received on or after 6 April 2001.

The principal residential address you report must be one of the following:

- the address shown on the R105, (you can report this address for as long as the R105 remains valid. You do not need to report one of the alternatives shown below);

## Guidance note for TMA section 17 return 2008/09

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- for the second or subsequent year that gross payment is supported by the R105, you may report a more up to date address you know to be the principal residential address; or,
- for the fourth or subsequent year that gross payment is supported by the R105, you may report the correspondence address held on your system. If you hold more than one correspondence address, report the address that is used for normal correspondence.

Your obligations are limited to checking that the address you report falls into one of the three categories above.

### 4.11 Investors with more than one account

An R105 declaration made on or before 5 April 2001 will not normally cover accounts opened on or after 6 April 2001. A new R105 is not required, however, where an additional account is opened by an investor that you are paying gross interest to on the authority of a valid R105. This is provided that you are satisfied that:

- the new account is in the same beneficial ownership as the existing one;
- the investor's circumstances have not changed so as to make the existing NOR declaration invalid; and,
- there is an audit trail between the new and old accounts.

By audit trail we mean that the decision to pay gross is recorded by the NOR supervisor and cross-referenced from the original R105 NOR declaration to the new account. It is important that the NOR supervisor records that they have examined the existing declaration if it is not possible to make a note on the declaration itself, for example, because it is held on microfiche.

Where an account has been registered for gross interest by an R105 on or after 6 April 2001, and then the same investor opens a new account, strictly, they should make a new declaration. If, however, the three conditions above are met, you can treat the new account as covered by the existing R105.

If an investor completes an R105 declaration part way through the year so that they receive some interest under deduction of tax and some gross you should strictly make two reports. The first of the interest paid with deduction of tax, giving details of the payee. The second of the interest paid without tax deducted, giving details of the individual beneficially entitled to the interest. You may, however, make a single report for the year, giving details of the beneficiary, together the whole amount of interest paid for the whole year and all the tax deducted from part of that interest.

### 5. Particular cases

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#### 5.1 Partnership and joint accounts

A partnership or joint account is reportable if **any** of the partners or joint holders is a reportable person (see paragraph 4.1). Always report the total amount of interest paid.

If only one or two of the partners or joint holders are reportable persons, report the:

- name of the account or holding title as being the 'client name';
- names of the reportable partners as 'participants'; and
- **total** number of partners or joint holders where this is known, including any who are not reportable, as the 'number of participants'.

If more than two of the partners or joint holders are reportable persons, you need only report the:

- name of the account or holding title as being the 'client name';
- first two named reportable partners or joint holders to the account or holding as 'participants'; and
- **total** number of partners or joint holders where you know it, including any who are not reportable, as the 'number of participants'.

If two or more of the partners or joint holders being reported are individuals with you may combine their entries in one report.

#### 5.2 Professional partnerships

For professional partnerships, for example, law or accountancy firms, you can make a single entry on your return for each account in the partnership name. A 'professional partnership' here is one that is regulated by an independent body or that would be so regulated if it were established in the UK.

#### 5.3 Foreign currency accounts

You may report interest paid on a foreign currency account either in:

- **that foreign currency** – the return must include an indicator to show that it is a foreign currency account and also show the SWIFT code for that currency (a list of SWIFT codes is on our website (see link in paragraph 3.5),
- or
- **sterling** – you should convert the foreign currency to sterling at the rate at which any tax was converted to sterling for payment to us. Otherwise, you may use a rate in force at the date the interest was paid, for example, a period end rate. Please be consistent in the format of your report.

#### 5.4 Reporting on Trusts

If interest is paid to a Trustee who is a reportable person then report details of the **payee**.

**But**

- if the account is registered for gross payment of interest under an R85 form – report the extra details shown in paragraph 4.9; or,

## Guidance note for TMA section 17 return 2008/09

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- if an NOR individual in an FR country (see paragraph 4.1) is beneficially entitled to the interest, **and** you received a R105 or R105DAT form on or after 6 April 2001 report the details of the individual beneficially entitled to the interest (see paragraph 4.10.2) .

Sometimes interest is paid direct to the beneficiaries of Bare, Interest in Possession or Life Interest, Trusts. You must report such interest where the beneficiary of the trust is a reportable person.

Distributions to beneficiaries made by the trustees of Discretionary or Accumulation and Maintenance Trusts are not 'interest' and so such payments are not reportable.

### 5.5 Deceased Investors

You must report interest paid to, or received on behalf of, deceased reportable individuals up to their date of death, in their name and at their last known address.

Report interest paid to executors if one or more of them is a reportable person. This makes reportable the situation where a UK bank, as a deposit-taker, pays interest on an account held by the same UK bank as executor. If there is more than one executor, the rules for reporting joint holdings and professional partnerships (paragraphs 5.1 and 5.2) apply. Report interest paid or credited through the period of executorship tax year by tax year.

Executors (such as the UK bank in the example above) need only report interest they have paid or credited once the assets that gave rise to it have been assigned to a beneficiary who is a reportable person. Only report interest paid from the date the assets were assigned to that beneficiary.

### 6. Audit

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#### 6.1 Systems and controls

We will audit returns to check both the accuracy and completeness of the information you have reported. The auditor will conduct a walkthrough of your systems and controls for identifying, capturing and reporting appropriate interest and clients.

#### 6.2 Accuracy of returns

To test that the information reported is accurate, a statistically valid sample (using 68% confidence levels) will be extracted from the return. The sample will be checked against information held on your system, customer files and account statements to ensure that the amounts of income and personal details have been reported correctly.

#### 6.3 Completeness

To test that the return is complete, statistically valid samples (using 68% confidence levels) will be taken from the customer or account population. The auditor will check the sampled cases against the return to ensure that appropriate income and payees have been reported. The auditor will also examine payments/customers excluded from the return to ensure that you have been correct to exclude these.

#### 6.4 Independent audit of excluded accounts

By arrangement, we will allow you to appoint an independent auditor, at your own expense, to conduct the review of your 'not FR' accounts. Such an audit is to determine whether these accounts have been correctly classified. This avoids HMRC staff looking through accounts in which there is generally no UK tax interest.

The independent auditor's report will be an integral part of our audit. They will select statistically valid samples (using 68% confidence levels) from the accounts you consider to be 'not FR' and check that those customers do not reside in FR countries. The results must be sent to our Audit Unit (see paragraph 3.4) within 21 days of the completion of the work.

The auditor you propose must be registered under the Companies Act 1989 and experienced in carrying out audits of deposit-taker or building society businesses. If you wish to use this arrangement, write to us (see address in paragraph 3.4) providing details of the auditor you are proposing. You may apply at any time. We will acknowledge requests within 30 days of receipt.

Our audit report is normally issued within 28 days of the completion of our audit.

#### 6.5 Results

If you cannot explain to our satisfaction any material difference between the results of the audits, we may request that the independent auditor do further work or carry out the work ourselves. Where errors are discovered, we may ask you to undertake further work to identify the source of the problems and put them right.

#### 6.6 Retention of records

You must retain all the records you used to make up your return for two years after the end of the period of the return. Thus, you must retain all records for the 2008/09 return period until 06/04/2011.

## **7. European Savings Directive (ESD)**

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### **7.1 Interaction between section 17 reporting and ESD**

The European Savings Directive (ESD) was brought into effect by the Reporting of Savings Income Information Regulations 2003 (SI 2003/3297) on 1 July 2005. The ESD is, in effect, the European Union counterpart to the reporting of interest payments under section 17. The details to be reported and the people who must make the report are not exactly the same for the ESD and section 17. The guidance on reporting under the ESD (what to report and who must report it) is on our website at: <http://www.hmrc.gov.uk/esd-guidance/sir-guidance.pdf>

For the year 2008/09, you can make your ESD return and your section 17 return as part of the same computer file or as separate returns.

### **7.2 Time limits for combined ESD and section 17 returns**

The time limit for making your ESD return will normally be 30 June after the end of the tax year to which it relates. This is the same as the normal timescale for section 17 returns.

If, however, the notice for an ESD return is issued after 31 May, the time limit for making the return will only be 30 days after the date of issue of the notice. This is different from the time limit for making a report under section 17 (see paragraph 3.4). The practical effect of this is that if you want to make a combined return or send in your ESD and section 17 returns at the same time, **the shorter 30 days time limit will also apply to the section 17 information.**

For example, for the tax year 2006/07, if we issue notices at the normal time in February 2007 you will have until 30 June 2007 if you want to send us a combined return or only one parcel. If the ESD notice is only issued on 1 July 2007, however, and you want to send us a combined return or only one parcel, you would only have until 31 July 2007.

### 8. Data Protection and security of returns

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#### 8.1 Your responsibilities under the Data Protection Act 1998 (DPA)

We do not set any particular security standards for data coming to us from businesses. We are happy to work with anyone who needs to send us data to help them secure it while it moves. Under the DPA, you are responsible for the security of personal data until we have received it. We have an ongoing review into the security of our data transfers out. We currently secure outgoing data to businesses in the following ways and we encourage everyone to be this careful when transferring information to us.

#### 8.2 What encryption do HMRC use?

We encrypt data to 256-bit standard with a 20 character complex password onto computer media (normally CD/DVD). A secure courier transports the media in secure and tamper evident packaging. A named individual signs for it when received. We send the password separately.

#### 8.3 What encryption can HMRC accept?

You may wish to send us data as password-protected, self-decrypting files on computer disk or tape. We can handle any self-decrypting files that run on Microsoft operating systems. We encourage you to use complex passwords of at least 20 characters and arrange a named person to sign for delivery.

If you are unable to use one of the encryption products below, please contact Dorinda Jack at the address in paragraph 3.4.

- Self-extracting encryption;
- WinZip version 9 or higher; or
- PGP self-decrypting files.

Your hardware or software might prevent data encryption. In such cases, please contact our Centre for Research & Intelligence at the address in paragraph 3.4 to arrange alternative physical security measures with us.

#### 8.4 Where should I send the Password for my self-decrypting file?

We recommend, for encrypted files sent to us on disk or USB stick, that all passwords should be of 20 random characters. Send your password by email to [occ-dcdm@hmrcaspire.com](mailto:occ-dcdm@hmrcaspire.com). Show, as the title of your email, the title of the return you are sending in and your institution reference for this return, e.g. S17 B12345/03. Just type your password into the body of the message without any further message. Please send one email per return sent in.

#### 8.5 Are other methods going to be available?

We know some businesses already use other methods to secure their data transfers. If any of these are your preferred transfer mechanism, please contact Dorinda Jack at the address in paragraph 3.4 so that you can be included directly in later announcements.

- Financial Institutions who use Connect Direct Secure Plus should contact HMRC. We are working to set up links for the coming filing period.
- We are working with our IT supplier to agree how we will accept tapes and cartridges containing data encrypted by products like ZIP390 and DF DSS.
- We will be publishing details of public keys to be used in asynchronous encryption via products like PGP. This will reduce the problems with needing unique password protection for each item of media.

## **Guidance note for TMA section 17 return 2008/09**

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### **8.6 What if I want to use the spreadsheet?**

Some people used to make paper returns because it was easier than using the magnetic media specification to create a computer file for just a handful of clients. As an alternative, given the widespread use of spreadsheets, we have produced a spreadsheet that you can type your return data into. From April 2008, you will be able to download it from our website (see link in paragraph 3.5). Complete instructions for use are on the website. There is no need to ask permission to use it. It is in Excel format from Microsoft Office version 2003.

The completed spreadsheet can be encrypted using one of the systems in paragraph 8.3, copied to a CDROM, DVD, disk or USB stick and then posted to us at the address shown in our section 17 notice to you. Follow the arrangements in paragraph 8.4 to get your password to us.

### 9. Annex A

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#### 9.1 List of Organisations and Communities (referred to in paragraph 4.4)

Central monetary institutions and international organisations designated by order under section 774 of ITTOIA 2005 (formerly section 324 of ICTA).

<b>Organisation</b>	<b>Statutory Instrument number</b>
The Asian Development Bank	SI 1984/1215
The African Development Bank	SI 1984/1634
The European Economic Community	SI 1985/1172
The European Coal and Steel Community	SI 1985/1172
The European Atomic Energy Community	SI 1985/1172
The European Investment Bank	SI 1985/1172
The European Bank for Reconstruction and Development	SI 1991/1202

10. Appendix 1 What to put on the return

