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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 391**

**LOCAL GOVERNMENT**

**The Non-Domestic Rating Contributions  
(Scotland) Amendment Regulations 2010**

*Made* - - - - 8th November 2010  
*Laid before the Scottish  
Parliament* - - - - 10th November 2010  
*Coming into force* - - 31st December 2010

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 113 and 116(1) of, and paragraphs 10 and 11(5)(a) of Schedule 12 to, the Local Government Finance Act 1992<sup>(1)</sup> and all other powers enabling them to do so.

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Non-Domestic Rating Contributions (Scotland) Amendment Regulations 2010 and come into force on 31st December 2010.

(2) These Regulations do not apply in respect of any financial year beginning prior to 1st April 2011.

**Amendment of the 1996 Regulations**

2.—(1) The Non-Domestic Rating Contributions (Scotland) Regulations 1996<sup>(2)</sup> are amended in accordance with this regulation.

(2) In Schedule 1, after paragraph 8A (amounts paid or payable in respect of non-domestic rates for preceding years that have been repaid or become repayable)<sup>(3)</sup>, insert—

“**8B.**—(1) Where in a relevant year an authority operate a TIF project—

(a) the amount in that year by which the collected amount exceeds the collectable amount; or

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(1) 1992 c.14. Section 116(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). Paragraph 10 of Schedule 12 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 176 and the Local Government and Rating Act 1997 (c.29), Schedule 3, paragraph 29. There are other amendments that are not relevant to these Regulations.

(2) S.I. 1996/3070, which is amended by S.I. 1997/2867 and 1998/2957 and by S.S.I. 1999/153.

(3) Paragraph 8A was inserted by S.S.I. 1999/153.

- (b) where sub-paragraph (2) applies, 50% of that amount.
- (2) This sub-paragraph applies where in that year an authority operate a TIF project and have repaid all money borrowed in respect of that project.

(3) In this paragraph—

“the collectable amount” is—

- (a) in the initial relevant year of the TIF project, the amount of non-domestic rates calculated to be payable for the area of the TIF project as at 30th September in the previous year (“the initial date”)—
- (i) applying the rules contained in Schedule 1 to these Regulations (apart from this paragraph); and
- (ii) on the basis of the information before the authority at the time they make the calculation and subject to the assumptions prescribed in Schedule 2 to these Regulations;
- (b) in each subsequent relevant year of the TIF project, that amount adjusted as at 30th September in that year to take account of any material change that has occurred from the initial date;

“the collected amount” is the total amount of non-domestic rates paid to the authority in the relevant year for the area of the TIF project, but under deduction of any amount caused by displacement;

“displacement” means the extent to which the non-domestic rates paid to the authority for the area of the TIF project—

- (a) result from the relocation of those who are required to make the payments; and
- (b) would have been made to the authority or another authority had the TIF project not been in operation;

“material change” means any change that materially alters the non-domestic rates payable for the area of the TIF project—

- (a) excluding change arising as a result of the operation of the TIF project; and
- (b) including change in the rate prescribed for the purposes of section 7B of the Local Government (Scotland) Act 1975<sup>(4)</sup> between the year preceding the initial relevant year of the TIF project and subsequent relevant years; and

a “TIF project” is a project approved by the Scottish Ministers in terms of the Tax Incremental Financing Administration Pilot Scheme set out by the Scottish Ministers on 5th November 2010, that is, a project which enables an authority to meet the costs of borrowing for construction and development works from the non-domestic rate income expected to result from the project..”.

St Andrew’s House,  
Edinburgh  
8th November 2010

*JOHN SWINNEY*  
A member of the Scottish Executive

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(4) 1975 c.30; section 7B was inserted by the Local Government Finance Act 1992, section 110(2), and amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 100(4).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Under Part III of Schedule 12 to the Local Government Finance Act 1992, Scottish local authorities are required to pay amounts (called non-domestic rating contributions) to the Scottish Ministers. Payments in respect of a provisional amount of the contribution are made during the financial year, final calculations and payments being made after the year ends. These Regulations amend, from financial year 2011/12 onwards, the rules for the calculation of payments contained in the Non-Domestic Rating Contributions (Scotland) Regulations 1996 (“the 1996 Regulations”).

The amendments to the rules are in consequence of the introduction by the Scottish Ministers of a Tax Incremental Financing Administration Pilot Scheme which allows an authority, where a project is approved under the scheme, to retain an agreed amount of growth in non-domestic rates for an area and to use that income stream to fund investment in the area concerned. That Scheme is available on the Scottish Government website at <http://www.scotland.gov.uk/Topics/Government/Finance/18232>.

Regulation 2(2) inserts a new paragraph 8B in Schedule 1 to the 1996 Regulations to allow the authority to retain additional revenue that they collect in a financial year. Additional revenue is revenue discounting the non-domestic rate income that would be expected to have arisen without the investment in the area, to ensure that the amount retained by the authority represents additional income that has flowed from the investment.

In any year where a project does not generate additional revenue, the authority will retain nothing. Where the authority have repaid all borrowing in respect of the TIF project before the end of the project period, the amount they retain will be reduced by 50% for the remainder of that period.

The calculation of the amount retained by the authority is determined by two figures A “collectable amount” is set, based in the revenue payable for the area of a project at its outset. Each year that figure will be adjusted to reflect growth in revenue that has resulted from material changes unconnected with the project, such as changes in the non-domestic rate poundage and quinquennial revaluation. That amount will be deducted from the “collected amount”, being revenue paid to the authority for the area of the project. However, the “collected amount” will also be adjusted, to take account of “displacement”, being growth in revenue that is attributable to the movement of existing revenue-generating activity into the area.