



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 13

#### OTHER SPECIAL TYPES OF COMPANY ETC

### CHAPTER 7

#### CO-OPERATIVE HOUSING ASSOCIATIONS

#### **642 Disregard of rent from members and of interest payable**

- (1) Subsections (2) and (3) apply if a housing association makes a claim under this section for an accounting period or part of an accounting period during which the association was approved for the purposes of this Chapter.
- (2) Rent to which the association was entitled from its members for the accounting period or part of an accounting period is ignored for tax purposes.
- (3) The association is treated for corporation tax purposes as if any interest payable by it for the accounting period or part of an accounting period were not payable.
- (4) But subsection (3) does not apply so far as the interest is attributable to property that is not subject to a tenancy.

#### **643 Exemption for gains on a sale of property**

- (1) This section applies if—
  - (a) chargeable gains accrue to a housing association on a disposal by way of sale of any property which has been occupied, or is occupied, by a tenant of the housing association,
  - (b) the gains accrue in an accounting period or part of an accounting period during which the association was approved for the purposes of this Chapter, and

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- (c) the association makes a claim under this section for that period or part of a period.
- (2) No liability to corporation tax arises in respect of the gains.

#### **644 Approval of housing associations**

- (1) In the case of a housing association in Great Britain, the power to approve housing associations for the purposes of this Chapter—
- (a) is exercisable by the Scottish Ministers if the association has its registered office in Scotland,
  - (b) is exercisable by the Welsh Ministers in relation to Wales, and
  - (c) is otherwise exercisable by the Secretary of State.
- (2) In the case of a housing association in Northern Ireland, the power to approve housing associations for the purposes of this Chapter is exercisable by the Department for Social Development.
- (3) An approval given for the purposes of this Chapter—
- (a) has effect from the date specified by the approving authority (which may be earlier or later than the date on which the approval is given), and
  - (b) may be revoked by the approving authority.
- (4) See also paragraph 80 of Schedule 2 (concurrent exercise by the Secretary of State of certain functions exercisable by the Welsh Ministers).

#### **645 Tests to be satisfied by the association**

- (1) The authority mentioned in section 644(1) or (2) must not approve a housing association unless it is satisfied that the association satisfies each of tests A to E.
- (2) Test A is that the association is—
- (a) a housing association within the meaning of the Housing Associations Act 1985 (see section 1(1) of that Act), or
  - (b) a housing association within the meaning of Part 2 of the [Housing \(Northern Ireland\) Order 1992 \(S.I. 1725 \(N.I. 15\)\)](#) (see Article 3 of that Order).
- (3) Test B is that the association is a society registered or treated as registered under the Industrial and Provident Societies Act 1965 or the [Industrial and Provident Societies Act \(Northern Ireland\) 1969 \(c. 24 \(N.I.\)\)](#).
- (4) Test C is that the rules of the association—
- (a) restrict membership to persons who are tenants or prospective tenants of the association, and
  - (b) preclude the granting or assignment of tenancies to persons other than members.
- (5) Test D is that the association satisfies any other requirements prescribed by—
- (a) the Secretary of State as regards England and Scotland,
  - (b) the Welsh Ministers as regards Wales, or
  - (c) the Department for Social Development as regards Northern Ireland.

- (6) Test E is that the association will comply with any conditions that may be prescribed by—
- (a) the Secretary of State as regards England and Scotland,
  - (b) the Welsh Ministers as regards Wales, or
  - (c) the Department for Social Development as regards Northern Ireland.

#### **646 Delegation of powers to the Regulator of Social Housing**

- (1) In relation to a housing association which is a registered provider of social housing (see section 80(2) of the Housing and Regeneration Act 2008) the Secretary of State may delegate to the Regulator of Social Housing any of the Secretary of State's functions under section 644 or 645.
- (2) The functions may be delegated—
- (a) to any extent that the Secretary of State specifies, and
  - (b) subject to any conditions that the Secretary of State specifies.

#### **647 Claims under section 642 or 643**

- (1) A claim under section 642 or 643 must be made—
- (a) within two years after the end of the accounting period to which it relates, or
  - (b) if it relates to part of an accounting period, within two years after the end of that accounting period.
- (2) A housing association must not make a claim under section 642 or 643 for an accounting period or part of an accounting period unless—
- (a) the requirements in subsection (3) were complied with during that period or part, or
  - (b) the association reasonably considers that those requirements were substantially complied with during that period or part.
- (3) The requirements are that—
- (a) no property belonging to the association was let otherwise than to a member of the association,
  - (b) only persons who were then members of the association occupied (whether solely or jointly with another person) any property, or any part of any property, let by the association,
  - (c) the association satisfied each of tests A to C in section 645 and complied with any conditions that were in force by virtue of section 645(6), and
  - (d) any covenants required to be included in grants of tenancies by those conditions were observed.
- (4) If a member of a housing association dies and another person occupies a property, or part of a property, in accordance with the member's will or the provisions applicable on the member's intestacy, that person's occupation during the first 6 months after the death does not infringe the requirement in subsection (3)(b).

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## **648 Adjustments of liability**

- (1) If an adjustment of a housing association's liability to corporation tax is necessary as a result of a claim under section 642, the adjustment may be made by an assessment, by repayment of tax or otherwise.
- (2) A housing association's liability to corporation tax may be adjusted by means of assessments or otherwise if—
  - (a) a claim by the housing association under section 642 or 643 is included in a company tax return,
  - (b) an enquiry is made into the tax return, and
  - (c) an amendment is made to the tax return as a result of the enquiry.
- (3) A housing association's liability to corporation tax may be adjusted by means of assessments or otherwise if—
  - (a) an enquiry is made under paragraph 5 of Schedule 1A to TMA 1970 into a claim made by the association under section 642 or 643, or into an amendment of such a claim, and
  - (b) an amendment is made to the claim as a result of the enquiry.
- (4) Adjustments under subsection (2) or (3) may be made for all relevant accounting periods.

## **649 Power to make further provision**

- (1) The Secretary of State may by statutory instrument make regulations with respect to England and Scotland for the purpose of carrying out the provisions of this Chapter.
- (2) The Welsh Ministers may by statutory instrument make regulations with respect to Wales for the purpose of carrying out the provisions of this Chapter.
- (3) The Department for Social Development may make regulations with respect to Northern Ireland for the purpose of carrying out the provisions of this Chapter.
- (4) Regulations made under subsection (3) are a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (5) If any regulations under this section prescribe requirements for the purposes of section 645(5) or conditions for the purposes of section 645(6)—
  - (a) any requirements or conditions previously prescribed under section 645(5) or (6) are to cease to have effect when the regulations come into force, and
  - (b) no further exercise may be made of the power under section 645(5) or (6) to prescribe requirements or conditions otherwise than by regulations.
- (6) The reference in section 647(3)(c) to conditions that were in force by virtue of section 645(6) includes conditions prescribed for the purposes of section 645(6) under subsection (5) above.