
STATUTORY INSTRUMENTS

1982 No. 1236

INCOME TAX

The Income Tax (Interest Relief) Regulations 1982

<i>Made</i>	- - - -	<i>31st August 1982</i>
<i>Laid before the House of</i>		
<i>Commons</i>	- - - -	<i>1st September 1982</i>
<i>Coming into Operation</i>		<i>1st October 1982</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 29(3) of the Finance Act 1982, hereby make the following regulations:

Citation and Commencement

1. These Regulations may be cited as the Income Tax (Interest Relief) Regulations 1982, and shall come into operation on 1st October 1982.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires:—

“authorised officer” means the official registered by the Board as being authorised for the purposes of these Regulations by the lender;

“the Board” means the Commissioners of Inland Revenue;

“financial year” in relation to a lender means a period of 12 months or the period (not necessarily a period of 12 months) for which the lender makes up its accounts;

“lender” means a qualifying lender for the purposes of section 26;

“limited loan” means a loan to which either paragraph 5(1) or (2) or paragraph 24(3) of Schedule 1 to the Finance Act 1974 applies;

“a qualifying borrower” has the meaning given by Part III of Schedule 7;

“relevant loan interest” has the meaning given by Part I of Schedule 7;

“Schedule 7” means Schedule 7 to the Finance Act 1982;

“section 26” means section 26 of the Finance Act 1982;

“section 28” means section 28 of the Finance Act 1982;

“tax year” means a period of 12 months ending on 5th April.

(2) In the application of these Regulations to Scotland—

- (a) “a freehold or leasehold estate” means any interest in land; and
- (b) any reference to a loan on the security of such an estate is a reference to a loan upon a heritable security within the meaning of section 9(8)(a) of the Conveyancing and Feudal Reform (Scotland) Act 1970.

Loans which the borrower may bring within the tax deduction scheme

3.—(1) Loans the interest on which paid by a qualifying borrower is relevant loan interest are loans specified for the purposes of paragraph 7(1)(a) of Schedule 7 except—

- (a) loans in respect of property which is used as the only or main residence of a dependent relative or former or separated spouse of his;
- (b) loans in respect of living accommodation which is for him job-related within the meaning of the provisions of paragraph 4A(3) of Schedule 1 to the Finance Act 1974; or
- (c) loans to which the provisions of sub-paragraphs (b), (c) or (d) of the said paragraph 7(1) apply.

(2) The lender shall send a copy of the notice sent to it under the said paragraph 7(1)(a) by the qualifying borrower to the Board within 30 days of receiving it.

(3) Where the borrower is unable to provide the lender with the notice to which the said paragraph 7(1)(a) refers he may, if he considers that the interest payable on his loan is or will be relevant loan interest, apply to the Board for a notice under paragraph 7(1)(b) of Schedule 7 and the Board shall notify him of their decision on his application.

Loans made before tax year 1983–84 which the lender may bring within the tax deduction scheme

4. Loans of the following descriptions, not being loans to which the interest on which paragraph 2(3) of Schedule 7 applies, are specified for the purposes of paragraph 7(1)(d) of Schedule 7—

- (a) a loan secured on a freehold or leasehold estate in respect of property in relation to which the loan was granted in which the borrower (and in the case of joint borrowers each of them), or a dependent relative, or former or separated spouse of his, is residing at the time when the loan is made, or will so reside within 12 months of that time; being a loan
 - (i) which is not a limited loan (unless it is a limited loan in respect of which notice has been given to the Board under Regulation 7(1) before 1st December 1982);
 - (ii) in respect of which the lender has undertaken
 - (a) to inform the Board that it is a loan to which this Regulation applies together with the name and address of each borrower, and where known the Tax District to which he makes his return together with his tax reference; and
 - (b) to notify the borrower, not later than 30 days before the first payment of relevant loan interest falls due, that interest payable on the loan appears to be relevant loan interest;

and

- (iii) in respect of which the lender has not been notified that the interest is not relevant loan interest;
- (b) a loan which is not a limited loan but otherwise qualifies for relief under the provisions of paragraph 24 of Schedule 1 to the Finance Act 1974.

Commencement of tax deduction scheme before tax year 1983–1984 in certain cases

5. Where the Board is satisfied that it is the practice for borrowers to have been given relief under section 75 of the Finance Act 1972 on the basis of amounts of interest paid to a lender in a period of 12 months ending after February but before 6th April and the lender, not being a lender within the provisions of paragraph 2(4) of Schedule 7, notifies the Board that it wishes the tax deduction scheme to begin to apply on a date before 6th April 1983 but not before 1st March 1983, the Board shall notify it of the date on which the scheme may begin to apply accordingly.

Application of tax deduction scheme to home improvement loans

6. Where before 1st December in any year a lender notifies the Board that it wishes home improvement loans which it has made to which paragraph 4(1)(b) of Schedule 7 applies to be brought within the tax deduction scheme, the scheme shall begin to apply to relevant loan interest payable on such loans in the tax year beginning in the next following year; but in the case of home improvement loans to be made on or after the date of the lender's notice to the Board it shall begin to apply from the date specified in the notice.

Application of tax deduction scheme to limited loans

- (a) 7. (1) (a) Subject to the provisions of sub-paragraph (b), where before 1st December in any year a lender notifies the Board that it wishes limited loans which it has made to be brought within the tax deduction scheme, the scheme shall begin to apply in the tax year beginning in the next following year to the relevant loan interest payable on those loans in respect of which the Board has given notice as provided by paragraph 7(1)(b) of Schedule 7; but in the case of limited loans to be made on or after the date of the lender's notice to the Board it shall begin to apply after the date specified in the notice, not being a date earlier than 30 days after the date of the lender's notice;
- (b) within 30 days of the lender's giving such a notice the Board may notify the lender that the scheme shall not begin to apply in accordance with its notice and, where the Board so notifies the lender, the scheme shall begin to apply only on the date and to the loans which the Board has in writing authorised.
- (2) Where a lender has not so notified the Board under paragraph (1)(a) the tax deduction scheme shall not begin to apply in the following circumstances:—
- (a) for the tax year 1983/84, in respect of interest on a loan which was a limited loan
- (i) when the interest was last charged by the lender to the borrower's account in its records before February 1983, or
- (ii) in the case of a loan made after January 1983, when the loan was made;
- (b) for the tax year 1984–85 and subsequent tax years, in respect of interest on a loan which was a limited loan when the interest was last charged by the lender to the borrower's account in its records before March in the previous tax year.

Variation of repayment terms of certain loans

- 8.—(1) Expressions used in this Regulation have the same meaning as in section 28.
- (2) Subject to the provisions of this Regulation the amount of each combined payment and the date on which it becomes due from a borrower, to whom a specified lender has given a notice under section 28(2)(a) to vary the terms of repayment of the loan, shall be notified to the borrower by the lender.
- (3) The notice under section 28(2)(a) shall be in a form prescribed or authorised by the Board but shall not have effect unless—

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- (a) it contains a statement of the borrower's right under section 28(2)(b) to give a counter notice; and
 - (b) there is a period of not less than 30 days between the giving of the notice and the due date for the first of the combined payments to which the notice relates.
- (4) A borrower shall be entitled to give a counter notice under section 28(2)(b) not later than 3 months after the due date for the first combined payment to which paragraph (2) above refers.
- (5) On receipt of the borrower's counter notice under section 28(2)(b) the lender shall give notice to the borrower of—
- (a) the amount of the combined payments which will be due from him after taking account of the requirements of section 28(4);
 - (b) the due date for the first such combined payment which shall be—
 - (i) where the borrower gives a counter notice under section 28(2)(b) within 30 days of the lender's notice under section 28(2)(a), the due date for the first combined payment to which paragraph (2) above refers; or
 - (ii) in any other case, a date not later than what, apart from the borrower's counter notice, would have been the date of the second of his combined payments falling due after the date of that counter notice;
 - (c) an estimate of the total period which, assuming there is no change in the amount of the borrower's combined payments, will be required to satisfy the principal and the interest on the loan by means of those payments; and
 - (d) a statement of the borrower's right under section 28(4) to make additional repayments of capital.

Repayment claims by lenders: introductory

9.—(1) Sums recoverable by a lender under section 26(7) shall be recovered on a claim to the Board for the purpose under these Regulations.

(2) Subject to paragraph (3) a claim shall be for the lender's financial year, and is referred to in these Regulations as an “annual claim”.

(3) A claim may also be made in accordance with Regulations 10 or 12 for a period shorter than the claimant's financial year and is referred to in these Regulations as an “interim claim”.

(4) No payment in respect of sums recoverable on such a claim shall be made to a lender before 1st April 1983.

Interim claims in advance

10.—(1) An interim claim for a period allowed by paragraphs (2) and (3) may be made not later than 1 month, or such shorter period as the Board may allow, before the date to which paragraph (5) refers, and is referred to in these Regulations as an “interim claim in advance”.

(2) The periods for which an interim claim in advance may be made are:—

- (a) 1 calendar month; or
- (b) 3 calendar months.

(3) Interim claims in advance made by a lender may not (except where authorised by prior written approval of the Board) be made for different periods.

(4) An interim claim in advance for a period shall be based on an estimate of the amount deductible by borrowers in respect of payments of relevant loan interest to the lender falling due in

that period, and the estimate shall be certified by an authorised officer of the lender as being the best estimate that can reasonably be made of the amount deductible.

(5) If the Board are satisfied with the estimate they shall pay a sum equal to the estimated amount deductible on the date prescribed in paragraph (6) or where it is not a working day the next following working day; if they are not so satisfied they shall pay the lender such lesser sum, if any, as in their estimation will approximate to the amount deductible.

(6) Subject to paragraph (7), the date referred to in paragraph (5) is—

- (a) in the case of a claim for 1 calendar month the 23rd of the month;
- (b) in the case of a claim for 3 calendar months the 15th of the second of those months.

(7) In the case of a claim for 1 calendar month, if the lender so claims and satisfies the condition in paragraph (8), the date referred to in paragraph (5) above is the 2nd, 9th or 15th instead of the 23rd of the month.

(8) The condition mentioned in paragraph (7) is that the lender's mean repayment date is closer to the date on which repayment is claimed than each of the other 3 dates and the lender's "mean repayment date" means —

- (a) the date which is found by multiplying the date of each day of the months of April to September in the previous year by the payments of interest due on that day, adding together the products so calculated for all the days of those 6 months, and dividing the total of those products by the total of all payments of interest due in those months; or
- (b) a date arrived at on some other basis which is authorised by the Board.

Supplementary statements

11.—(1) When a payment has been made to a lender under Regulation 10(5) on an interim claim in advance, the lender shall deliver to the Board a supplementary statement under this Regulation and (except when paragraph (5) below applies) shall deliver the statement within 4 months after the end of the period for which the claim was made.

(2) The supplementary statement shall be a statement correcting (or confirming) the estimate of the amount deductible given in accordance with Regulation 10(4) above, and shall—

- (a) be based as far as possible on the amount of relevant loan interest which actually fell due in the period covered by the statement, and only as far as may be necessary on a revised estimate; and
- (b) be for the same period as the interim claim in advance;

and any estimate contained in the supplementary statement shall be certified by an authorised officer of the lender as the best estimate that can reasonably be made.

(3) If the supplementary statement shows that the amount deductible was greater than the payment made under Regulation 10(5) the Board shall, if satisfied with the statement, pay the amount of the difference to the lender by way of supplementary payment on the claim, but if the supplementary statement shows that the amount deductible was less than the payment made under Regulation 10(5) the lender shall repay the amount of the difference to the Board with the statement.

(4) If in respect of an interim claim on which a payment has been made under Regulation 10(5) a lender fails to deliver a supplementary statement within the time required by this Regulation, the amount of the payment shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the lender which has become final and conclusive.

(5) Where the lender debits interest in arrear to a borrower's account in its records and at intervals of more than a month the supplementary statement shall, if this date is later than the date in paragraph (1) above, be delivered not later than 5 months after the end of the month in which interest is so debited.

Interim claims in arrear

12.—(1) An interim claim for a period allowed by paragraph (2) may be made by a lender within 6 months after the end of the period for which it is made.

(2) The period for which a claim may be made under this Regulation shall be one which:—

- (a) is not shorter than 1 calendar month;
- (b) falls within the lender's same financial year; and
- (c) does not include any part of a period in respect of which a payment was made under Regulation 10(5) (unless the payment in respect of the period or that part was recovered under Regulation 11(4)).

(3) A claim under this Regulation may not be based on an estimate but may only be made to recover the amount deductible in respect of interest which fell due in the period.

(4) If the amount claimed is established to the Board's satisfaction they shall pay the amount to the claimant; if they are not so satisfied they shall pay to the claimant any lesser amount established to their satisfaction.

Annual claims

13.—(1) An annual claim for the lender's financial year may not be made at any time more than 6 years after the end of the financial year.

(2) Except where in relation to any financial year a lender repays all the payments made to it on relevant interim claims, it shall within 1 year after the end of the financial year make an annual claim to establish the amount deductible for that financial year.

In this Regulation 'relevant interim claim' means, in relation to a financial year, an interim claim for a period falling wholly or partly within that financial year.

(3) The annual claim shall, unless the lender makes an election under paragraph (4), include only the tax deducted from interest payments made by borrowers during the financial year to which the claim relates and may not be based on an estimate.

(4) Where however a loan is secured on a freehold or leasehold estate in respect of property in relation to which the loan is made, the lender may in respect of any such loan elect to include in an annual claim the amount of tax deductible in respect of interest payments due from the borrower in the year, but always excluding amounts of tax deductible in respect of interest written off as a bad debt in the accounts of the lender for the financial year to which the claim relates.

(a) (5) (a) Where in a tax year before the passing of the Act imposing tax for that year any deduction has been made in accordance with section 26 from a payment of interest at a rate in excess of the rate of tax ultimately so imposed, the lender may include in his annual claim the amount of the excess not recovered where—

- (i) the loan has been repaid before the passing of the said Act, and
- (ii) the lender has not been able to recover from the borrower the excess so deducted by the end of its financial year or within 6 months of the deduction whichever is the later.

(b) The amount included in respect of the excess shall be repaid to the lender by the Board as if it were an amount deductible from relevant loan interest in accordance with section 26 and the Board shall be entitled to recover from the borrower the amount so repaid in the same manner as tax charged by an assessment on the borrower which has become final and conclusive.

(6) An annual claim shall bring into account payments made on relevant interim claims, and shall apportion as may be necessary any payment made on such a claim for any period falling partly in a different financial year; and for the purpose of this Regulation the "aggregate of the relevant interim

payments” means the aggregate of the payments made (and not repaid) on relevant interim claims but excluding any part of a payment relating to a different financial year.

(7) Where the aggregate of the relevant interim payments shown by an annual claim exceeds the amount deductible for the financial year shown on the claim, the lender shall repay the amount of the excess to the Board with the claim.

(8) If a lender fails to make an annual claim required under paragraph (2) within the time limited by that paragraph, the Board may issue a notice to the lender showing the aggregate of the relevant interim payments for the year, and stating that the Board are not satisfied that the amount due to the lender for the year exceeds the lower amount stated in the notice.

(9) If an annual claim is not delivered to the Board within 14 days after the issue of such a notice under paragraph (8) the amount of the difference between the aggregate and the lower amount stated in the notice shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the lender which has become final and conclusive.

(10) Where an annual claim has been made and the lender subsequently discovers that an error or mistake has been made in the claim the lender may make a supplementary annual claim within the time allowed in paragraph (1).

Lenders' claims: supplementary provisions

14.—(1) Section 42 of the Taxes Management Act 1970 shall not apply to claims under these Regulations.

(2) No appeal shall lie from the Board's decision on an interim claim.

(3) An appeal shall lie to the Special Commissioners from the Board's decision on an annual claim, and the appeal shall be brought by giving written notice to the Board within 30 days of receipt of written notice of the decision.

(4) No payment or repayment made or other thing done on or in relation to an interim claim or a notice under Regulation 13(8) shall prejudice the decision on an annual claim.

(5) Part V of the Taxes Management Act 1970 (appeals and other proceedings) shall apply to an appeal under paragraph (3) above, and on an appeal the Special Commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.

(6) All such assessments, payments and repayments shall be made as are necessary to give effect to the Board's decision on an annual claim, or to any variation of that decision on appeal.

(7) Claims and supplementary statements under these Regulations shall be in such form and contain such particulars as the Board prescribe and shall be signed by an authorised officer of the lender; and forms prescribed for annual claims may require a report to be given by the lender's auditor.

(8) Where for the purposes of an annual claim for a financial year it is necessary to apportion any amount included in an interim claim for a period falling partly within and partly outside that financial year, the apportionment shall be made in such manner as the Board may prescribe.

Information to be provided to borrowers by lenders

15. A lender shall, at his request, provide the borrower with a certificate showing in respect of a tax year the amount of relevant loan interest due from and paid by the borrower and the amount of tax deducted from that interest.

Information to be provided to the Board

16. The Board may by notice in writing require any person who is a party to a loan agreement to which section 26 applies, or could in the opinion of the Board apply, to furnish them, within such

time (not being less than 14 days) as may be provided by the notice, such information (including copies of any relevant documents or records) as they may reasonably require for the purposes of section 26 or Schedule 7.

Inspection of Records

17.—(1) Every person to whom payments of interest are made in respect of which a repayment claim is made by a lender under these Regulations shall, whenever required to do so, make available for inspection by an officer of the Board authorised for that purpose all such books, documents and other records in his possession or under his control containing information relating to:—

- (a) such interest and the terms of the loans (including relevant contracts or deeds) under which such interest is paid or,
- (b) the persons holding such contracts or deeds or paying such interest

as may reasonably be required for determining whether the amount for which any such claim is made is properly recoverable.

(2) Where records are maintained by computer the person required to make them available for inspection shall provide the officer making the inspection with all facilities necessary for obtaining information from them.

- (a) (3) (a) Every notice given to it by the borrower under paragraph 7(1)(a) of Schedule 7 shall be preserved by the lender to whom it is given and in such manner as may be approved by the Board, so as to be available for inspection under this Regulation, until two years after the termination of the loan or, if earlier, the date from which the interest ceases to be relevant loan interest;
- (b) a copy of the notice shall on its written request be made available to the Board.

Application of penalty provisions of the Taxes Management Act 1970

18. At the end of the second column of the Table in section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information etc) there shall be inserted

“Regulations 16 and 17 of the Income Tax (Interest Relief) Regulations 1982”.

Borrowers' appeals: supplementary provisions

19. An appeal by a borrower shall lie to the General Commissioners except that the borrower may elect (in accordance with section 46(1) of the Taxes Management Act 1970) to bring his appeal before the Special Commissioners—

- (a) from the Board's decision on his application under Regulation 3(3);
- (b) from a notice issued to him by the Board under paragraph 7(1)(b) of Schedule 7 (notice that interest may be paid under deduction of tax); and
- (c) from a notice issued to him by the Board under paragraph 10 of Schedule 7 (notice that interest is not relevant loan interest).

(2) An appeal shall be brought by giving written notice to the Board within 30 days of the receipt by the borrower of the Board's decision or the notice as the case may be.

(3) Part V of the Taxes Management Act 1970 (appeals and other proceedings) shall apply to an appeal under this Regulation, and on an appeal the General or Special Commissioners may vary the decision or notice appealed from whether or not the variation is to the advantage of the appellant.

(4) All such assessments, payments or repayments shall be made by the inspector as are necessary to give effect to the Board's decision or notice or to any variation of that decision or notice on appeal.

(5) The Taxes Management Act 1970 shall apply to an assessment made by the inspector to give effect to a notice issued by the Board under the said paragraph 10 of Schedule 7 as if it were an assessment to tax for the tax year in which the relief, to which the notice refers, was given and as if—

- (a) the assessment were among those specified in sections 55(1) (recovery of tax not postponed) and 86(2) (interest on overdue tax) of that Act; and
- (b) the sum charged by the assessment were tax specified in paragraph 3 of the Table in section 86(4) of that Act (reckonable date).

(6) Without prejudice to the provisions of sections 36, 37 and 39 of the Taxes Management Act 1970 (extended time limit for fraud etc.) an assessment made under paragraph (5) shall not be out of time under section 34 of that Act (ordinary time limit of six years) if it is made before the end of the chargeable period following that in which the Board's notice was issued.

31st August 1982

D.B. Rogers
J.D. Taylor Thompson
Two of the Commissioners of Inland Revenue

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EXPLANATORY NOTE

These regulations supplement sections 26 and 28 and Schedule 7 to the Finance Act 1982 which provide for a new scheme for giving tax relief on payments of mortgage interest. From April 1983, or in some cases earlier, a person who pays certain categories of loan interest on which tax relief is due will normally be entitled to deduct and retain out of it a sum equal to income tax at the basic rate and the Inland Revenue will pay to the lender the amount of the deduction made.

Regulation 1 gives the title and commencement date and Regulation 2 defines terms used.

Regulation 3 specifies those loans which a borrower may bring within the new scheme and those where he needs to obtain authority from the Inland Revenue to deduct tax.

Regulation 4 enables lenders to bring into the new scheme certain loans made before 6 April 1983.

Regulation 5 sets out the circumstances in which the Inland Revenue may approve an application by a lender to begin operating the new scheme before 6 April 1983. Regulation 6, in relation to home improvement loans, and Regulation 7, in relation to loans which exceed the limit for tax relief (at present £25,000), provide for the lender to opt to bring such loans within the new scheme.

Regulation 8 enables lenders and borrowers to adjust periodic payments in respect of existing loans so that the amounts remain constant.

Regulations 9–14 provide procedures by which lenders may recover from the Inland Revenue the amounts deducted by borrowers.

Regulation 15 provides for a lender to supply a borrower with a certificate of interest within the scheme paid in any tax year.

Regulations 16 and 17 give the Inland Revenue power to obtain necessary information from any party to a loan agreement to which the scheme applies or from any person to whom a payment under Regulations 9–14 has been made. Regulation 18 provides standard penalties for failure to supply the information called for under Regulations 16 and 17.

Regulation 19 provides standard appeal procedures for borrowers against decisions and notices of the Inland Revenue.