
 STATUTORY INSTRUMENTS

1986 No. 482

INCOME TAX

The Income Tax (Building Societies) Regulations 1986

<i>Made - - - -</i>	<i>13th March 1986</i>
<i>Laid before the House of Commons</i>	<i>14th March 1986</i>
<i>Coming into Operation</i>	<i>6th April 1986</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 343 (1A) of the Income and Corporation Taxes Act 1970(a), hereby make the following regulations:—

Citation and commencement

1. These Regulations may be cited as the Income Tax (Building Societies) Regulations 1986 and shall come into operation on 6th April 1986.

Interpretation

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

“the Taxes Act” means the Income and Corporation Taxes Act 1970;

“basic rate amount” is the amount to which Regulation 5 applies;

“discretionary and accumulation trust” means a trust the income arising to the trustees of which is chargeable to income tax at the additional rate;

“dividend” means any distribution in respect of investments including any qualifying distribution as defined for the purposes of the Corporation Tax Acts and whether described as a dividend or otherwise;

“exempt friendly society” means a registered friendly society exempt from income tax and corporation tax under the provisions of section 332 of the Taxes Act;

“exempt pension fund” means an exempt pension fund within the meaning given to it by section 6(2) of the Finance Act 1975(b);

“gross payment” means any payment to which Regulation 6 applies;

“investment” includes any shareholding, deposit or loan and “investor” shall be construed accordingly;

“payment” (except in relation to a payment to the Board) includes “credit” and “paid” shall be construed accordingly;

“payment quarter” means a period of three months ending with the last day of February, May, August or November;

“qualifying certificate of deposit” means a certificate of deposit as defined in section 55(3) of the Finance Act 1968(c), which is issued by a

(a) 1970 c.10; subsection (1A) was inserted in section 343 by subsection (3) of section 40 of the Finance Act 1985 (c.54). Other relevant amendments to section 343 were made by that section, by section 38 of, and paragraph 40 of Schedule 6 and Part II of Schedule 14 to, the Finance Act 1971 (c.68), by paragraph 22 of Schedule 24 to the Finance Act 1972 (c.41), and by section 26(5) of, and Part V of Schedule 23 to, the Finance Act 1984 (c.43).

(b) 1975 c.7.

(c) 1968 c.44.

building society and under which—

- (a) the amount payable by the society, exclusive of interest, is not less than £50,000, and
- (b) the obligation of the society to pay that amount arises before the expiry of the period of twelve months beginning on the date of issue of the certificate;

“qualifying time deposit” means a deposit which is made with the society concerned by way of loan and which—

- (a) is in sterling and for an amount which is not less than £50,000,
- (b) is made on terms requiring repayment of the loan at the end of a specified period which expires before the end of the period of twelve months beginning on the date on which the deposit is made, and
- (c) is not made on terms which make provision for the transfer of the right to repayment;

“reduced rate amount” is the amount to which Regulation 4 applies;

“section 343” means section 343 of the Taxes Act.

(2) For the purposes of and subject to these Regulations—

- (a) section 53 of the Taxes Act shall apply to a payment by a building society of an annuity or annual payment within the meaning of section 53(1)(a), and
- (b) section 54 of the Taxes Act shall apply to a payment of interest on any quoted Eurobond in any case where its application is not excluded by virtue of section 35(1) of the Finance Act 1984 (a),

and those payments are referred to in these Regulations respectively as a “section 53 payment” and a “section 54 payment” (b).

Reduced rate amount and basic rate amount payments

3. Except in respect of gross payments which it makes a building society shall pay to the Board on the relevant payment date for each payment quarter or other period to which Regulation 7 applies, in respect of any payments of dividends or interest and any section 53 payments or section 54 payments made after February 1986, a sum made up of the reduced rate amount and the basic rate amount for that payment quarter or period.

4.—(1) The reduced rate amount is the total of the amounts representing income tax calculated by applying the reduced rate to the grossed-up amounts of dividends and interest paid by a building society in respect of investments described in paragraph (2).

(2) The investments to which paragraph (1) refers are investments (which are not marketable securities within the meaning of paragraph (3)) of the following descriptions—

- (a) investments owned beneficially by an individual or a Scottish partnership, all the partners in which are individuals, and owned either solely by the individual or partnership or, if jointly, with another individual or other individuals;
- (b) investments owned by personal representatives which were investments beneficially owned by the deceased at the time of his death (or investments representing those investments or dividends or interest thereon);

(a) 1984 c.43.

(b) Relevant amendments were made to sections 53 and 54 by sections 36 and 38 of, and Schedules 6 and 14 (Pt. II) to, the Finance Act 1971 (c.68).

- (c) investments owned by trustees of a trust (other than a discretionary and accumulation trust) in the income of which no person who is not an individual, or a Scottish partnership, all the partners in which are individuals, has any interest;
 - (d) investments owned by persons (apart from the Crown, an exempt pension fund or a company but including bodies of persons and trustees) entitled to exemption from income tax under Schedule D.
- (3) The expression “marketable securities” in paragraph (2) means securities which are capable—
- (a) under the terms on which they are held, of being owned by any person, and
 - (b) of being sold on a recognised stock exchange within the meaning of section 535 of the Taxes Act.
- (4) The grossed-up amounts to which paragraph (1) and Regulation 5 refer are the amounts which, after making the deduction at the reduced rate or the basic rate, as the case may be, would be equal to the amount actually paid.
5. The basic rate amount is the total of—
- (a) the amounts representing income tax calculated by applying the basic rate to the grossed-up amounts of dividends and interest paid by a building society in respect of—
 - (i) investments owned beneficially by a company, and
 - (ii) other investments apart from those to which this paragraph applies or in respect of which provision is otherwise made by these Regulations;
 - (b) sums representing the amount of income tax thereon deducted out of any section 53 payment or section 54 payment.

Gross payments

- 6.—(1) Subject to paragraph (2), a gross payment is a payment by a building society of dividends or interest in respect of an investment which at the time of payment falls within any of the following descriptions—
- (a) a payment to an individual beneficially entitled to the payment or to individuals jointly so entitled (including a Scottish partnership, all the partners in which are individuals), being an individual or individuals not ordinarily resident in the United Kingdom;
 - (b) a payment to trustees of a trust in the income of which no person has an interest apart from—
 - (i) an individual who is not ordinarily resident in the United Kingdom, or
 - (ii) a Scottish partnership, all the partners in which are such individuals;
 - (c) a payment to personal representatives in respect of an investment forming part of a deceased person’s estate which was beneficially owned by the deceased, being an individual not ordinarily resident in the United Kingdom at the time of his death (or in respect of investments representing those investments or dividends or interest thereon);
 - (d) a payment to a charity in respect of which exemption is granted under section 360(1)(c) of the Taxes Act;
 - (e) a payment to an exempt friendly society;

- (f) a payment to an exempt pension fund in respect of the whole of the income of which exemption is allowed under section 21(2) of the Finance Act 1970;
- (g) a payment of interest on a bank loan;
- (h) a payment in respect of a qualifying certificate of deposit or a qualifying time deposit;
- (i) a payment of any sum payable under a certified contractual savings scheme in respect of shares in a building society to which section 415(3) of the Taxes Act applies;
- (j) a payment in respect of a quoted Eurobond to which, by virtue of section 35(1) of the Finance Act 1984, section 54 of the Taxes Act does not apply.

(2) Subsection (3) of section 343 shall apply to gross payments with the omission of paragraphs (b), (c) and (d).

Collection of amounts in respect of income tax payable by building societies

7.—(1) Schedule 20 to the Finance Act 1972(a) (“Schedule 20”) shall have effect for the purposes of these Regulations but with the modifications specified in the following paragraphs of this Regulation.

(2) Any payment by a building society of the following descriptions is, for the purposes of Schedule 20, a relevant payment—

- (a) a payment of dividends or interest to which Regulation 4 or Regulation 5 applies;
- (b) a section 53 payment;
- (c) a section 54 payment.

(3) Schedule 20 shall apply in relation to any such relevant payment—

- (a) with the substitution for any reference to a company of a reference to a building society;
- (b) as if the amount payable to the Board in respect of any relevant payment were income tax in respect of the relevant payment;
- (c) with the omission of paragraph 1 of that Schedule;
- (d) with the substitution for paragraphs (a) to (c) of paragraph 2(2) of that Schedule of the words—
 “(a) each complete payment quarter within the accounting period, beginning with the payment quarter ending 31st May 1986; (b) each part of an accounting period being a part which begins after February 1986 and which is not a complete payment quarter;”
- (e) as if (except for the purposes of Regulation 11) paragraph 5 (set-off against company’s income tax payable) applied only in relation to payments received by the building society after February 1986 and which fall to be taken into account in computing its income chargeable to corporation tax.

(4) Tax to which, by virtue of this Regulation, Schedule 20 applies is tax assessable in accordance with Schedule 20 for the purposes of section 87 of the Taxes Management Act 1970 (interest on overdue tax on company payments)(b).

(a) 1972 c.41.

(b) 1970 c.9.

Declarations by investors

8.—(1) A building society may not treat an investment, or any payment of dividends or interest in respect of it, as being within the provisions of Regulation 4 or paragraphs (a) to (f) of Regulation 6(1) unless it has received from the investor a declaration in writing which can reasonably be taken to indicate that, at the time of payment of the dividends or interest, those provisions apply.

(2) An investor may not be treated as being not ordinarily resident for the purposes of Regulation 6 unless he has made a declaration in writing to the building society—

- (a) that at the time when the declaration is made he is not ordinarily resident in the United Kingdom; and
- (b) that if he becomes ordinarily resident in the United Kingdom he will inform the building society;

but where the declaration does not give the address of the person making the declaration it shall be supported by a certificate given by the building society.

(3) Every declaration and certificate shall be in a form prescribed or authorised by the Board and contain such information as the Board may reasonably require.

(4) A building society shall be entitled to act upon a declaration so made until such time as it is in possession of information which can reasonably be taken to indicate that the relevant provisions of Regulation 4 or Regulation 6, as the case may be, are not or might not be applicable.

(5) A building society shall, on being so required by notice given to it in writing by the inspector, make any declaration and any certificate to which the notice refers available for inspection by the inspector or by a named officer of the Board, within such time as may be specified in the notice.

(6) The inspector or officer to whom they are to be made available shall be entitled to take copies of, or make extracts from, any declaration or certificate.

(7) Every declaration and every certificate to which this regulation refers shall be preserved by a building society, in such manner as may be approved by the Board, for three years (or such other period as the Board may reasonably require) after it has ceased to be otherwise required under the provisions of this Regulation.

Certificate of tax for investors

9. A building society shall provide every company, exempt pension fund or trustees of a discretionary and accumulation trust to whom a payment is made to which paragraph (a) of Regulation 5 applies, with a certificate in a form authorised by the Board showing the amount of any dividend or interest paid to it or to them and, in the case of the aforesaid trustees, the certificate shall contain a statement that a sum representing income tax at the basic rate in respect of that amount has been or will be accounted for by the building society.

Information

10. Section 17 of the Taxes Management Act 1970 (interest paid or credited without deduction of income tax) shall apply to a building society as if—

- (a) references to interest included references to dividends within the meaning of these Regulations; and
- (b) after the words “trade or business of banking” in subsection (1) there were inserted the words “or of a building society”.

Transitional-payments in 1985–86 not taken into account under 1985–86 arrangements

11.—(1) This Regulation applies with respect to any payment by a building society, after the end of the society’s last accounting period which ends in the year 1985–86, but before the 1st March 1986—

- (a) made to an investor by way of dividends or interest in respect of an investment; or
- (b) which is a section 53 payment.

(2) Subject to the provisions of these Regulations, any such payment shall be treated in all respects as a payment to which these Regulations apply and as made in the payment quarter to which the payment dates specified in paragraph (3) below relate.

(3) The accounting periods concerned, the specified payment dates to which paragraph (2) refers, and the amounts in respect of the sum payable to the Board to which Regulation 3 applies which shall be payable on or before those dates, are as follows:—

<i>Accounting period ending</i>	<i>Payment Date</i>	<i>Amount</i>
In December 1985, January or February 1986	14 March 1987	The whole
In September, October or November 1985	14 March 1987	One half
	14 March 1988	One half
In June, July or August 1985	14 March 1987	One third
	14 March 1988	One third
	14 March 1989	One third
Before June 1985	14 March 1987	One quarter
	14 March 1988	One quarter
	14 March 1989	One quarter
	14 March 1990	One quarter

(4) Subject to paragraph (5), the sum payable to the Board to which paragraph (3) refers is the sum of the reduced rate amount arrived at by reference to a rate of 25.25 per cent. and the basic rate amount arrived at by reference to a rate of 30 per cent.

(5) Regulation 7(3) shall apply for the purposes of this Regulation with the substitution of the following paragraph for paragraph “(e)”—

“(e) as if, for the purposes of paragraph 5 (set off against company’s income tax payable), the period from the end of the society’s last accounting period ending in the year 1985–86 down to the end of February 1986 were an accounting period.”

Exclusion of payments taken into account under 1985–86 arrangements

12. The above Regulations shall not apply to any payment of dividends or interest in respect of an investment or to any section 53 payment to the extent

that account was taken of any such payment in computing the amounts representing income tax payable by a building society under the arrangements as respects the year 1985–86 to which subsection (1) of section 343 applies.

Special provisions to take account of building society unions in 1985–86

13.—(1) Where, in the year 1985–86 there is, within the meaning of section 18 of the Building Societies Act 1962(a) or section 18 of the Building Societies Act (Northern Ireland) 1967(b), a union of building societies (“the old societies”) to form a new society (“the united society”) these Regulations, with the omission of Regulation 12, shall apply to those building societies in accordance with this Regulation.

(2) Regulation 11 shall apply in a case to which paragraph (1) refers with the substitution in paragraph (1) of that Regulation for the words preceding “(a)” of the words—

“This Regulation applies to any payment by an old society or united society within the meaning of Regulation 13 made after the date (being a date before 1 March 1986) on which the society’s accounting period would have ended in the year 1985–86 if the union had not taken place.”

(3) Subject to the provisions of paragraphs (1) and (2) above, these Regulations, with the omission of Regulation 7(3)(e), Regulation 11(5) and of Regulation 12, shall otherwise apply in all respects as if each of the old societies and the united society were the same society.

A. M. W. Battishill,
A. J. G. Isaac,
Two of the Commissioners
of Inland Revenue.

13th March 1986.

(a) 1962 c.37.

(b) 1967 c.31 (N.I.).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations establish a scheme for the taxation of dividends, interest and other payments by building societies which will replace the arrangements which for years of assessment down to 1985–86 were entered into annually between building societies and the Inland Revenue under section 343 of the Income and Corporation Taxes Act 1970. That section was amended by section 40 of the Finance Act 1985 which provides for the regulatory system.

Regulation 1 provides the title and the commencement date.

Regulation 2 provides definitions of certain words and phrases.

Regulation 3 provides that building societies shall account to the Inland Revenue for sums in respect of tax in relation to dividends, interest and certain annual payments. The sums payable are made up of the “reduced rate amount” (the reduced rate for 1986–87 is 25.25 per cent. (S.I. 1985/1836)) and the “basic rate amount” (for 1986–87 the basic rate will be that provided by the Finance Act 1986).

Regulation 4 defines payments in respect of which a society will account at the reduced rate.

Regulation 5 defines payments in respect of which it will account at the basic rate.

Regulation 6 defines payments which may be made gross.

Regulation 7 provides (with modifications) that the machinery for accounting for tax and returns enacted by Schedule 20 to the Finance Act 1972 for certain company payments shall apply to building society payments to which the Regulations apply.

Regulation 8 provides that building societies shall obtain evidence in writing from investors to establish which of Regulations 4, 5 or 6 is applicable.

Regulation 9 provides that a building society shall provide certain investors with certificates that the society will account for tax in respect of payments of dividends and interest to them.

Regulation 10 adapts and extends the existing provisions of section 17 of the Taxes Management Act 1970 to building society payments of dividends and interest. These provisions enable the Inland Revenue to call for returns and information necessary to the administration of the scheme.

Regulation 11 provides for the deferral of payments to the Inland Revenue of amounts due from building societies in respect of payments made between the date of the last accounting period to which the old arrangements applied and the coming into operation of the regulatory system.

Regulation 12 provides that to the extent that payments of dividends and interest and annual payments were taken into account under the arrangements which had effect in 1985–86 they shall not be subject to these Regulations and the new scheme of taxation.

Regulation 13 makes special provisions to take account of building society unions in 1985–86.

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