

**EXPLANATORY MEMORANDUM TO  
THE ENERGY-SAVING ITEMS REGULATIONS**

**2007 No. 831**

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations provide that hot water system insulation, draught proofing, solid wall insulation and floor insulation are to be classed as items of an energy-saving nature for the purposes of section 312 of the Income Tax (Trading and Other Income) Act 2005 ("ITTOIA"). This allows landlords paying income tax, when calculating the taxable profits of a property business, to deduct expenditure on acquiring and installing these items in the residential properties they let. Currently a deduction is provided for all of these items except floor insulation. These Regulations both extend the energy-saving items for which a deduction can be made and ensure all items added since 2004 are listed in one set of Regulations.
- 2.2 The Regulations also set the maximum amount of expenditure for which a deduction may be made to £1,500 per property (dwelling-house) per tax year. This maximum was previously set at £1,500 per building per tax year.
- 2.3 The Regulations further introduce the conditions for the allowance, provide for the apportionment of the allowable deduction when two or more people own or have interests in the property in question, and make provision for appeals regarding these apportionments.
- 2.4 They go on to revoke previous regulations which have dealt with the treatment of items of an energy-saving nature.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

None

4. **Legislative Background**

- 4.1 The Regulations are made by the Treasury under section 312(5)(c) and section 314 of ITTOIA.
- 4.2 These powers have previously been exercised in S.I. 2005/1114 and 2006/912. Similar powers which appeared in the Income and Corporation Taxes Act 1988

sections 31A(13) and 31B(7) (before this legislation was rewritten in ITTOIA) were exercised in S.I. 2004/2664. These Regulations revoke those Instruments.

- 4.3 S.I. 2004/2664 introduced a maximum deduction of £1,500 per building, conditions for the allowance, the apportionment of the deduction in cases such as joint ownership and the appeal mechanism in these cases. The maximum deduction is changed by the new Regulations and the other elements of S.I. 2004/2664 are reintroduced and adapted to the new maximum which operates per dwelling-house. S.I. 2005/1114 and 2006/912 introduced additional energy-saving items for which a deduction may be made. These items are included in the new Regulations.

## **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 Sections 31A and 31B of the Income and Corporation Taxes Act 1988 (now rewritten as sections 312 to 314 of ITTOIA) introduced a new relief designed to reduce carbon emissions in the housing sector. The relief is known as the "Landlords Energy Saving Allowance".
- 7.2 In the UK, private rented housing has poor standards of energy efficiency. The Landlords Energy Saving Allowance encourages landlords who pay income tax to improve the energy efficiency of their let residential properties by allowing them to deduct the cost of acquiring and installing certain types of insulation when calculating the taxable profits of their property business.
- 7.3 The Regulations extend the types of insulation which qualify for the Landlord's Energy Saving Allowance to include floor insulation and so widen the ways in which landlords are encouraged to improve the energy efficiency of their properties. The Regulations also include that the allowance is available for hot water system insulation, draught proofing and solid wall insulation and repeals previous regulations which provided for the inclusion of these items.
- 7.4 They also change the maximum deduction available from £1,500 per building to £1,500 per property (dwelling-house), to allow each flat within a block of flats to deduct up to £1,500 and thereby ensure that they can take full advantage of the relief.
- 7.5 The Regulations are intended to ensure that the risk of avoidance or abuse is reduced by preventing more than one person making a deduction in respect of the same expenditure and by ensuring that, where more than one person has an interest in the relevant property the total amount which may be claimed is apportioned between those persons.

7.6 It was announced in the pre-Budget report that the Government intends to extend the life of the allowance, which is currently available until 2009, to 2015. It was also announced that, subject to the potential need for State aid approval from the European Commission, the Landlords Energy Saving Allowance will be made available to corporate landlords.

## **8. Impact**

A Regulatory Impact Assessment dealing with a number of proposed changes to the Landlords Energy Saving Allowance will be published on Budget Day, 21 March. It is expected that the inclusion of floor insulation will increase the number of landlords installing this energy saving item in the residential properties they let and that the change in the operation of the cap will improve the take-up of the allowance by landlords of flats. The changes detailed in these regulations are not expected to significantly increase either the additional compliance costs on landlords or the administrative cost for HMRC.

## **9. Contact**

Ruth Curtice at HMRC (Tel: 020 7147 2602 or e-mail: [ruth.curtice@hmrc.gsi.gov.uk](mailto:ruth.curtice@hmrc.gsi.gov.uk)) can answer any queries regarding the instrument.