STATUTORY INSTRUMENTS

1990 No. 2232

INCOME TAX

The Income Tax (Deposit-takers) (Interest Payments) Regulations 1990

Made - - - - - -	*8th November 1990*
Laid before the House of Commons	*9th November 1990*
Coming into force - - - -	*30th November 1990*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 480B and 482(11) of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Income Tax (Deposit-takers) (Interest Payments) Regulations 1990, shall come into force on 30th November 1990 and shall have effect with respect to the year 1991–92 and subsequent years of assessment.

Interpretation

2. In these Regulations unless the context otherwise requires—

"the Board" means the Commissioners of Inland Revenue;

"deposit-taker" and "relevant deposits" have the meanings given by section 481 of the Taxes Act(b);

"depositor" means the holder of an account with a deposit-taker in relation to which a payment of interest is made;

"notice" means notice in writing;

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

"section 480A(1)" means section 480A(1) of the Taxes Act(c);

"the Taxes Act" means the Income and Corporation Taxes Act 1988;

"year" means a year beginning with 6th April in any year and ending with 5th April in the following year.

Introductory

3. These Regulations apply to payments of interest by deposit-takers in respect of relevant deposits where the persons beneficially entitled to the payments are ordinarily resident in the United Kingdom.

Gross Payments

4.—(1) The provisions of section 480A(1) shall not apply as regards a payment of interest by a deposit-taker if the conditions prescribed by regulations 5, 6 and 8 and, where applicable, regulation 9 are fulfilled, and accordingly where those conditions are fulfilled such payments shall be made without deduction of tax.

(a) 1988 c.1; section 480B was inserted by paragraph 7 of Schedule 5 to the Finance Act 1990 (c.29) and section 482(11) was amended by paragraph 9(4) of Schedule 5 to the Finance Act 1990.

(b) Section 481 was amended by paragraph 8 of Schedule 5 to the Finance Act 1990.

(c) Section 480A was inserted by paragraph 7 of Schedule 5 to the Finance Act 1990.

(2) Where paragraph (1) applies and subject to paragraph (3), a deposit-taker may, on receipt of the certificate referred to in regulation 5, refund to the depositor an amount corresponding to the tax deducted from payments of interest previously made in the year and shall, on a written application made to the Board, recover a like amount of tax paid in respect of those payments to the amount refunded to the depositor.

(3) Paragraph (2) shall not apply where in any year a statement relating to that year has been furnished by the deposit-taker to the depositor pursuant to section 352 of the Taxes Act(a) prior to receipt of the certificate referred to in regulation 5.

Certificate of non-liability to tax

5. The conditions prescribed by this regulation are—

(a) that a certificate is supplied to the deposit-taker to the effect that the person beneficially entitled to the payment of interest (in this regulation referred to as "the payment") is unlikely to be liable to pay any amount by way of income tax for the year in which the payment is made;

(b) subject to paragraph (c) that the certificate is given by—

(i) a depositor who was aged 16 or over at the beginning of the year in which the payment is made and who is beneficially entitled to the payment; or

(ii) the parent or guardian of a person beneficially entitled to the payment where that person is under the age of 16 at the beginning of the year in which the payment is made; or

(iii) a person beneficially entitled to the payment where that person is under the age of 16 at the beginning of the year in which the payment is made but will attain that age during the year; or

(iv) the donee of a power of attorney authorising him to administer the financial affairs of a person beneficially entitled to the payment;

(c) that the certificate is not given or supplied in circumstances where—

(i) the provisions of section 663 of the Taxes Act(b) apply to the payment, or

(ii) the account to which the certificate, if given, would relate is specified in a notice which has been issued under regulation 6(3)(d) and which has not been cancelled;

(d) that the certificate is given and supplied to the deposit-taker—

(i) where sub-paragraph (i), (ii) or (iv) of paragraph (b) applies, before the end of the year in which the payment is made, or

(ii) where sub-paragraph (iii) of paragraph (b) applies, before the end of the year in which the person beneficially entitled to the payment attains the age of 16; and

(e) that the certificate is in such form as the Board may prescribe or authorise and contains—

(i) the information specified in the Schedule to these Regulations, and

(ii) an undertaking by the person giving it that if he, being the person beneficially entitled to the payment, or the person so entitled becomes liable to pay any amount by way of income tax for the year in which the payment is made, he will notify the deposit-taker in writing accordingly, specifying the account to which the certificate relates together with the account number and, where necessary for identifying the account, the branch of the deposit-taker where the account is held.

Certificate ceasing to be valid

6.—(1) The condition prescribed by this regulation is that the certificate referred to in regulation 5 continues in full force and effect and has not ceased to be valid.

(2) A certificate ceases to be valid in any of the circumstances specified in paragraph (3).

(a) Section 352(1) was amended by paragraph 11 of Schedule 5 to the Finance Act 1990.

(b) Section 663(4) was amended by section 82 of the Finance Act 1990.

(3) The circumstances specified in this paragraph are—

(a) the receipt by the deposit-taker of information by way of a notification pursuant to regulation 5(e)(ii) that the person beneficially entitled to a payment of interest arising on an account specified in the notification has become liable to pay an amount by way of income tax for the year in which the payment is made;

(b) in the case of a certificate given under regulation 5(b)(ii), the ending of the year in which the person beneficially entitled to the payment attains the age of 16;

(c) the failure by a person who has given a certificate under regulation 5(b)(iii), but is not the holder of the account to which the certificate relates, to become the holder before the first payment of interest after the end of the year in which he attains the age of 16;

(d) where the Board, having reason to believe that a person beneficially entitled to a payment of interest is or has become liable to pay an amount by way of income tax, by notice require a deposit-taker to deduct tax pursuant to section 480A(1) from payments of interest which—

(i) are made in respect of an account which is held by or on behalf of that person and which, together with the account number and, where necessary for identifying the account, the branch of the deposit-taker where the account is held, is specified in the notice, and

(ii) are made to or for the benefit of that person after the expiry of a period of 30 days following the date of issue of the notice;

(e) where notification is received by the deposit-taker that the person by whom or on whose behalf the certificate was given has died.

Consequences of notice under regulation 6(3)(d)

7.—(1) Where the Board issue a notice under regulation 6(3)(d)—

(a) they shall at the same time send a copy to the person referred to in the notice;

(b) subject to paragraphs (2) and (3), no further certificate under regulation 5 may be given by or on behalf of the person referred to in the notice in respect of an account specified in the notice;

(c) the deposit-taker may at his option deduct tax pursuant to section 480A(1) from payments of interest referred to in regulation 6(3)(d) which are made within the period of 30 days referred to in that regulation.

(2) If the Board are satisfied, as a result of information received following the issue of a notice under regulation 6(3)(d), that the person referred to in the notice either—

(i) was not liable at the date of the notice, and has not since become liable, to pay an amount by way of income tax, or

(ii) is no longer liable to pay such an amount,

they shall cancel the notice and give notice of the cancellation to the deposit-taker and the person referred to in the notice under regulation 6(3)(d).

(3) Where notice of cancellation is issued by the Board under paragraph (2), a further certificate may be given in accordance with the conditions of regulation 5 by or on behalf of the person referred to in the notice under regulation 6(3)(d).

Obsolescent accounts

8.—(1) The condition prescribed by this regulation is that, subject to paragraphs (3) and (4), a payment of interest arising on an account held with a deposit-taker is not a payment in respect of which a written application has been made to the Board by the deposit-taker in the circumstances specified in paragraph (2) to the effect that, notwithstanding the provisions of regulations 5 and 9, the payment should be made under deduction of tax pursuant to section 480A(1).

(2) The circumstances specified in this paragraph are where—

(a) the account to which the payment relates is of a class which, prior to 6th April 1991, had ceased to be available to a person desiring to open a new account;

(b) the application, which may relate to more than one such class of account—

(i) gives sufficient particulars of each such class to enable the Board to determine whether the application is validly made, and

(ii) is made not less than 30 days before the first date after 5th April 1991 on which a payment of interest arising on any account to which the application relates is to be made.

(3) An application under paragraph (1) shall be of no effect if within 30 days after receipt of the application the Board notify the deposit-taker concerned that, having regard to paragraph (2), they are not satisfied that the application is validly made.

(4) A deposit-taker may by notice to the Board—

(a) cancel an application made under paragraph (1), or

(b) vary the application so that it ceases to relate to certain accounts;

and where the application is so cancelled or varied, the condition prescribed by this regulation shall cease to apply to payments of interest arising on accounts to which the application formerly related and made after the date of the notice.

Joint accounts

9.—(1) The conditions prescribed by this regulation apply where more than one person is beneficially entitled to a payment of interest arising on an account held with a deposit-taker.

(2) The prescribed conditions are that—

(a) a certificate referred to in regulation 5 is given by or on behalf of—

(i) each person beneficially entitled to the payment of interest, or

(ii) one or more (but not all) of such persons individually; and

(b) a notice under paragraph (6) relating to the payment of interest—

(i) has not been given to the Board by the deposit-taker, or

(ii) has been so given and has subsequently been cancelled by the deposit-taker under paragraph (7).

(3) Where the condition in paragraph (2)(a)(i) was satisfied but a certificate has ceased to be valid at any time by reason of the occurrence of one of the circumstances specified in sub-paragraph (a), (b), (c) or (d) of regulation 6(3), this paragraph shall apply in relation to a payment of interest made—

(a) after that time, or

(b) where sub-paragraph (d) of regulation 6(3) applies—

(i) after the expiry of a period of 30 days following the date of issue of the notice referred to in that sub-paragraph, or

(ii) after such date falling within that period as the deposit-taker may at his option determine.

(4) Subject to paragraph (6), where the condition in paragraph (2)(a)(ii) is satisfied or paragraph (3) applies, for the purposes of these Regulations and of deduction of tax pursuant to section 480A(1), it shall be assumed that each person is beneficially entitled in equal shares to the payment of interest and accordingly—

(a) payment of so much of the interest as by virtue of this paragraph corresponds to the share of any person by or on behalf of whom a certificate was given shall be made without deduction of tax pursuant to regulation 4(1), and

(b) payment of the remainder of the interest shall be made under deduction of tax pursuant to section 480A(1).

(5) Tax deducted from a payment within paragraph (4)(b) shall, for all the purposes of the Income Tax Acts, be treated as income tax paid by the person or persons to whom the payment is treated as being made.

(6) A deposit-taker may by notice inform the Board of his intention that, in circumstances where the condition in paragraph (2)(a)(ii) is satisfied or paragraph (3) applies, the whole of a payment of interest referred to in the notice shall be made under deduction of tax pursuant to section 480A(1), and, subject to paragraph (7), where such notice is given paragraph (4) shall not apply and tax shall accordingly be deducted by the deposit-taker from any payment to which the notice relates and which is made after the date of the notice.

(7) a deposit-taker may by notice to the Board (in this paragraph referred to as "the cancellation notice") cancel a notice given under paragraph (6) and, where a notice is so cancelled, paragraph (4) shall apply to any payment of interest to which the notice formerly related and which is made after the date of the cancellation notice.

Information to be provided to the Board—gross payments

10.—(1) This regulation applies to payments of interest made without deduction of tax by deposit-takers in respect of relevant deposits, including payments made partly without and partly under deduction of tax pursuant to regulation 9(4).

(2) The Board may by notice require any deposit-taker 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 books, documents or other records) as they may reasonably require for the purposes of these Regulations and, in particular, for—

(a) verifying payments of interest made without deduction of tax in accordance with these Regulations; and

(b) determining whether a person has given or supplied a certificate in compliance with the conditions of regulation 5.

Information to be provided to the Board—net payments

11.—(1) This regulation applies to payments of interest by deposit-takers to which regulation 10 does not apply.

(2) The Board may by notice require any deposit-taker to furnish them, within such time (not being less than 14 days) as may be provided by the notice, such information relating to amounts of interest paid by the deposit-taker to which this regulation applies and to tax deducted by the deposit-taker from such payments in accordance with section 480A(1) and these Regulations as they may reasonably require for verifying the amount of tax so deducted.

(3) The information which may be required by the Board under paragraph (2) shall include copies of any relevant books, documents or other records of the deposit-taker, not being records from which the identity of a depositor can be ascertained.

Inspection of records

12.—(1) Every deposit-taker shall, whenever required to do so, make available for inspection by an officer of the Board authorised for that purpose, at such time as that officer may reasonably require, all such books, documents and other records in his possession or under his control as may be required by the Board under regulations 10 and 11.

(2) Every certificate supplied to a deposit-taker pursuant to regulation 5 shall be preserved by the deposit-taker in such manner as may be approved by the Board for two years after it has ceased to be otherwise required under the provisions of these Regulations.

Use of information

13.—(1) Subject to paragraph (2) information obtained by the Board under regulation 10, 11 or 12—

(a) shall not be used for the purpose of ascertaining the tax liability (if any) of any person other than—

(i) a person beneficially entitled to a payment of interest within regulation 10 to whom the information obtained relates, and

(ii) the deposit-taker; and

(b) shall otherwise be used only for the purposes of these Regulations.

(2) Paragraph (1) shall not be construed as preventing any disclosure of information within section 182(5) of the Finance Act 1989**(a)**.

A. J. G. Isaac
T. J. Painter

8th November 1990 — Two of the Commissioners of Inland Revenue

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(a) 1989 c.26.

SCHEDULE

Regulation 5(e)(i)

The information referred to in regulation 5(e)(i) is—

(a) the name, permanent residential address including post code, and date of birth of the person beneficially entitled to the payment;

(b) save where the Board indicate in a particular case that this information is not required, the national insurance number of a person within paragraph (a) and aged 16 or over at the beginning of the year in which the payment is made who, at any time within the period of three years ending with the date on which a certificate is signed, has been liable to pay Class 1 or Class 2 contributions within the meaning of section 1(2) of the Social Security Act 1975(a);

(c) the following details relating to the depositor's account held with the deposit-taker to which the certificate relates—

(i) the name of the deposit-taker;

(ii) the branch of the deposit-taker where the account is held, if the account cannot otherwise be identified;

(iii) the account number.

(a) 1975 c.14.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under sections 480B and 482(11) of the Income and Corporation Taxes Act 1988 (" the 1988 Act "), prescribe the conditions which, if fulfilled, enable payments of interest by a deposit-taker to be made without deduction of tax, thereby disapplying section 480A of the 1988 Act (" section 480A "). They also provide for recovery of tax paid in the tax year in which the conditions are fulfilled, and for the furnishing of information to, and inspection of documents by, the Board in connection with payments of interest by deposit-takers under deduction of tax pursuant to section 480A or, in accordance with these Regulations, without deduction of tax.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 contains definitions.

Regulation 3 defines the payments to which these Regulations apply.

Regulation 4 disapplies section 480A where the prescribed conditions set out in regulations 5, 6, 8 and 9 are fulfilled, and makes provision for recovery of tax paid.

Regulation 5 together with the Schedule prescribes the conditions relating to the giving and supply of a certificate to the effect that a person beneficially entitled to a payment of interest is unlikely to be liable to pay income tax for the tax year in which the payment is made.

Regulation 6 prescribes the condition that a certificate given under Regulation 5 continues to be valid and specifies the circumstances in which a certificate ceases to be valid.

Regulation 7 specifies the consequences of the Board issuing a notice under regulation 6 that tax is to be deducted from payments of interest in respect of an account held by a person who has given a certificate under regulation 5.

Regulation 8 prescribes the condition that payments of interest which are made in respect of an account of a class which, prior to 6th April 1991, had become obsolete, should in certain circumstances be made under deduction of tax.

Regulation 9 prescribes conditions relating to the giving of certificates in connection with joint accounts.

Regulations 10 to 13 provide for the furnishing of information to, and inspection of documents by, the Board in connection with payments of interest by deposit-takers under section 480A and these Regulations, and prescribe the purposes for which such information may be used.