STATUTORY INSTRUMENTS

1983 No. 368

INCOME TAX

The Income Tax (Interest Relief) (Housing Associations) Regulations 1983

Made - - -	10*th March* 1983
Laid before the House of Commons	11*th March* 1983
Coming into Operation	15*th March* 1983

The Treasury in exercise of the powers conferred on them by section 29 of the Finance Act 1982(**a**), hereby make the following Regulations:—

Citation and Commencement

1. These Regulations may be cited as the Income Tax (Interest Relief) (Housing Associations) Regulations 1983, and shall come into operation on 15th March 1983.

Interpretation

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

"housing association" means a housing association for the time being approved for the purposes of section 341 of the Income and Corporation Taxes Act 1970(**b**) or a self-build society for the time being approved for the purposes of section 341A of that Act;

"the Principal Regulations" means the Income Tax (Interest Relief) Regulations 1982(**c**);

"qualifying member" means a member of a housing association except a member who, or whose husband or wife, holds an office or employment in respect of the emoluments of which he or she would but for some special exemption or immunity from tax be chargeable to tax under Case I, Case II or Case III of Schedule E;

"section 26" means section 26 of the Finance Act 1982;

"section 28" means section 28 of the Finance Act 1982;

"Schedule 7" means Schedule 7 to the Finance Act 1982.

(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(**d**).

(**a**) 1982 c.39.
(**b**) 1970 c.10.
(**c**) S.I. 1982/1236, as amended by S.I.1983/311.
(**d**) 1970 c.35.

Introductory

3. Where a housing association borrows or has borrowed from a qualifying lender on the security of a freehold or leasehold estate of that association on land in Great Britain or (except in the case of a self-build society) Northern Ireland section 26, section 28 and Schedule 7 and the Principal Regulations shall apply but subject to such modifications and conditions as these Regulations provide and as if, with respect to relevant loan interest on any loan, housing associations were included as qualifying borrowers within paragraph 13(1) of Schedule 7.

Modification of provisions of Finance Act 1982

4. Section 26(1) shall have effect as if after the words "under deduction of tax)" there were inserted the words ", section 248 of the Taxes Act (allowance of charges on income), section 251(3) of the Taxes Act (deduction of interest in computing income), section 340(2) of the Taxes Act (interest paid by industrial and provident societies)".

5. Schedule 7 shall have effect —

(*a*) as if for sub-paragraphs (1) and (2) of paragraph 2 there were substituted the words —

"(1) Subject to the following provisions of this Schedule interest which is paid and payable in the United Kingdom to a qualifying lender by a housing association and to which sub-paragraph (2) or sub-paragraph (3) below applies is 'relevant loan interest'.

(2) This sub-paragraph applies to interest if

(*a*) it is interest falling within paragraph 1 of the 1972 Schedule as originally enacted (interest on loans for purchase or improvement of land); and

(*b*) apart from subsection (1) or subsection (8) of the principal section and, where applicable, paragraph 5 below the whole of the interest would be taken into account as a deduction, either in a computation of income or against total profits, for the purposes of corporation tax; and

(*c*) it is interest on a loan to a housing association which is secured on a freehold or leasehold estate on land in Great Britain or (except in the case of a self-build society) Northern Ireland of which the housing association is the owner; and

(*d*) within 12 months of its becoming due, the land (and where it includes separate dwellings each of them) is occupied by the housing association or is used wholly or to a substantial extent as the only or main residence of a qualifying member or members of the association (including a qualifying member who resides in living accommodation which for him is job-related within the meaning of paragraph 4A(3) of the 1974 Schedule), or of a dependent relative or former or separated spouse (within the meaning of sub-paragraphs 4(*a*) or 4(*b*) of paragraph 4 of the 1974 Schedule) of a member;

but, unless sub-paragraph (4) or sub-paragraph (5) below applies, this sub-paragraph does not apply to interest which becomes due before 6th April 1983.";

(*b*) as if for paragraph 5 there were substituted the words —

"5.—(1) The provisions of this paragraph have effect in relation to a loan or

loans by a qualifying lender to a housing association the total amount of which for the time being exceeds the limit ("the aggregate limit") found by multiplying the amount of the limit provided by paragraph 5 (1) of the 1974 Schedule (the tax relief limit) by the number of separate dwellings provided or to be provided on the land on which the loan is secured and to which the loan relates, and in this paragraph any such loan is referred to as a 'limited loan'.

(2) None of the interest on a limited loan is relevant loan interest unless the qualifying lender to whom the interest is payable has given notice to the Board in accordance with regulations that he is prepared to have limited loans of a description which includes that limited loan brought within the tax deduction scheme.

(3) If, in a case where sub-paragraph (2) above applies, the total amount of loans to a housing association exceeds the aggregate limit provided by sub-paragraph (1) above, none of the interest on the loan which, taken with the amounts of any earlier loans, first exceeds that limit, or on subsequent loans, is relevant loan interest unless it is a loan which was made by the qualifying lender who first gave notice under sub-paragraph (2) above or the interest is so designated by the Board.

(4) Where notice has been given as mentioned in sub-paragraph (2) above and, if sub-paragraph (3) above also applies, subject to the provisions of that sub-paragraph, only the interest on so much of the said total amount to which sub-paragraph (1) refers as does not exceed the aggregate limit provided by that sub-paragraph is relevant loan interest.";

(*c*) as if for sub-paragraph (*c*) of paragraph 7 (1) there were substituted the words—

"(*c*) it is interest to which paragraph 2 (3) above applies in respect of which

(i) the housing association has given to the lender a certificate in a form prescribed or authorised by the Board that it is a qualifying borrower and that the interest payable on the loan is relevant loan interest; and

(ii) the lender has sent to the Board (or the Board is satisfied that it will send) a copy of the certificate;".

Modification of Principal Regulations

6. For the purposes of Regulation 3 of the Principal Regulations a housing association is a borrower to whom only paragraph (3) of that Regulation applies.

7. Regulation 4 of the Principal Regulations shall have effect as if at the end there were inserted—

"(*c*) a loan to a housing association the interest on which is relevant loan interest in respect of which the housing association has given a certificate to the Board in a form prescribed or authorised by it that it is a qualifying borrower and that the interest is relevant loan interest.".

8. For Regulation 16 of the Principal Regulations there shall be substituted the words—

"*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, or a member or tenant of a housing association which is a party to such a loan agreement, 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 including, in the case of a loan to a housing association, a certificate in a form prescribed or authorised by the Board that all or any specified conditions of the tax deduction scheme are satisfied.".

Donald Thompson,
J. A. Cope,
Two of the Lords
Commissioners of
Her Majesty's Treasury.

10th March 1983.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations provide for the application of the scheme for giving mortgage interest relief at source to the special circumstances of certain housing associations so that from April 1983 those associations will be entitled to deduct and retain out of mortgage interest paid to qualifying lenders a sum equal to income tax at the basic rate; the Inland Revenue will pay to the lenders the amount of the deductions made.

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