STATUTORY INSTRUMENTS

2006 No. 1639

INCOME TAX

The Partnerships (Restrictions on Contributions to a Trade) Regulations 2006

Made - - - -	*21st June 2006*
Coming into force - -	*22nd June 2006*

A draft of this instrument has been laid before the House of Commons in accordance with section 122A(5) of the Finance Act 2004(**a**) and approved by a resolution of the House of Commons.

Accordingly, the Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 122A(2) to (4) of the Finance Act 2004, and now vested in them(**b**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Partnerships (Restrictions on Contributions to a Trade) Regulations 2006 and shall come into force on the day after the day on which they are made.

(2) These Regulations shall have effect from 20th December 2005.

Interpretation

2. In these Regulations—

"ICTA" means the Income and Corporation Taxes Act 1988(**c**);

"ITTOIA" means the Income Tax (Trading and Other Income) Act 2005(**d**);

"relevant individual" means—

(a) a limited partner (within the meaning in section 117 of ICTA),

(b) a member of a limited liability partnership (within the meaning in section 118ZA(**e**) of ICTA), and

(c) a general partner (that is, not a limited partner) who does not devote a significant amount of time to the trade (within the meaning in section 118ZH(**f**) of ICTA),

where the partnership carries on a relevant trade (within the meaning in section 122A(1) of the Finance Act 2004); and

---

(**a**) 2004 c.12; section 122A was inserted by section 79 of the Finance Act 2005 (c. 7).
(**b**) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11).
(**c**) 1988 c. 1.
(**d**) 2005 c. 5.
(**e**) Section 118ZA was substituted by section 75 of the Finance Act 2001 (c. 9).
(**f**) Section 118ZH was inserted by section 124(1) of the Finance Act 2004.

"profit-sharing arrangements" has the meaning in section 850(6) of ITTOIA.

Scope of these Regulations

3. These Regulations apply where (and if there are successive events, in each case where)—

(a) a relevant individual disposes of his right to profits arising from a firm's trade (within the meaning in section 120 of the Finance Act 2004),

(b) the result of the disposal is that his share of the profits (or any part of the profits) arising from the trade is reduced or extinguished, or his share of the losses (or any part of the losses) arising from the trade is increased,

(c) another person ("the new partner") becomes a partner in the firm, and

(d) the new partner contributes or agrees to contribute an amount as capital to the partnership.

Exclusion when computing the amount of the relevant individual's contribution to the trade

4. Where these Regulations apply—

(a) apportion the amount referred to in regulation 3(d) between the partners in the firm immediately before the new partner becomes a partner, according to their profit-sharing arrangements at that time,

(b) the amount apportioned to the relevant individual under paragraph (a) shall be excluded when computing the amount of that individual's contribution to the trade (but not so as to produce a contribution less than nil), at the time of whichever of the events referred to in regulation 3 is the latest to occur, for the purposes of section 119(2)(b) or (c) of the Finance Act 2004, and

(c) accordingly, recalculate that individual's contribution to the trade, as at the time of that event, for the purposes of determining—

(i) whether that event is an exit event within the meaning of section 119(2)(b) or (c) of the Finance Act 2004, and

(ii) the chargeable amount for the purposes of section 119(5) of that Act.

David Varney
Mike Hanson

21st June 2006 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 117, 118ZB and 118ZE of the Income and Corporation Taxes Act 1988 contain restrictions on the extent to which limited partners, members of a limited liability partnership and non-active partners can set off their share of a partnership's trading losses against their other income or gains (commonly called 'sideways loss relief'). Section 79 of the Finance Act 2005 supplements these provisions by giving the Commissioners for Her Majesty's Revenue and Customs a regulatory power to exclude amounts of any description specified in the regulations when computing the individual's capital contribution to the trade, in respect of a film-related loss.

These Regulations exclude amounts where, on or after 20 December 2005:

- a relevant partner has disposed of his rights which arise from the trade of the partnership (see Regulation 3(a));

- the rights of the relevant partner to share in the subsequent profits of the partnership are reduced or extinguished, or his share of the losses arising from the trade is increased (see Regulation 3(b));

- a new partner is admitted into the partnership (see Regulation 3(c)); and

- the new partner contributes capital to the partnership (see Regulation 3(d)).

Where these conditions are met:

Regulation 4(a) apportions the capital contributed by the new partner between the relevant partners who were in the partnership immediately before the new partner was admitted to the partnership, according to the profit-sharing arrangements which were in place at that time;

Regulation 4(b) excludes the amount apportioned to the relevant partner under Regulation 4(a) when computing their contribution to the trade (but not to the extent that this gives rise to a contribution which is less than nil) at the time when the latest of the events referred to in Regulation 3 occurs; and

Regulation 4(c) provides for the recalculation of the relevant partner's contribution to the trade for determining, at the time of that event, whether it is an exit event within the meaning of section 119(2)(b) or (c) of the Finance Act 2004 and the amount chargeable for the purposes of section 119(5) of that Act.

Regulation 1 provides for citation, commencement and effect. The powers to make the retrospective provision made by Regulation 1(2) are conferred by section 122A(3)(a) of the Finance Act 2004.

Regulation 2 provides for interpretation.

Regulation 3 provides for the scope of the Regulations.

Regulation 4 provides for restrictions on computing the amount of an individual's contribution to the trade where the conditions in Regulation 3 are met.

A Regulatory Impact Assessment has not been produced for these Regulations as they are part of anti-avoidance rules which simply ensure that existing legislation is applied in the way that was intended by Parliament and it is not anticipated that they will affect individuals who are not seeking to exit film partnerships in order to avoid income tax.

STATUTORY INSTRUMENTS

2006 No. 1639

INCOME TAX

The Partnerships (Restrictions on Contributions to a Trade) Regulations 2006

£3.00

© Crown copyright 2006

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E0833 6/2006 160833T 19585