
STATUTORY INSTRUMENTS

1995 No. 1212

INCOME TAX

The Income Tax (Interest Relief) (Housing Associations) (Amendment) Regulations 1995

<i>Made</i>	- - - -	<i>2nd May 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>3rd May 1995</i>
<i>Coming into force</i>	- -	<i>24th May 1995</i>

The Treasury, in exercise of the powers conferred on them by sections 378(1) and (2) of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Income Tax (Interest Relief) (Housing Associations) (Amendment) Regulations 1995, shall come into force on 24th May 1995 and shall have effect with respect to any payment of interest made on or after that date by a housing association on a loan falling within regulation 3 of the principal Regulations.

Interpretation

2. In these Regulations “the principal Regulations” means the Income Tax (Interest Relief) (Housing Associations) Regulations 1988(2) and “regulation” means a regulation of those Regulations.

Amendments to the principal Regulations

3. In regulation 3 for the words from “any loan” to the end there shall be substituted the words “the loan, the housing association were an individual who is a qualifying borrower within section 376(1).”.

4. For regulation 4 there shall be substituted the following regulation—

“4. Section 369(3) shall have effect as if for subsection (1) there were substituted the following subsection—

(1) 1988 c. 1.

(2) S.I. 1988/1347.

(3) Section 369 of the Income and Corporation Taxes Act 1988 was amended by section 58(1) of the Finance Act 1993 (c. 34) and by section 81(3) and (4) of the Finance Act 1994 (c. 9).

“(1) If a housing association makes a payment of relevant loan interest to which this section applies, it shall be entitled, on making the payment, to deduct and retain out of it a sum equal to the applicable percentage thereof; and accordingly sections 337(3) (companies beginning or ceasing to carry on a trade), 338 (allowance of charges on income and capital) and 486(2) and (3) (interest paid by registered industrial and provident societies) shall not apply to that payment of relevant loan interest.”.

5. For regulation 5 there shall be substituted the following regulations—

“5. Section 370(4) shall have effect with the modifications specified in regulations 5A to 5D.

5A. For subsections (1) and (2) of section 370 there shall be substituted the following subsections—

“(1) Subject to this section, to sections 372 to 376 and to section 44(6) of the Finance Act 1988, in this Part “relevant loan interest” means interest which is paid and payable in the United Kingdom to a qualifying lender by a housing association and to which subsection (2) or (3) below applies.

(2) This subsection applies to interest if, disregarding section 353(2) and any other provision applying to interest falling to be treated as relevant loan interest—

(a) it is interest which would be eligible for relief under section 353(5) by virtue of section 354(6) if—

(i) the housing association were an individual who uses the land in question as his only or main residence, and

(ii) in a case falling within section 354(1)(c), the other loan there referred to, in so far as it was raised by the housing association, were a loan raised by such an individual; and

(b) apart (where applicable) from section 356A(7) the whole of the interest would be eligible for relief for the year in question; and

(c) it is interest on a loan to a housing association which is secured on a freehold or leasehold estate of land in the United Kingdom of which the housing association is the owner; and

(d) within the period of 12 months following the date on which the interest becomes due, the land (and where it includes separate dwellings each of them)

(i) is occupied by the housing association, or

(ii) is wholly or to a substantial extent used in qualifying circumstances as the only or main residence of any qualifying member of the housing association or of a dependent relative or former or separated spouse of a qualifying member.

(2A) For the purposes of subsection (2)(d) above, the circumstances in which any land or dwelling is used are qualifying circumstances in relation to any interest where they are such (including where the qualifying member resides in accommodation which

(4) Section 370 of the Income and Corporation Taxes Act 1988 was amended by section 42(3)(c) of the Finance Act 1988 (c. 39), section 57(c)(d) and (e) of the Finance Act 1993, and paragraph 10 of Schedule 9 to the Finance Act 1994.

(5) Section 353 of the Income and Corporation Taxes Act 1988 was amended by section 27(1) of the Finance Act 1991 (c. 31), section 81(1) and (2) of the Finance Act 1994, paragraph 3 of Schedule 9, and Part V(2) of Schedule 26, to the Finance Act 1994, and section 42(2)(a) of the Finance Act 1995 (c. 4).

(6) Section 354 of the Income and Corporation Taxes Act 1988 was amended by section 28 of, and Part V of Schedule 19 to, the Finance Act 1991, and by section 57(4)(a) and (b) of, and Part III(1) of Schedule 23 to, the Finance Act 1993.

(7) Section 356A of the Income and Corporation Taxes Act 1988 was inserted by section 42(1) of the Finance Act 1988.

for him is job-related) that (apart from any modification of this section in relation to housing associations) the interest would be relevant loan interest if—

- (a) it were paid by the qualifying member who uses the land or dwelling as a residence or whose dependent relative or former or separated spouse so uses the land or dwelling; and
- (b) the requirements of section 354 were satisfied in relation to payments made by that member.

(2B) In subsections (2) and (2A) above—

- (a) “dependent relative” and “separated” have the meanings given for the purposes of sections 354 to 366 by section 367(1);
- (b) “job-related”, in relation to any accommodation, shall be construed in accordance with section 356(3).”

5B. In subsection (3)(b) of section 370 for the words “is fulfilled” there shall be substituted the words “would be fulfilled if the payment were made by a qualifying member of the housing association who is using the dwelling as his only or main residence, and not by the housing association.”.

5C. Subsections (4), (6) and (6A) of section 370 shall be omitted.

5D. In subsection (7) of section 370 for the words “is for the time being fulfilled” there shall be substituted the words “would, if the payment were made as mentioned in that subsection, for the time being be fulfilled”.

2nd May 1995

Tim Wood
Derek Conway
Two of the Lords Commissioners of Her
Majesty’s Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Interest Relief) (Housing Associations) Regulations 1988 (S.I.1988/1347) (“the principal Regulations”).

The principal Regulations make modifications to certain provisions of the Income and Corporation Taxes Act 1988 relating to mortgage interest relief at source (sections 369, 370, 373 and 374) (“the MIRAS provisions”) in connection with payments of interest by housing associations and self-build societies on home loans.

These Regulations make consequential amendments to the principal Regulations resulting from changes to the MIRAS provisions made by the Finance Acts 1993 and 1994, and also make amendments of a drafting nature to the principal Regulations.