

2001 No. 404

INCOME TAX

The Income Tax (Building Societies) (Dividends and Interest) (Amendment) Regulations 2001

Made - - - - 15th February 2001

Laid before the House of Commons 16th February 2001

Coming into force 9th March 2001

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 477A(1), (2) and (2A) of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Building Societies) (Dividends and Interest) (Amendment) Regulations 2001 and shall come into force on 9th March 2001.

(2) Regulation 5 shall have effect in relation to payments of interest referred to in regulation 4(1)(u) of the principal Regulations(b) that are made on or after 6th April 2001.

(3) Regulation 6 shall have effect in relation to certificates and notifications referred to in regulation 5(3) of the principal Regulations(c) that are given on or after 6th April 2001.

(4) Regulation 7 shall have effect in relation to declarations required by regulation 11(1) and (2) of the principal Regulations that are made on or after 6th April 2001.

(5) Regulations 8 to 15 shall have effect in relation to payments of dividends and interest in respect of shares in, or deposits with or loans to, building societies that are made on or after 6th April 2001.

Interpretation

2. In these Regulations “the principal Regulations” means the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990(d) and “regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3. Amend the principal Regulations in accordance with the following provisions of these Regulations.

(a) 1988 c. 1. Section 477A was inserted by paragraph 4 of Schedule 5 to the Finance Act 1990 (c. 29). Subsection (2A) of section 477A was inserted by section 111(4) of the Finance Act 2000 (c. 17).

(b) Regulation 4(1)(u) is inserted by regulation 5 of these Regulations.

(c) Regulation 5(3) is added by regulation 6(3) of these Regulations.

(d) S.I. 1990/2231, amended by S.I. 1992/11 and 2915, 1994/296, 1995/1184 and 1996/223.

4. In regulation 2(1)(a) after the definition of “dividend” insert the following definitions—
““electronic communication” includes any communication by means of a telecommunication system (within the meaning of the Telecommunications Act 1984(b));
“electronic signature” has the meaning given by section 7(2) of the Electronic Communications Act 2000(c);”.

5. In regulation 4(1) after sub-paragraph (t)(d) add—

“(u) a payment of interest in respect of an amount of cash which is—

- (i) received by the building society in connection with a sale and repurchase agreement in circumstances where section 730A of the Taxes Act (treatment of price differential on sale and repurchase of securities) applies(e), and
- (ii) required as a result of a variation in the value of the securities as security for performance by the parties to the agreement of their obligations under the agreement.”.

6.—(1) Amend regulation 5 as follows.

(2) In paragraph (2)(e)—

- (a) for the words “on a form provided” substitute “in a form provided or authorised”;
- (b) in paragraph (ii) omit the words “in writing”.

(3) After paragraph (2) add the following paragraphs—

“(3) A certificate given in accordance with paragraph (2), and a notification given under sub-paragraph (e) of that paragraph, if in writing, shall be signed by the maker of the certificate or notification (“the relevant person”).

(4) Where a certificate referred to in paragraph (3) is not in writing, the building society concerned may—

- (a) make a declaration in writing on behalf of the relevant person that the particulars contained in the certificate are those recorded in the declaration, and
- (b) send a copy of the declaration to the relevant person.

(5) Subject to any corrections notified by the relevant person to the building society within the period of 30 days following the date on which the copy of the declaration referred to in paragraph (4) was sent to the relevant person, and incorporated in a revised declaration made by the building society, any such declaration shall take effect as from the date on which the copy of it was sent to the relevant person in accordance with that paragraph.

(6) A certificate or notification referred to in paragraph (3) shall be regarded as being given in writing for the purposes of this regulation if it is given—

- (a) by telephonic facsimile transmission, or
- (b) by electronic communication containing an electronic signature of the relevant person.

(7) A declaration made by the building society in accordance with paragraph (4) shall be regarded as made in writing for the purposes of this regulation if it is produced by electronic means; and the copy of a declaration to be sent to the relevant person in accordance with paragraph (4) may be sent by telephonic facsimile transmission or by electronic communication.”.

7.—(1) Amend regulation 11(f) as follows.

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- (a) Regulation 2 was renumbered as paragraph (1) of that regulation by regulation 3(1) of S.I. 1996/223.
 - (b) 1984 c. 12.
 - (c) 2000 c. 7.
 - (d) Regulation 4(1)(t) was added by regulation 2 of S.I. 1995/1184.
 - (e) Section 730A was inserted by section 80(1) of the Finance Act 1995 (c. 4) and amended by paragraph 37 of Schedule 14 to the Finance Act 1996 (c. 8).
 - (f) Regulation 11 was amended by regulation 9 of S.I. 1992/11, regulation 5 of S.I. 1992/2915, regulation 5 of S.I. 1994/296 and regulations 6 and 7 of S.I. 1996/223.

(2) In paragraphs (1), (2) and (2A) omit the words “in writing” (in each place where those words occur).

(3) In paragraph (2AB) for the word “inform”, in both places where it occurs, substitute “notify”.

(4) For paragraph (2AC) substitute—

“(2AC) In a case falling within regulation 4(1)(a), the declaration required by paragraph (2) must contain—

- (a) the name and principal residential address of the individual who is beneficially entitled to the payment, or
- (b) where two or more individuals are so entitled, the name and principal residential address of each of them, or
- (c) where the person who is so entitled is a Scottish partnership all the partners in which are individuals, the name and principal residential address of each of the individuals.”.

(5) For paragraph (3) substitute the following paragraphs—

“(3) Every declaration shall be made in a form provided or authorised by the Board.

(3A) A declaration, if made in writing, shall be signed by the maker of the declaration.

(3B) Where a declaration (“the original declaration”) is not in writing, the building society may—

- (a) make a declaration in writing (“the building society declaration”), on behalf of the person who made the original declaration, that the particulars contained in the original declaration are those recorded in the building society declaration, and
- (b) send a copy of the building society declaration to that person.

(3C) Subject to any corrections notified by that person to the building society within the period of 30 days following the date on which the copy of the building society declaration was sent to that person, and incorporated in a revised declaration made by the building society, the building society declaration shall take effect as from the date on which the copy of it was sent to that person.

(3D) A declaration shall be regarded as given in writing for the purposes of this regulation if it is given—

- (a) by telephonic facsimile transmission, or
- (b) by electronic communication containing an electronic signature of the person making it.

(3E) A building society declaration made in accordance with paragraph (3B) or (3C) of this regulation shall be regarded as made in writing if it is produced by electronic means; and the copy of the building society declaration to be sent to a person in accordance with paragraph (3B)(b) may be sent by telephonic facsimile transmission or by electronic communication.”.

(6) In paragraph (5) omit the words “and any certificate”.

(7) In paragraph (6) omit the words “or certificate”.

(8) In paragraph (7) omit the words “and every certificate”.

(9) In paragraph (8) omit the words “and certificates”.

8. In regulation 12(1)(a)—

- (a) for the words from “The like provisions” to “(4) to (4C)” substitute “Subject to the provisions of this regulation, the like provisions as are contained in section 17(1), (2), (4) and (4A)”**(b)**;

(a) Regulation 12 was amended by regulation 10 of S.I. 1992/11 and regulation 6 of S.I. 1992/2915.

(b) Section 17 of the Taxes Management Act 1970 (c. 9) was amended by section 123(2) of the Finance Act 1988 (c. 39), section 92(1) to (3) of, and Part V of Schedule 19 to, the Finance Act 1990, section 29 of, and Part VII(3) of Schedule 18 to, the Finance (No. 2) Act 1992 (c. 48), paragraph 11(1), (2)(a) and (3) of Schedule 37 to the Finance Act 1996 and section 145(1) to (3) of, and Part V of Schedule 40 to, the Finance Act 2000.

(b) for sub-paragraph (b) substitute the following sub-paragraph—

“(b) for the word “bank” in subsection (1) there were substituted “building society”;;”;

(c) omit sub-paragraphs (c) and (d).

9. In regulation 12(2) after “inspector” insert “and subject to paragraphs (4) and (5)”.

10. In regulation 12(3)—

(a) before sub-paragraph (a) insert the following sub-paragraph—

“(za) as regards a gross payment within regulation 4(1)(a) in respect of which a declaration under regulation 11 has been made on or after 6th April 2001—

(i) the name and principal residential address of the individual beneficially entitled to the payment or, if more than one, of each individual beneficially entitled to the payment; or

(ii) where the person beneficially entitled to the payment is a Scottish partnership, all the partners in which are individuals, the name and principal residential address of each of the partners; and

(iii) notification of the fact that the account in respect of which the payment was made was one in respect of which a declaration under regulation 11 had been made on or after 6th April 2001;;”;

(b) in sub-paragraph (b)—

(i) for the words from “as regards” to “regulation 3 applies” substitute “as regards any gross payment within regulation 4 other than regulation 4(1)(n) that is a payment in respect of an investment, or any payment to which regulation 3 applies that is a payment in respect of an investment”;

(ii) in paragraph (ii) omit the words “each of whom was beneficially entitled to the payment”.

11. After regulation 12(3) add the following paragraphs—

“(4) In the cases specified in paragraph (5), a notice under section 17(1) of the Taxes Management Act 1970 shall not require information.

(5) The cases specified are—

(a) a payment in respect of a certificate of deposit within the meaning given by section 56(5) of the Taxes Act;

(b) a payment in respect of an investment held by a branch of a building society to whom a notice under paragraph (2) is issued, where the branch is situated in a territory other than the United Kingdom;

(c) a payment falling within regulation 4(1)(a) in respect of which the information that the notice under section 17(1) of the Taxes Management Act 1970 shall not require is the name and address of the person to whom the dividend or interest was paid or credited, if other than the person beneficially entitled to the dividend or interest;

(d) a payment in respect of an account which is a tax exempt special savings account for the purposes of section 326A of the Taxes Act^(a);

(e) a payment in respect of an investment under a plan provided for by regulations made under section 333 of the Taxes Act^(b);

(a) Section 326A was inserted in the Income and Corporation Taxes Act 1988 by section 28(1) of the Finance Act 1990 and amended by section 63(1) to (3) of the Finance Act 1995 and section 78 of the Finance Act 1998 (c. 36).

(b) The relevant Regulations are S.I. 1989/469, 1998/1870 and 1871.

- (f) any other payment not falling within any of sub-paragraphs (a) to (e) which is specified in a notice under paragraph (2) as being a payment in respect of which information is not required.”.

12. After regulation 12 insert the following regulation—

“Notice under regulation 12—form of return

12A. Where a notice under the provisions referred to in regulation 12(1)—

- (a) requires a return to be made, or
 - (b) specifies any of the further information prescribed by regulation 12(3) and requires it to be contained in the return, and
 - (c) the notice specifies the form in which the return is to be made and delivered,
- the return shall be made and delivered in that form.”.

13. After regulation 14 insert the following regulation—

“Information to be provided to the Board—return under regulation 12

14A. The Board may by notice require any building society 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 determining whether information contained in a return by the building society by virtue of a notice under the provisions referred to in regulation 12(1) was correct and complete.”.

14. After regulation 15 insert the following regulations—

“Inspection of records—return under regulation 12

15A. Every building society required to make and deliver a return by virtue of a notice under the provisions referred to in regulation 12(1) shall, whenever required to do so within the period specified in regulation 15B(2), 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 copies of books, documents and other records in its possession or under its control as may be required by the Board under regulation 14A.

Retention of records—return under regulation 12

15B.—(1) A building society required to make and deliver a return by virtue of a notice under the provisions referred to in regulation 12(1) shall retain, for the period specified in paragraph (2), all such books, documents and other records copies of which it may be required to make available for inspection under regulation 15A.

(2) The period specified is the period of two years beginning immediately after the end of the year to which the notice relates.

(3) Paragraphs (1) and (2) are without prejudice to regulations 11(7) and 15(2).”.

15. In regulation 16(1)—

- (a) for “regulation 13, 14 or 15” substitute “any of regulations 13 to 15A”;
- (b) in sub-paragraph (a)(i) after “13” insert “or 14”;
- (c) in sub-paragraph (b) after “for the purposes of” insert “the provisions referred to in regulation 12(1) and”.

15th February 2001

Tim Flesher
Dave Hartnett
Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990 (S.I. 1990/2231) (“the principal Regulations”) in relation to payments of dividends and interest by building societies made on or after 6th April 2001, and certificates, notifications and declarations given or made for the purposes of the principal Regulations on or after that date.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 introduces regulations 4 to 15 which amend the principal Regulations.

Regulation 4 inserts definitions of “electronic communication” and “electronic signature” in the principal Regulations in consequence of the amendments made by regulations 6 and 7.

Regulation 5 adds another category of gross payment to regulation 4 of the principal Regulations, namely a payment of interest in respect of cash received by a building society in connection with an agreement for the sale and repurchase of securities.

Regulation 6 amends regulation 5 of the principal Regulations so as to make provision for cases where certificates of non-liability to tax are given otherwise than in writing.

Regulation 7 amends regulation 11 of the principal Regulations (declaration that the person beneficially entitled to a payment of a dividend or interest is not ordinarily resident in the United Kingdom) by adding to the terms of the declaration and making provision for cases where the declaration is made otherwise than in writing.

Regulations 8 to 11 amend regulation 12 of the principal Regulations by adding to the information required to be contained in a return under that regulation and specifying information that shall not be required to be contained in a return.

Regulation 12 inserts regulation 12A in the principal Regulations which provides for the form in which a return under regulation 12 of the principal Regulations is to be made and delivered.

Regulation 13 inserts regulation 14A in the principal Regulations which enables the Board of Inland Revenue (“the Board”) to require a building society to furnish information for the purposes of determining whether a return under regulation 12 of the principal Regulations was correct and complete.

Regulation 14 inserts regulations 15A and 15B in the principal Regulations which make provision for inspection of documents by an officer of the Board and for retention of documents by a building society.

Regulation 15 amends regulation 16 of the principal Regulations (use of information) in consequence of the regulations inserted in the principal Regulations by regulations 13 and 14.

The costs to building societies of the amendments made by these Regulations relating to the furnishing of information are set out in a Regulatory Impact Assessment entitled “Abolition of Withholding Tax on Bond Interest and Extension of Routine Information Powers on Savings Income”. A copy of this Regulatory Impact Assessment has been placed in the library of the House of Commons or may be obtained from Inland Revenue, International Division, Room 509B, Melbourne House, Aldwych, London WC2B 4LL, or from the Inland Revenue website at <http://www.inlandrevenue.gov.uk>.

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**The Income Tax (Building Societies) (Dividends and
Interest) (Amendment) Regulations 2001**

£2.00

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E 0451 03/01 ON (MFK)