

**2007 No. 3278**

**INCOME TAX**

**The Energy-Saving Items (Income Tax) Regulations 2007**

*Made* - - - - *15th November 2007*

*Laid before the House of Commons* *16th November 2007*

*Coming into force* - - *6th December 2007*

The Treasury make the following Regulations in exercise of the powers conferred by sections 312 and 314 of the Income Tax (Trading and Other Income) Act 2005(a).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Energy-Saving Items (Income Tax) Regulations 2007, shall come into force on 6th December 2007, and shall have effect in respect of expenditure incurred on or after 6th April 2007.

(2) In these Regulations—

“ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005;

“deduction” means a deduction allowed under section 312 of ITTOIA 2005 (deduction for expenditure on energy-saving items);

“maximum amount” shall be construed in accordance with regulation 3(1);

“relevant expenditure” means—

- (a) expenditure incurred in acquiring and installing an energy-saving item in a dwelling-house, or
- (b) in so far as it is for the benefit of a dwelling-house, expenditure incurred in acquiring and installing an energy-saving item in a building containing that dwelling-house.

**Items of an energy-saving nature**

2. The following descriptions of items of an energy-saving nature are specified for the purposes of section 312(5)(c) of ITOIA 2005—

- (a) hot water system insulation;
- (b) draught proofing;
- (c) solid wall insulation; and
- (d) floor insulation.

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(a) 2005 c. 5. Section 312 was amended by section 18(1) to (3) of the Finance Act 2007 (c.11), and section 314 was amended by section 18(5) of the Finance Act 2007.

### **Restrictions on relevant expenditure to be taken into account: general**

3.—(1) The maximum amount of the relevant expenditure which may be taken into account in calculating the deduction is £1,500 per dwelling-house.

(2) Paragraph (1) applies irrespective of the number of persons incurring relevant expenditure or entitled to a deduction in respect of a dwelling-house.

(3) If the person entitled to the deduction has received a contribution from any other person towards the relevant expenditure incurred, that contribution shall be excluded in calculating the relevant expenditure incurred by the person entitled to the deduction.

(4) Further rules (to be applied in the order stated) are set out in—

- (a) regulation 4 (first further rule: apportionment of relevant expenditure benefiting more than one property);
- (b) regulation 5 (second further rule: restriction of relevant expenditure to the maximum amount);
- (c) regulation 6 (third further rule: apportionment of relevant expenditure if a dwelling-house or building is owned jointly or in common or is subject to differing estates or interests).

### **First further rule: apportionment of relevant expenditure benefiting more than one property**

4.—(1) This regulation applies to relevant expenditure which is incurred in acquiring and installing an energy-saving item—

- (a) in more than one dwelling-house,
- (b) in a building containing more than one dwelling-house, or
- (c) in a building containing one or more dwelling-houses and one or more properties which are not dwelling-houses.

(2) The relevant expenditure must be apportioned on a just and reasonable basis to all the properties which benefit from it.

(3) The amount of the relevant expenditure for which a deduction is allowable in respect of a dwelling-house shall not exceed the amount which is apportioned to that dwelling-house.

### **Second further rule: restriction of relevant expenditure to the maximum amount**

5.—(1) This regulation applies if the relevant expenditure benefiting a particular dwelling-house (including any relevant expenditure apportioned to the dwelling-house under regulation 4) exceeds the maximum amount.

(2) The relevant expenditure must be restricted to the maximum amount.

### **Third further rule: apportionment of relevant expenditure if a dwelling-house or building is owned jointly or in common or is subject to differing estates or interests**

6.—(1) This regulation applies if relevant expenditure is incurred benefiting a dwelling-house and the dwelling-house or the building containing it—

- (a) is owned jointly or in common by the person entitled to the deduction and by other persons, or
- (b) is subject to differing estates or interests.

(2) The relevant expenditure (restricted if necessary to the maximum amount) must be apportioned on a just and reasonable basis.

(3) The amount of the deduction to which the person entitled to it is entitled shall not exceed the amount apportioned to that person in accordance with paragraph (2).

### **Further provisions**

7.—(1) This regulation applies if any question arises under regulations 3(3) or 4 to 6 as to the amount of the deduction to which a person may be entitled.

(2) The amount shall be treated as if it were an amount specified in a paragraph of subsection (1) of section 42 of ICTA 1988<sup>(a)</sup> (appeals against determinations under sections 34 to 36 or Chapter 4 of Part 3 of the Income Tax (Trading and Other Income) Act 2005), and the procedure set out in that section shall apply accordingly.

### **Revocation of the Energy-Saving Items Regulations 2007 (S.I. 2007/831)**

8. The Energy-Saving Items Regulations 2007 (S.I. 2007/831) are revoked.

*Dave Watts*

*Steve McCabe*

15th November 2007

Two of the Lords Commissioners of Her Majesty's Treasury

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(a) 1988 c.1. Section 42 was amended by paragraph 24 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 312 of the Income Tax (Trading and Other Income) Act 2005 (c. 5) provides that the Treasury may make regulations to specify descriptions of energy-saving items in respect of which expenditure may be deducted by residential landlords who pay income tax when calculating the profits of their property business. Section 314 provides that the Treasury may make regulations providing for the apportionment and restriction of the amount of such deduction. These Regulations exercise the powers conferred by those sections.

Regulation 1 deals with citation, commencement and interpretation.

Regulation 2 specifies hot water system insulation, draught proofing, solid wall insulation and floor insulation as items of an energy-saving nature.

Regulation 3 restricts the maximum amount of expenditure for which a deduction is to be allowed to £1,500 per dwelling-house and excludes contributions by persons not entitled to a deduction. This regulation also provides that further rules concerning expenditure are set out in regulations 4 to 6.

Regulation 4 provides for a just and reasonable apportionment where relevant expenditure benefits more than one property.

Regulation 5 restricts relevant expenditure (including expenditure apportioned under regulation 4) to the maximum amount.

Regulation 6 provides for a just and reasonable apportionment where a dwelling-house or the building containing it is owned jointly or in common or is subject to differing estates or interests.

Regulation 7 provides an appeal mechanism where there is a dispute on a matter covered by one of regulations 3(3) or 4 to 6.

Regulation 8 revokes previous regulations which have dealt with the treatment of items of an energy-saving nature.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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