

MORTGAGE INTEREST (RELIEF AT SOURCE) REGULATIONS 2001
(S.I. No. 558 of 2001)

ARRANGEMENT OF REGULATIONS

PART 1

General

1. Citation and commencement.
2. Interpretation.

PART 2

Claims by qualifying lenders

3. Claims by qualifying lenders - introductory.
4. Repayment claims by qualifying lenders.
5. Validity of claims.

PART 3

Operation of relief at source

6. Transmission of information by Revenue Commissioners to qualifying lenders.
7. Obligations and entitlements of borrowers.
8. Obligations and entitlements of qualifying lenders.

PART 4

Miscellaneous

9. Exclusion of certain loans.
10. Disposal of qualifying mortgage loans.
11. Discharge of functions, etc.

The Revenue Commissioners, in exercise of the powers conferred on them by section 244A of the Taxes Consolidation Act, 1997 (No. 39 of 1997), hereby make the following regulations:

PART 1

General

Citation and
commencement.

1. (1) These Regulations may be cited as the Mortgage Interest (Relief at Source) Regulations, 2001.

(2) These Regulations come into operation on 1 January 2002.

Interpretation.

2. (1) In these Regulations, except where the context otherwise requires—

“appropriate percentage”, “qualifying lender”, “qualifying mortgage interest”, “qualifying mortgage loan” and “relievable interest” have the same meanings, respectively, as they have in the principal section;

“principal section” means section 244A (inserted by section 23(1) of the Finance Act, 2001 (No. 7 of 2001)) of the Taxes Consolidation Act, 1997 (No. 39 of 1997);

“section 244” means section 244 of the Taxes Consolidation Act, 1997;

“section 904F” means section 904F (inserted by section 22(3) of the Finance Act, 2001) of the Taxes Consolidation Act, 1997;

“year” means year of assessment.

(2) A word or expression that is used in these Regulations and is also used in the Income Tax Acts has, except where the context otherwise requires, the same meaning in these Regulations that it has in those Acts.

PART 2

Claims by qualifying lenders

Claims by qualifying lenders - introductory.

3. (1) A claim made under subsection (2)(b)(ii) of the principal section by a qualifying lender to which payments of qualifying mortgage interest are made for the purpose of recovering amounts from the Revenue Commissioners shall be made in accordance with this Regulation and Regulation 4 of these Regulations.

(2) Before any claim referred to in paragraph (1) of this Regulation can be made, a qualifying lender shall, on a form provided by the Revenue Commissioners for that purpose—

- (a) designate a person or persons authorised to make claims on behalf of the qualifying lender,
- (b) provide the signature or signatures of the person or persons referred to in subparagraph (a) of this paragraph, and
- (c) have the form completed and signed by—
 - (i) where the qualifying lender is a company, the secretary of the company, or
 - (ii) where the qualifying lender is an unincorporated body, the person who is, or performs the duties of, secretary of the body.

(3) A claim shall be made to the Revenue Commissioners in the manner prescribed in Regulation 4 of these Regulations and shall be in such form and contain such particulars as the Revenue Commissioners may prescribe.

Repayment claims by qualifying lenders.

4. (1) The Revenue Commissioners shall establish procedures with each qualifying lender in relation to the making of claims and, without prejudice to the generality of the foregoing, such procedures shall govern the method by which the claim is to be satisfied, including either or both the debiting by a qualifying lender of a specified bank account set up by the Revenue Commissioners for that purpose and the crediting by the

Revenue Commissioners of a bank account within the State nominated by the qualifying lender for that purpose.

(2) The Revenue Commissioners shall pay the amount claimed to the qualifying lender unless they have specific reason to believe that the amount claimed is not due. Where they so believe, they shall pay any lesser amount which they are satisfied is due.

(3) Where the amount paid by the Revenue Commissioners in accordance with paragraph (2) of this Regulation exceeds the amount actually due for the period of the claim, the qualifying lender shall bring the amount of the excess into account in or before the claim next made by that lender after the actual amount has been ascertained. If the amount of that excess exceeds the amount due in respect of the period for which that claim is made—

- (a) the qualifying lender shall repay the amount of the excess to the Revenue Commissioners with or in advance of the claim, and
- (b) if the qualifying lender fails to do so, the amount shall be recoverable by the Revenue Commissioners in the same manner as tax charged on the qualifying lender which has become final and conclusive.

(4) Where the amount paid by the Revenue Commissioners in accordance with paragraph (2) of this Regulation is less than the amount actually due for the period of the claim, the qualifying lender shall bring the amount of the shortfall into account in or before the claim next made by that lender after that actual amount has been ascertained. The Revenue Commissioners shall pay the amount of the shortfall claimed to the qualifying lender unless they have specific reason to believe that the amount claimed is not due.

(5) Where—

- (a) the amount paid by the Revenue Commissioners in accordance with paragraph (2) of this Regulation is less than the amount claimed by the qualifying lender

for the period of the claim, and

- (b) following the payment, the Revenue Commissioners and the qualifying lender agree on so much of the balance, if any, of the amount of the claim that should be paid,

then the Revenue Commissioners shall repay so much of the amount of the balance as is so agreed to the qualifying lender.

Validity of claims.

5. (1) The Revenue Commissioners shall be entitled, in respect of any claim under subsection (2)(b)(ii) of the principal section, to make all such enquiries as they consider necessary to establish whether a repayment arising from such a claim is or was properly due.

(2) A qualifying lender shall—

- (a) keep sufficient records to enable the requirements of this Regulation to be satisfied and shall make these available for inspection within the State, and
- (b) furnish such information about the claim as may reasonably be required.

PART 3

Operation of relief at source

Transmission of information by Revenue Commissioners to qualifying lenders.

6. Each month, or such other period as agreed between the Revenue Commissioners and the qualifying lenders, the Revenue Commissioners shall furnish a report to each qualifying lender in the format and containing such information as has been agreed between the Revenue Commissioners and that qualifying lender.

Obligations and entitlements of borrowers.

7. (1) The entitlement of an individual to deduct and retain an amount from a payment of qualifying mortgage interest referred to in subsection (2)(a) of the principal section shall—

- (a) apply subject to the fulfilment by the individual of the

requirements of this Regulation,

- (b) apply subject to the provisions of Regulations 8 and 9 of these Regulations, and
- (c) be given effect to by the granting of relief, in such manner as may be agreed with the Revenue Commissioners, by a qualifying lender in accordance with these Regulations.

(2) In order to obtain relief under subsection (2)(a) of the principal section, an individual shall, on drawing down a qualifying mortgage loan from a qualifying lender, make a declaration to the Revenue Commissioners on a prescribed form provided for that purpose—

- (a) that the loan is in respect of the purchase, repair, development or improvement of the individual's sole or main residence, and
- (b) that the particulars given on the form are correct.

(3) The individual shall also undertake, on the form referred to in paragraph (2) of this Regulation, to notify the Revenue Commissioners whenever any of the following occur, that is—

- (a) a change in the personal status of the individual, and
- (b) a change in the status of the property which would affect the amount of relievable interest in relation to the individual.

(4) The completed form shall be sent by the individual to the Revenue Commissioners.

(5) In the case of any individual in respect of whom information has not been furnished by the Revenue Commissioners to a qualifying lender—

- (a) in accordance with Regulation 6 of these Regulations,

or

- (b) otherwise to like effect prior to the coming into operation of these Regulations,

then the individual shall not be entitled to deduct and retain, out of a payment of qualifying mortgage interest made to a qualifying lender in respect of which relief is due under section 244, an amount equal to the appropriate percentage of the relievable interest.

Obligations and entitlements of qualifying lenders.

8. (1) Each month, or such other period as agreed between the Revenue Commissioners and the qualifying lenders, each qualifying lender shall furnish a report to the Revenue Commissioners, in the format and containing such information as has been agreed between the Revenue Commissioners and that qualifying lender.

(2) A qualifying lender shall—

- (a) for the purpose of granting, in such manner as may be agreed with the Revenue Commissioners, relief under subsection (2)(a) of the principal section to an individual having a qualifying mortgage loan from that qualifying lender, and
- (b) for the purpose of subsection (2)(b) of the principal section,

operate on the basis of the information furnished to it by the Revenue Commissioners—

- (i) in accordance with Regulation 6 of these Regulations, or
- (ii) otherwise to like effect prior to the coming into operation of these Regulations,

and shall be entitled to rely on that information in so doing.

(3) A qualifying lender shall apply a separate designation to

each qualifying mortgage loan in respect of which information has been furnished by the Revenue Commissioners—

- (a) in accordance with Regulation 6 of these Regulations, or
- (b) otherwise to like effect prior to the coming into operation of these Regulations,

and shall maintain the accounts relating to such loans in a manner which will facilitate the operation of section 904F.

PART 4

Miscellaneous

Exclusion of certain loans.

9. (1) Where the loan repayments in relation to a loan included in the most recent report referred to in Regulation 6 of these Regulations which are due to be made and have not been made in respect of a period agreed with the Revenue Commissioners, a qualifying lender shall notify the Revenue Commissioners, in the report referred to in Regulation 8 of these Regulations, in regard to any such loan and shall furnish the following information in relation to each such loan—

- (a) the name of the individual having the loan, and
- (b) account identification details relating to the loan.

(2) In relation to any loan in respect of which paragraph (1) of this Regulation applies, such loan shall, on receipt by the qualifying lender of an instruction from the Revenue Commissioners in a report furnished in accordance with Regulation 6 of these Regulations, cease to be a qualifying mortgage loan for the purposes of the principal section.

(3) A loan which would otherwise be a qualifying mortgage loan shall not be such a loan for the purposes of the principal section unless the loan is administered by a qualifying lender in such manner as is agreed by that lender with the Revenue Commissioners.

Disposal of
qualifying mortgage
loans.

10. (1) A qualifying lender which disposes of all or part of its qualifying mortgage loans or an interest therein, but which continues to administer such loans shall continue to be regarded as a qualifying lender for the purposes of the principal section in relation to those loans.

(2) Notwithstanding paragraph (1) of this Regulation, a qualifying lender which so disposes of qualifying mortgage loans or an interest therein may nominate the person to which the loans are disposed (or an agent of such person) to be regarded as the qualifying lender in relation to such loans and that person (or an agent of such person) shall be regarded as a qualifying lender for the purposes of the principal section.

Discharge of
functions, etc.

11. The Revenue Commissioners may nominate any officer of the Revenue Commissioners to perform any acts and discharge any functions authorised by these Regulations to be performed or discharged by the Revenue Commissioners.

Given this 12th day of December, 2001.

Frank M. Daly
Revenue Commissioner

Explanatory Note

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations relate to the scheme of tax relief at source for mortgage interest introduced in the Finance Act, 2001. They provide the mechanism for the recovery by mortgage lenders from Revenue of amounts (representing income tax at the standard rate) which have been deducted by persons paying mortgage interest which qualifies for tax relief and enable the validity of any claim for repayment to be checked.

The Regulations provide for the transmission by Revenue of information to mortgage lenders which is necessary for the operation of the scheme and they also deal with the obligations and entitlements of borrowers and lenders relating to the relief at source arrangement.

The Regulations take effect from 1 January, 2002.

(Pn. 10894)

Price £2 / €2.54

