

EXPLANATORY MEMORANDUM TO
THE ENERGY-SAVING ITEMS (INCOME TAX) REGULATIONS
2007

2007 No. 3278

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations provide that hot water system insulation, draught proofing, solid wall insulation and floor insulation are to be classed as items of an energy-saving nature for the purposes of section 312 of the Income Tax (Trading and Other Income) Act 2005 ("ITTOIA"). This allows landlords paying income tax, when calculating the taxable profits of a property business, to deduct expenditure on acquiring and installing these items in the residential properties which they let. The Regulations list all items other than those specified in ITTOIA.
- 2.2 The Regulations also set the maximum amount of expenditure for which a deduction may be made at £1,500 per dwelling-house per tax year. For expenditure incurred before 6th April 2007, this maximum was set at £1,500 per building per tax year.
- 2.3 The Regulations contain further rules for restricting the deduction and for making apportionments where two or more people have interests in the property or the expenditure benefits more than one property, and they make provision for appeals where such apportionments are made.
- 2.4 The Regulations revoke the previous set of regulations which dealt with the treatment of items of an energy-saving nature.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

None

4. **Legislative Background**

- 4.1 These Regulations are made by the Treasury under section 312(5)(c) and section 314 of ITTOIA.
- 4.2 These powers have previously been exercised in S.I. 2005/1114, 2006/912 and 2007/831. S.I. 2005/1114 and 2006/912 were revoked by S.I. 2007/831. These Regulations revoke S.I. 2007/831.

- 4.3 S.I. 2007/831 extended the list of energy-saving items for which a deduction could be made, set a maximum of £1,500 per year for deductible expenditure per dwelling-house, introduced conditions and provided for apportionments, made provision for appeals regarding those apportionments, and revoked previous regulations which had dealt with the treatment of items of an energy-saving nature.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Households produce over a quarter of total UK carbon emissions and, while existing measures have helped to reduce emissions in this area, properties within the private rented sector are not on track to meet the emissions reduction targets that have been set for it. Such properties have low energy efficiency levels compared to the rest of the housing sector and typically produce around 500 kg of carbon dioxide per year more than other houses.
- 7.2 Section 143 of the Finance Act 2004 sought to address this situation by introducing the Landlords Energy Saving Allowance (“LESA”), which provided a deduction for private landlords’ expenditure on loft and cavity wall insulation. Since that time, LESA has been extended to include solid wall and hot water system insulation, draught proofing and, most recently, floor insulation.
- 7.3 Section 18 of the Finance Act 2007 widened the scope of this allowance for individual landlords by extending it to expenditure incurred before 6th April 2015, by allowing expenditure on acquiring and installing energy-saving items in buildings containing the dwelling-house, by adding to the list of matters which might be dealt with by regulations, and by providing that regulations made before 31st December might have effect in relation to expenditure incurred on or after 6th April 2007. These extensions were announced in the Pre-Budget Report on 6th December 2006.
- 7.4 The change made in S.I. 2007/831 (and reproduced in these regulations) to the maximum available deduction from £1,500 per building to £1,500 per dwelling-house will allow a deduction up to that amount for each flat within a block of flats thereby ensuring that full advantage can be taken of the relief.
- 7.5 The Regulations are intended to ensure that the risk of avoidance and abuse is reduced by preventing more than one person from making a deduction in respect of the same expenditure and by ensuring that, where more than one person has an interest in the relevant property, the total amount which may be claimed is apportioned between those persons and restricted to the maximum available deduction.

8. Impact

A Regulatory Impact Assessment dealing with a number of proposed changes to the Landlords Energy Saving Allowance was published on Budget Day, 21st March 2007 (http://www.hm-treasury.gov.uk/media/E/2/bud07_ria_632.pdf). It is expected that the inclusion of floor insulation will increase the number of landlords installing this energy saving item in the residential properties they let and that the change in the operation of the cap will improve the take-up of the allowance by landlords of flats. The changes detailed in these regulations are not expected to significantly increase either the additional compliance costs on landlords or the administrative cost for HMRC.

9. Contact

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