

CHAPTER 3 Principal provisions relating to the payment of interest

Relief for interest paid on certain home loans. FA97 s145 244.—(1) (a) In this section—

“dependent relative”, in relation to an individual, means any of the persons mentioned in paragraph (a) or (b) of section 466 (2) in respect of whom the individual is entitled to a deduction under that section;

“loan” means any loan or advance or any other arrangement whatever by virtue of which interest is paid or payable;

“qualifying interest”, in relation to an individual and a year of assessment, means the amount of interest paid by the individual in the year of assessment in respect of a qualifying loan;

“qualifying loan”, in relation to an individual, means a loan or loans which, without having been used for any other purpose, is or are used by the individual solely for the purpose of defraying money employed in the purchase, repair, development or improvement of a qualifying residence or in paying off another loan or loans used for such purpose;

“qualifying residence”, in relation to an individual, means a residential premises situated in the State, Northern Ireland or Great Britain, which is used as the sole or main residence of—

(i) the individual,

(ii) a former or separated spouse of the individual, or

(iii) a person who in relation to the individual is a dependent relative, and which is, where the residential premises is provided by the individual, provided rent-free and without any other consideration;

“relievable interest”, in relation to an individual and a year of assessment, means an amount equal to that part of the qualifying interest paid by the individual in the year of assessment which is determined by the formula—

$$(I \times 80\%) - M$$

where—

I is—

(i) in the case of an individual assessed to tax for the year of assessment in accordance with section 1017, the amount of qualifying interest paid by that individual in the year of assessment or, if less, £5,000,

(ii) in the case of a widowed individual, the amount of qualifying interest paid by that individual in

the year of assessment or, if less, £3,600,

(iii) in the case of any other individual, the amount of qualifying interest paid by that individual in the year of assessment or, if less, £2,500, and

M is—

(i) in the case of an individual assessed to tax for the year of assessment in accordance with section 1017, £200 or, if less, the amount of qualifying interest paid by that individual in the year of assessment,

(ii) in the case of any other individual, £100 or, if less, the amount of qualifying interest paid by that individual in the year of assessment,

but, notwithstanding the preceding provisions of this definition and subject to paragraph (c), as respects the first 5 years of assessment for which there is an entitlement to relief under this section in respect of a qualifying loan, “relievable interest”, in relation to an individual and a year of assessment, shall mean an amount equal to that part of the qualifying interest paid by the individual in the year of assessment which is determined by the formula—

$$(I \times 100\%)$$

where I has the same meaning as in the preceding provisions of this definition;

“residential premises” means—

(i) a building or part of a building used, or suitable for use, as a dwelling, and

(ii) land which the occupier of a building or part of a building used as a dwelling has for the occupier's own occupation and enjoyment with that building or that part of a building as its garden or grounds of an ornamental nature;

“separated” means separated under an order of a court of competent jurisdiction or by deed of separation or in such circumstances that the separation is likely to be permanent.

(b) For the purposes of this section, in the case of an individual assessed to tax for a year of assessment in accordance with section 1017, any payment of qualifying interest made by the individual's spouse, in respect of which the individual's spouse would have been entitled to relief under this section if that spouse were assessed to tax for the year of assessment in accordance with section 1016 (apart from subsection (2) of that section) shall be deemed to have been made by the individual.

(c) For the purposes of the second-mentioned formula in the definition of “relievable interest”, the number of years of assessment in which the amount of relievable interest is to be determined in accordance with that formula shall be reduced by one year of assessment for each year of assessment in which an individual was entitled to relief for a year of assessment before the year 1997-98 under section 76(1) or 496 of, or paragraph 1(2) of Part III of Schedule 6 to, the Income Tax Act, 1967 .

(2) (a) In this subsection, “appropriate percentage”, in relation to a year of assessment means a percentage equal to the standard rate of tax for that year.

(b) Where an individual for a year of assessment proves that in the year of assessment such individual paid an amount of qualifying interest, then, the income tax to be charged, other than in accordance with section 16 (2), on such individual for that year of assessment shall be reduced by an amount which is the lesser of—

(i) the amount equal to the appropriate percentage of the relievable interest, and

(ii) the amount which reduces that income tax to nil.

(c) Except for the purposes of sections 187 and 188, no account shall be taken of relievable interest in calculating the total income of the individual by whom the relievable interest is paid.

(3) (a) Where the amount of relievable interest is determined in accordance with the second-mentioned formula in the definition of “relievable interest”, then, notwithstanding any other provision of the Tax Acts, in the case of an individual who has elected or could be deemed to have duly elected to be assessed to tax for the year of assessment in accordance with section 1017, where either—

(i) the individual, or

(ii) the individual's spouse,

was previously entitled to relief under this section or under section 76(1) or 496 of, or paragraph 1 (2) of Part III of Schedule 6 to, the Income Tax Act, 1967 , and the other person was not so entitled—

(I) the relief to be given under this section, other than that part of the relief (in this subsection referred to as “the additional relief”) which is represented by the difference between the relievable interest and the amount which would have been the amount of the relievable interest had the first-mentioned formula in that definition applied, shall be treated as given in equal proportions to the individual and that individual's spouse for that year of assessment, and

(II) the additional relief shall be reduced by 50 per cent and the additional relief, as so reduced, shall be given only to the person who was not previously entitled to relief under this section or under section 76(1) or 496 of, or paragraph 1(2) of Part III of Schedule 6 to, the Income Tax Act, 1967 .

(b) Paragraph (a) shall apply notwithstanding that—

(i) section 1023 may have applied for the year of assessment, and

(ii) the payments in respect of which relief is given may not have been made in equal proportions.

(4) (a) Notwithstanding anything in this section, a loan shall not be a qualifying loan, in relation to an individual, if it is used for the purpose of defraying money applied in—

(i) the purchase of a residential premises or any interest in such premises from an individual who is the spouse of the purchaser,

(ii) the purchase of a residential premises or any interest in such premises if, at any time after the 25th day of March, 1982, that premises or interest was disposed of by the purchaser or by his or her spouse or if any interest which is reversionary to the interest purchased was so disposed of after that date, or

(iii) the purchase, repair, development or improvement of a residential premises, and the person who, directly or indirectly, received the money is connected with the individual and it appears that the purchase price of the premises substantially exceeds the value of what is acquired or, as the case may be, the cost of the repair, development or improvement substantially exceeds the value of the work done.

(b) Subparagraphs (i) and (ii) of paragraph (a) shall not apply in the case of a husband and wife who are separated.

(5) Where an individual acquires a new sole or main residence but does not dispose of the previous sole or main residence owned by the individual and it is shown to the satisfaction of the inspector that it was the individual's intention, at the time of the acquisition of the new sole or main residence, to dispose of the previous sole or main residence and that the individual has taken and continues to take all reasonable steps necessary to dispose of it, the previous sole or main residence shall be treated as a qualifying residence, in relation to the individual, for the period of 12 months commencing on the date of the acquisition of the new sole or main residence.

(6) (a) In this subsection, "personal representative" has the same meaning as in section 799.

(b) Where any interest paid on a loan used for a purpose mentioned in the definition of "qualifying loan" by persons as the personal representatives of a deceased person or as trustees of a settlement made by the will of a deceased person would, on the assumptions stated in paragraph (c), be eligible for relief under this section and, in a case where the condition stated in that paragraph applies, that condition is satisfied, that interest shall be so eligible notwithstanding the preceding provisions of this section.

(c) For the purposes of paragraph (b), it shall be assumed that the deceased person would have survived and been the borrower and if, at the time of the person's death, the residential premises was used as that person's sole or main residence, it shall be further assumed that the person would have continued so to use it and the following condition shall then apply, namely, that the residential premises was, at the time the interest was paid, used as the sole or main residence of the deceased's widow or widower or of any dependent relative of the deceased.