ALLOWABLE INTEREST DEDUCTIONS ON OWNER OCCUPIED RESIDENTIAL HOUSES

The Lagos State Inland Revenue Service (LIRS) is issuing this Public Notice to all employers, company owners or their representatives, employees, high net worth individuals and other members of the public.

Definition

An "owner-occupied residential house" is any residential property (i.e. not a commercial property) which an individual has incurred expenditure on the purchase, construction, or conversion for his/her occupation. It excludes all the temporary fixture components such as paintings, furniture, electrical etc. It must be qualifying residential property that is used by the individual as his or her sole/main residence.

Legal basis

Section 20(1)b of the Personal Income Tax, Act (PITA) as amended 2011, allows the deduction of interest on mortgage loans obtained for developing an owner occupied house.

Compliance Requirements

Tax relief is only available for the first owner occupied property: A taxpayer can only get the tax relief for his first application. If the first application is for or multiple properties mortgage interest deduction will be restricted to the property which the taxpayer occupies. Where the taxpayer has used one mortgage loan to develop more than one house or flat, the interest deduction should be applied on a pro-rata basis based on the proportion of the property occupied by him/her.

Tax Relief available for interest on Mortgage where an individual lives in more than one property: The mortgage deduction will be granted for the first application and if there are multiple applications, only on the property which has the lowest mortgage value at the beginning of the tax period.

Stage of completion of the property to qualify for the relief: The relief will only be available upon actual occupation of the property. The LIRS is flexible to accommodate interest incurred at the development phase on a case by case basis.

Note: In all cases, the applicant must provide evidence that he/she occupied the property for at least a 1 year period at the end of the year which will be validated by the LIRS. The individual must have declared the property as owner occupied in the "Claims for Allowances and Relief (FORM A)" filed in accordance with section 34 of PITA.

For further enquiries, please call **0700-CALL LIRS (0700 2255 5477)** or visit **www.lirs.gov.ng**

Thank You

Signed
Ayodele Subair
Executive Chairman
Lagos Internal Revenue Service

1. WHAT CONSTITUTES "OWNER-OCCUPIED RESIDENTIAL HOUSE " FOR THE PURPOSE OF

Definition

An "owner-occupied residential house" is any residential property (it cannot be a commercial property) which an individual has incurred expenditure on the purchase, construction, or conversion. It excludes all the temporary fixture components such as paintings, furniture, electrical etc. It must be qualifying residential property that is used by the individual as his or her sole/main residence.

Legal Basis

Section 20 (1)b of the Personal Income Tax Act (PITA) as amended 2011, allows the deduction of interest on mortgage loan obtained for developing an owner occupied house. This explanatory note provides guidance on what constitutes "owner-occupied residential house" for instance:

a. where an individual obtains a mortgage to develop more than one house; will the interest be deductible for all the houses whether such an individual theoretically occupies all the houses or not?

b. where an individual lives briefly in several houses, will these houses qualify as owner-occupied or must it be the only place the individual resides?

c. would the property qualify for interest deduction at the development phase or must it be fully completed?

Objective

The objective of this explanatory note is to provide guidelines with respect to claiming tax reliefs for interest on mortgage.

Compliance Requirements

1. Tax Relief available for interest on Mortgage obtained to develop multiple properties owned by a single individual

The interest deduction granted under PITA is for **an** owner-occupied residential house (and not for owner-occupied houses) which indicates that only one house would qualify for the deduction. Therefore, a taxpayer can only benefit from the deduction **once in his life time**. A taxpayer will benefit only for his first application as LIRS will not administratively consider subsequent applications by the same individual.

If an individual makes an application for deduction of interest on mortgage loan several times, to develop more than one property, mortgage deduction will be restricted to the property with the lowest interest on mortgage at the time of filing the application for reliefs and allowances. In a case where the taxpayer has used one mortgage loan to develop more than one house; e.g. a taxpayer that builds a block of flats and resides in only one of the flats, the interest deduction should be applied on a pro-rata basis based on the proportion of the property occupied by him/her.

The individual must have declared the property as owner occupied in the "Claims for Allowances and Relief (FORM A)" filed in accordance with the tax laws. Therefore, where an individual has not declared the property as an owner-occupied residence at the beginning of a tax period, the individual will be unable to claim deductions on interest payable on such mortgage. In the first year, the taxpayer must provide along with the form, the mortgage loan, title to the property, an independent valuer's report, evidence of occupying the property and a declaration that the applicant has not taken the relief previously and the amount of interest relief being sought is accurate, for due consideration by the LIRS

1. Tax Relief available for interest on Mortgage where an individual lives in more than one property.

As specified earlier, the relief is available for an owner-occupied residential house. It is possible for an individual to live in more than one house. The mortgage deduction will be granted for the first application and if there are multiple applications, only on the property which has the lowest mortgage value at the beginning of the tax period.

In addition, the applicant must provide evidence that he/she occupied the property for at least a 1 year period at the end of the year which will be validated by the LIRS.

2. Stage of completion of the property to qualify for the relief.

The phrase "owner-occupied" is a question of fact. The intention to occupy the property at the development phase would not qualify the taxpayer for the relief. The relief will only be available upon actual occupation of the property. The LIRS is flexible to accommodate all the interest accumulated during the development phase and grant the deduction at the point of occupying the property.

As stated above, the applicant must also prove at the end of the year that they occupied the property for at least a reasonable period for which it would be acceptable to consider the property owner occupied (in this case, at least 1 year). The claim can be taken only once as stated above.

Reporting Requirement

In all cases, the applicant must provide evidence that he/she occupied the property for at least a 1 year period at the end of the year which will be validated by the LIRS. The individual must have declared the property as owner occupied in the “Claims for Allowances and Relief (FORM A)” filed in accordance with section 34 of PITA.