I6 INTEREST RELIEF – MORTGAGES FOR PRINCIPAL PRIVATE RESIDENCE ON WITHDRAWAL OF BANKING SERVICES FROM GUERNSEY (The Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance 2007)

(See also I4)

Statutory position

Under the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance 2007, ("the Ordinance"), amongst other restrictions, no relief is due in respect of interest paid on money borrowed after 1 January 2008, for the acquisition of land or the acquisition, construction, reconstruction or repair of a building which is or will be the borrower's principal private residence, unless the money is borrowed from:

(i) an individual resident in Guernsey, or

(ii) a company subject to tax in respect of income of class 2(2)(a) (income from banking business) at the company intermediate rate.

A strict interpretation of the Ordinance could mean that no relief would be due on mortgages after the lender's withdrawal from the island, as the company will no longer be paying tax at the company intermediate rate.

Clarification

The Director will allow customers of the lender who, at the time of the company's withdrawal from Guernsey, had qualifying loan(s), to continue to claim relief for interest paid thereon, in respect of the borrowing existing at that time, to the extent that the loan does not exceed £400,000 and the applicable cap on interest (see the Monetary Values schedule for the annual cap amounts). This is on the basis that the borrowing of the money is a single transaction that occurs on a particular date, and so long as the company, from whom the money is borrowed, is paying tax at the intermediate rate AT THAT TIME, the rules surrounding relief are satisfied.

The Director will also allow the interest paid where loans have been subjected to a new fixed rate at the end of a fixed rate term, but only to the value of the loan at the date the lender withdrew from Guernsey. For example, if at the time the lender withdrew from Guernsey the outstanding loan was £300,000, and this was re fixed at the end of the fixed rate term, with no increase in borrowing, the interest would continue to be allowed in full (subject to the cap on the maximum amount of interest which may be claimed). However, should the individual reorganise their mortgage with the lender at the end of a fixed term and increase the loan from £300,000 to £350,000, then relief would only be granted to the value of the loan, on the date of withdrawal, i.e. £300,000.

The transfer of a loan back to a Guernsey provider, who is subject to tax at the intermediate rate, would also qualify for relief in the normal way.

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