Draft Order laid before the House of Commons under section 98(3) of the Finance Act 2006, for approval by resolution of the House of Commons. This draft supersedes the one laid 19 May 2008.

DRAFT STATUTORY INSTRUMENTS

2008 No. XXX

INCOME TAX

The Alternative Finance Arrangements (Community Investment Tax Relief) Order 2008

Made - - - -	***
Coming into force - -	***

The Treasury make the following Order in exercise of the powers conferred by section 98 of the Finance Act 2006(**1**).

In accordance with section 98(3) of that Act, a draft of this instrument was laid before the House of Commons and approved by a resolution of that House.

Citation and commencement

1. This Order may be cited as the Alternative Finance Arrangements (Community Investment Tax Relief) Order 2008 and shall come into force on 1st July 2008.

Amendment to the Finance Act 2005

2. After section 54 of the Finance Act 2005(**2**) insert—

"**Treatment of section 47, 49 and 49A arrangements as loans: Community Investment Tax Relief**

54A.—(1) This section has effect for the purposes of the following enactments ("the specified enactments")—

(a) Schedule 16 to FA 2002,

(b) Part 7 of ITA 2007,

(**1**) 2006 c. 25.

(**2**) 2005 c. 7. In Chapter 5 of Part 2 of that Act, section 47 was amended by section 96(2) of the Finance Act 2006; section 49 was amended by section 95(2) of the Finance Act 2006; and section 49A was inserted by section 95(3) of the Finance Act 2006 and amended by section 54 of the Finance Act 2007 (c.11).

(c) regulations made under or having effect as if made under paragraph 4 of Schedule 16 to FA 2002(**3**), and

(d) regulations made under section 340 or 341 of ITA 2007.

(2) The specified enactments have effect as if—

(a) references to a loan included references to arrangements falling within section 47, 49 or 49A, and

(b) references to interest included references to alternative finance return or profit share return.

(3) Where arrangements fall within section 47, the specified enactments have effect in relation to those arrangements as if—

(a) X is treated as making a loan to Y equal to the purchase price paid by X for the asset,

(b) if the arrangements provide that X will transfer ownership of the asset to Y in instalments—

(i) references to the loan being drawn down over a period of time include references to the asset being transferred to Y in instalments,

(ii) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is transferred to Y, and

(iii) references to the amount drawn down at a given date include references to the value of the instalments transferred at that date,

(c) in calculating the amount of capital outstanding on the loan each payment of the sale price (or part thereof), less any amount of alternative finance return included within each payment, is treated as a repayment of the loan capital,

(d) references to the beneficial owner of the loan include references to the person beneficially entitled to payment of the sale price,

(e) references to the disposal of the whole or any part of the loan include references to the disposal of the right to receive payment of the whole or any part of the outstanding sale price.

(4) If arrangements which fall within section 47 are, pursuant to the application of this section, qualifying investments under Part 3 of Schedule 16 to FA 2002 or Chapter 3 of Part 7 of ITA 2007, paragraph 35 of Schedule 16 to FA 2002 or section 366 of ITA 2007 has effect in relation to that arrangement as if sub-paragraph (1)(f) or subsection (1)(f) were omitted.

(5) Where arrangements fall within section 49, the specified enactments have effect in relation to the arrangements as if—

(a) the depositor is treated as making a loan to the financial institution equal to the money deposited,

(b) if the arrangements provide that the depositor will deposit a sum of money with the financial institution in instalments—

(i) references to the loan being drawn down over a period of time include references to the depositor depositing a sum of money to the financial institution in instalments,

(**3**) Paragraph 4 of Schedule 16 to the Finance Act 2002 (c. 23) was substituted for paragraphs 4 to 7, by section 1027 and paragraphs 414 and 419(1), (4) of Schedule 1 to the Income Tax Act 2007 (c. 3).