Draft Regulations laid before the House of Commons under section 118ZN(5) of the Income and Corporation Taxes Act 1988 and section 122A(5) of the Finance Act 2004, for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2005 No.

INCOME TAX

The Partnerships (Restrictions on Contributions to a Trade) Regulations 2005

Made - - - -	*2005*
Coming into force - -	*22nd July 2005*

A draft of this instrument has been laid before the House of Commons in accordance with section 118ZN(5) of the Income and Corporation Taxes Act 1988(**1**) and section 122A(5) of the Finance Act 2004(**2**) and approved by a resolution of the House of Commons.

Accordingly, the Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 118ZN(2) to (4) of the Income and Corporation Taxes Act 1988 and section 122A(2) to (4) of the Finance Act 2004(**3**), make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Partnerships (Restrictions on Contributions to a Trade) Regulations 2005 and shall come into force on 22nd July 2005.

(2) These Regulations shall have effect from 2nd December 2004.

Interpretation

2. In these Regulations—

"any other person", in relation to an individual, includes a partnership of which the individual is a member;

"arrangement" means any scheme, arrangement or understanding of any kind (whether or not it is, or is intended to be, legally enforceable);

(**1**) 1988 c. 1; section 118ZN was inserted by section 73(1) of the Finance Act 2005 (c. 7).
(**2**) 2004 c. 12; section 122A was inserted by section 79(1) of the Finance Act 2005.
(**3**) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11).

"bank" has the meaning given by section 840A of ICTA(**4**);

"contribution to the relevant trade"—

(a) for the purposes of section 118ZN of ICTA, has the meaning in that section, and

(b) for the purposes of section 119 FA 2004, means the capital contribution to the relevant trade;

"events" includes an omission to exercise a right;

"FA 2004" means the Finance Act 2004;

"ICTA" means the Income and Corporation Taxes Act 1988;

"loan" includes—

(a) an advance of money, or any form of credit and "takes out a loan" shall be construed accordingly; and

(b) except in regulation 4(4)(a), any loan which, directly or indirectly, replaces the original loan (and so on, through any number of such loans);

"repaying", where the context requires, includes part repayment.

Scope of these Regulations

3. These Regulations apply for the purposes of—

(a) the relevant provisions mentioned in section 118ZN of ICTA, and

(b) except in regulation 5, applying section 119 FA 2004 as mentioned in section 122A(2) of that Act,

in computing the amount of an individual's contribution to the relevant trade.

Restrictions on computing the amount of an individual's contribution to a trade - Loans

4.—(1) This regulation applies where—

(a) an individual takes out a loan in connection with his financing of the whole or part of a contribution to the relevant trade, and

(b) at least one of the following conditions is satisfied.

Condition 1

There is, at any time an agreement or arrangement, under which all or any of the financial cost of repaying the loan is, will or may be borne, or ultimately borne, by any other person.

Condition 2

All or any of the financial cost of repaying the loan is at any time borne, or ultimately borne, by any other person (except under the terms of an agreement or arrangement falling within Condition 1).

Condition 3

The liability to repay the loan is at any time assumed or released by any other person.

Condition 4

The actual financial cost which the individual incurs in repaying the loan during a period mentioned in paragraph (4) is substantially less than what the financial cost to him would be on arm's length repayment terms (those costs being determined in accordance with paragraphs (3) and (4)), or is nil.

(**4**) Section 840A was inserted by paragraph 1(1) of Schedule 37 to the Finance Act 1996 (c. 8) and amended by paragraph 36 of Schedule 35 to the Finance Act 2004 (c. 12), Articles 13 and 46 of S.I. 2001/3629 and Article 2(1) and (2) of S.I. 2002/1409.