

**2011 No.000**

**INCOME TAX**

**CAPITAL GAINS TAX**

**SOCIAL SECURITY**

**STUDENT LOANS**

**The Finance Act 2009, Sections 101 to 103 (Income Tax Self Assessment) (Appointed Day, Transitional and Consequential Provisions) Order 2011**

*Made* - - - - - \*\*\*

*Laid before the House of Commons* \*\*\*

*Coming into force* - - - - - *6th April 2011*

The Treasury make the following Order in exercise of the powers conferred by section 104(3) to (7) of the Finance Act 2009(a).

**Citation, commencement and interpretation**

1. This Order may be cited as the Finance Act 2009, Sections 101 to 103 (Income Tax Self Assessment) (Appointed Day, Transitional and Consequential Provisions) Order 2011 and comes into force on 6th April 2011.

2. In this Order—

“self-assessment amount” means any tax or other amount in relation to which, for any tax year—

(a) a return falls to be made under—

(i) section 8(1)(a) of the Taxes Management Act 1970(b) (Personal return),

(ii) section 8A(1)(a) of that Act(c) (Trustee’s return), or

(iii) section 12AA(2)(a)(a) or (3)(a)(b) of that Act (Partnership return), or

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(a) 2009 c. 10.

(b) 1970 c. 9. Section 8(1)(a) of the Taxes Management Act 1970 was amended by section 90(1) and (5) of the Finance Act 1990 (c. 29); section 178(1) of the Finance Act 1994; section 121(1) and (8) of the Finance Act 1996; and sections 88(1), (2), and 114 of, and Part 5(3) of Schedule 27 to, the Finance Act 2007 (c. 11).

(c) Section 8A(1)(a) of the Taxes Management Act 1970 was amended by section 90(1) and (5) of the Finance Act 1990; section 178(2) of the Finance Act 1994; section 103(3)(a),(b) and (7) of the Finance Act 1995 (c. 4); section 121(1) and (8) of the Finance Act 1996; sections 89(1), (2) and 114 of, and Part 5(3) of Schedule 27 to, the Finance Act 2007.

- (b) an assessment is made under section 29 of that Act(c) (Assessment where loss of tax discovered),  
including any penalties assessed in relation to that tax or amount.

### **Appointed day**

**3.**—(1) 31st October 2011 is the day appointed for the coming into force of sections 101 and 103 of the Finance Act 2009 for the purposes of any self-assessment amount payable by a person to HMRC.

(2) 31st October 2011 is the day appointed for the coming into force of sections 102 and 103 of the Finance Act 2009 for the purposes of any self-assessment amount payable by HMRC to any person.

### **Transitional provision**

**4.**—(1) Where interest was accruing on any self-assessment amount immediately prior to 31st October 2011 under section 86 of the Taxes Management Act 1970(d), from 31st October 2011 interest on that amount will accrue under sections 101 and 103 of the Finance Act 2009.

(2) Where a repayment is increased by a repayment supplement under section 824 of the Income and Corporation Taxes Act 1988(e) prior to 31st October 2011, from 31st October 2011 that repayment will accrue repayment interest under sections 102 and 103 of the Finance Act 2009.

**5.** For the avoidance of doubt, section 86 of the Taxes Management Act 1970 and section 824 of the Income and Corporation Taxes Act 1988 do not have effect in relation to any self-assessment amount payable on or after 31st October 2011.

### **Consequential provision**

**6.** In section 69(1) of the Taxes Management Act 1970(f) (Recovery of penalty, surcharge or interest), at the end of paragraph (d) insert—

“; and

(e) interest charged under section 101 of the Finance Act 2009.”

**7.**—(1) Paragraph 6(1) of Schedule 2 to the Social Security Contributions and Benefits Act 1992 (Other provisions)(g) is amended as follows.

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- (a) Section 12AA(2)(a) of the Taxes Management Act 1970 was amended by sections 121(8) and 123(1) of the Finance Act 1996.
- (b) Section 12AA(3)(a) of the Taxes Management Act 1970 was amended by sections 121(8) and 123(2) of the Finance Act 1996.
- (c) Section 29 was inserted by sections 191 and 199 of the Finance Act 1994 (c. 9). It was amended by paragraph 12 of Schedule 19 to the Finance Act 1998 (c. 36); section 88 of, and paragraph 22 of Schedule 20 to the Finance Act 2001(c. 9); section 88(2) and (5) of the Finance Act 2005 (c. 7); sections 113 and 118 of, and paragraphs 65 and 71 of Schedule 36 and paragraphs 1 and 3 of Schedule 39 to, the Finance Act 2008 (c. 9); and section 374 of, and paragraphs 1 and 5 of Schedule 8 to the Taxation (International and Other Provisions) Act 2010 (c. 8).
- (d) Section 86 was amended by sections 131(2) and 132 of, and paragraphs 3(2) and (3) and 17(1) and (2), of Schedule 18 to the Finance Act 1996 (c. 8).
- (e) 1988 c. 1. Section 824 was amended by sections 146 and 148 of, and paragraph 7 of Schedule 13 to, the Finance Act 1988 (c. 39); sections 110(5) to (6), 111(4) and (5), and 187 of, and Part X of Schedule 17 to, the Finance Act 1989 (c. 26); sections 196, 258 of, and paragraph 41(1) to (3)(a) and (c) and (4) of Schedule 19 and Part V of Schedule 26 to the Finance Act 1994; section 92(2) to (4) and (6) of the Finance Act 1997 (c. 16); section 41(1) to (6) of the Finance Act 1999 (c. 16); section 90(1) to (4) of the Finance Act 2001; section 722 of, and paragraphs 1 and 104 of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 (c. 1); section 281(1) of, and paragraphs 2 and 33 of Schedule 35 to the Finance Act 2004 (c. 12); sections 882(1) and 884 of, and paragraphs 1, 331(1) to (4) of Schedule 1, and Schedule 3 to the Income Tax (Trading and Other Income) Act 2005 (c. 5); section 34(1) of, and paragraph 15 of Schedule 12 to, the Finance Act 2008; section 40 of, and paragraph 10(a) of Schedule 19 to, the Finance Act 2009 (c. 10); and article 4(1)(a) and (b) and (3) of S.I. 2010/157.
- (f) Section 69(1) was substituted by section 89(2) of the Finance Act 2001.
- (g) 1992 c. 4. The words “Section 86 of the Taxes Management Act 1970 (interest on overdue tax)” and “as it applies” were inserted into paragraph 6(1) by section 59(5) of the Social Security Act 1998.

(2) For the words “Section 86 of the Taxes Management Act 1970 (interest on overdue tax)” substitute “Section 101 of the Finance Act 2009 (late payment interest on sums due to HMRC)”.

(3) For the words “section 824 of the Act of 1988 (repayment supplements)” substitute “section 102 of the Finance Act 2009 (repayment interest on sums to be paid by HMRC)”.

**8.** In regulation 4(1) of the Recovery of Social Security Contributions Due in Other Member States Regulations 2010(a) (interest for late payment of claims) for the words “under section 178 of the Finance Act 1989 from the date of recognition until the date of payment inclusive” substitute—

“under—

(i) section 178 of the Finance Act 1989(b) for the purposes of Class 1, 1A and 1B national insurance contributions; or

(ii) sections 101 and 103 of the Finance Act 2009(c) for the purposes of Class 4 national insurance contributions;

from the date of recognition until the date of payment inclusive.”

**9.** The amendments made by articles 6 to 8 of this Order have effect from 31st October 2011 onwards.

Date

Two of the Lords Commissioners of Her Majesty’s Treasury

*Name*

*Name*

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(a) S.I. 2010/926.

(b) 1989 c. 26; section 178 was amended by the Finance Act 1994 (c. 9), section 196 and Schedule 19, paragraph 44. There are other amendments to this section but none were relevant.

(c) 2009 c. 10.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order appoints 31st October 2011 as the day on which the interest regime contained in sections 101 to 103 of the Finance Act 2009 (c. 10) comes into force for the purposes of income tax self-assessment.

Article 3 appoints 31st October 2011 as the day on which the interest regime contained in sections 101 to 103 of the Finance Act 2009 comes into force in respect of self-assessment amounts.

Article 4 provides for a transitional arrangement which ensures that self-assessment amounts accruing interest or repayment supplement under the existing interest regimes will continue to accrue interest under sections 101 to 103 of the Finance Act 2009 from 31st October 2011 onwards.

Article 5 clarifies that the existing interest provisions will not have effect for self-assessment amounts payable from 31st October 2011.

Article 6 makes a consequential amendment to section 69(1) of the Taxes Management Act 1970 (c. 9) applying that section to interest charged under section 101 of the Finance Act 2009 on self-assessment amounts.

Article 7 makes a consequential amendment to paragraph 6 of Schedule 2 to the Social Security Contributions and Benefits Act 1992 (c. 4) which replaces a reference to section 86 of the Taxes Management Act 1970 and section 824 of the Income and Corporation Taxes Act 1988 (c. 1) with a reference to sections 101 and 102 of the Finance Act 2009, respectively.

Article 8 makes a consequential amendment to regulation 4(1) of the Recovery of Social Security Contributions Due in Other Member States Regulations 2010 (SI 2010/926) which replaces a reference to section 178 of the Finance Act 1989 (c. 26) with a reference to sections 101 and 103 of the Finance Act 2009 for the purposes of Class 4 national insurance contributions.

A full impact assessment covering the introduction of the penalty regime entitled “Working towards a harmonised regime and meeting the obligations to file returns and pay tax on time” was published on 14th April 2009 and is available at <http://www.hmrc.gov.uk/better-regulation/ia.htm>.