

FEDERAL RESERVE BANK  
OF NEW YORK

Circular No. 6922  
March 28, 1972

INTERPRETATION OF REGULATION T

*To All Brokers and Dealers, and Members of National Securities Exchanges,  
in the Second Federal Reserve District:*

Printed below is the text of an interpretation of Regulation T, "Credit by Brokers and Dealers," adopted March 23 by the Board of Governors of the Federal Reserve System. The interpretation contains a ruling by the Board of Governors that the sale by a broker or dealer of "tax-shelter programs" that provide for payment in instalments is a violation of the regulation.

Additional copies of this circular will be furnished upon request.

Alfred Hayes,  
President.

(Reg. T)

**PART 220 - CREDIT BY BROKERS AND DEALERS**

**Instalment sale of tax-shelter programs**

**§ 220.124 Instalment sale of tax-shelter programs as "arranging" for credit.**

(a) The Board has been asked whether the sale by brokers and dealers of tax-shelter programs containing a provision that payment for the program may be made in instalments would constitute "arranging" for credit in violation of Part 220. For the purposes of this interpretation, the term "tax-shelter program" means a program which is required to be registered pursuant to section 5 of the Securities Act of 1933 (15 U.S.C. §77e), in which tax benefits, such as the ability to deduct substantial amounts of depreciation or oil exploration expenses, are made available to a person investing in the program. The programs may take various legal forms and can relate to a variety of industries including, but not limited to, oil and gas exploration programs, real estate syndications (except real estate investment trusts), citrus grove developments and cattle programs.

(b) The most common type of tax-shelter program takes the form of a limited partner-

ship. In the case of the programs under consideration, the investor would commit himself to purchase and the partnership would commit itself to sell the interests. The investor would be entitled to the benefits, and become subject to the risks of ownership at the time the contract is made, although the full purchase price is not then required to be paid. The balance of the purchase price after the down payment usually is payable in instalments which range from one to ten years depending on the program. Thus, the partnership would be extending credit to the purchaser until the time when the latter's contractual obligation has been fulfilled and the final payment made.

(c) With an exception not applicable here, §220.7(a) of Regulation T provides that:

"A creditor [broker or dealer] may arrange for the extension or maintenance of credit to or for any customer of such creditor by any person upon the same terms and conditions as those upon which the creditor, under the provisions of this part, may himself extend or maintain such credit to such customer, but only upon such terms and conditions (emphasis supplied)..."

(Over)



(d) In the case of credit for the purpose of purchasing or carrying securities (purpose credit), §220.8 of the regulation (the Supplement to Regulation T) does not permit any loan value to be given securities that are not registered on a national securities exchange, included on the Board's OTC Margin List, or exempted by statute from the regulation.

(e) The courts have consistently held investment programs such as those described above to be "securities" for purposes of both the Securities Act of 1933 and the Securities Exchange Act of 1934. The courts have also held that the two statutes are to be construed together. Tax-shelter programs,

accordingly, are securities for purposes of Regulation T. They also are not registered on a national securities exchange, included on the Board's OTC Margin List, or exempted by statute from the regulation.

(f) Accordingly, the Board concludes that the sale by a broker/dealer of tax-shelter programs containing a provision that payment for the program may be made in installments would constitute "arranging" for the extension of credit to purchase or carry securities in violation of the prohibitions of §§220.7(a) and 220.8 of Regulation T.

(Interprets or applies 15 U.S.C. 78g(c).)

Alfred Hayes  
President

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(Reg. T)  
PART 220 - CREDIT BY BROKERS AND DEALERS  
Extension of credit to tax-shelter programs  
§220.7(a) Extension of credit to tax-shelter programs as "arranging" for credit

(a) The Board has been asked whether the sale by a broker and dealer of tax-shelter programs containing a provision that payment for the program may be made in installments would constitute "arranging" for credit in violation of Part 220. For the purpose of this interpretation, the term "tax-shelter program" means a program which is required to be registered pursuant to section 2 of the Securities Act of 1933 (15 U.S.C. 777e), in which tax benefits, such as the ability to deduct substantial amounts of depreciation or oil exploration expenses, are made available to a person investing in the program. The programs may take various legal forms and can relate to a variety of activities including, but not limited to, oil and gas exploration programs, real estate developments (except real estate investment trusts), cattle raising operations and cattle programs.

(b) The most common type of tax-shelter program takes the form of a limited partnership.