

EXPLANATORY MEMORANDUM TO

THE STAMP DUTY RESERVE TAX (UK DEPOSITARY INTEREST IN FOREIGN SECURITIES)(AMENDMENT) REGULATIONS 2007

2007 No. 12

1. This explanatory memorandum has been prepared by the Commissioners of Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Description**

The regulations amend the Stamp Duty Reserve Tax (UK Depositary Interest in Foreign Securities) Regulations 1999. The change will enable a depositary interest relating to a collective investment scheme to qualify for exemption from SDRT provided it is not centrally managed or controlled from the UK or keeps a share register in the UK.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

None

4. **Legislative Background**

The Stamp Duty Reserve Tax (UK Depositary Interest in Foreign Securities) Regulations 1999 (SI 1999/2383) exempt from SDRT Depositary Interests that relate to "foreign securities". Foreign securities are defined as being issued by a body corporate that is not incorporated and whose central management and control is not exercised in the UK. The securities must also not be registered on a register kept in the UK or relate to a collective investment scheme. These regulations delete the requirement that the Depositary Interest must not relate to a collective investment scheme.

5. **Extent**

This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

The Economic Secretary to the Treasury has made the following statement regarding Human Rights: In my view the provisions of the Stamp Duty Reserve Tax (UK Depositary Interest in Foreign Securities)(Amendment) Regulations 2007 are compatible with the Convention rights.

7. **Policy background**

Transactions in the shares of companies that are incorporated outside the UK but traded in London are normally settled in the form of a Depositary Interest held in CREST (the central securities depository for UK equities). The 1999 Stamp Duty Reserve Tax (UK Depositary Interests in Foreign Securities) Regulations exempt from

SDRT Depositary Interests that relate to shares in overseas incorporated companies that are also centrally managed or controlled from outside the UK, and do not keep a share register in the UK.

The change to the regulations will enable an overseas collective investment scheme that lists on a UK Exchange (an Exchange Traded Fund) to qualify for exemption provided that the normal rules regarding its central management and control and the location of its share register are met. Transfers of shares in Exchange Traded Funds incorporated in the UK will continue to be subject to SDRT in the same way as shares in other UK companies. The change will bring into line the SDRT treatment of overseas incorporated Exchange Traded Funds, overseas funds whose shares are not traded on exchange and shares in overseas companies that are traded in London.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Ian Burton at Her Majesty's Revenue and Customs Tel: 020 7147 2788 or e-mail: ian.burton@hmrc.gsi.gov.uk can answer any queries regarding the instrument.