

**EXPLANATORY MEMORANDUM TO
THE TAXATION OF SECURITISATION COMPANIES (AMENDMENT)
REGULATIONS 2007**

2007 No. 3339

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.
2. **Description**
 - 2.1 This instrument contains regulations relating to the taxation of securitisation companies. It amends certain provisions of the Taxation of Securitisation Companies Regulations 2006 (SI 2006 No.3296) ("the 2006 Regulations").
 - 2.2 The Regulations have effect for periods of account beginning after 1 January 2007 and current on 27th December 2007.
3. **Matters of special interest to the Select Committee on Statutory Instruments**

None
4. **Legislative Background**

These Regulations amend the 2006 Regulations relating to the taxation of securitisation companies.
5. **Extent**

This instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - 7.1 The 2006 Regulations introduced new tax rules with effect for accounting periods beginning on or after 1 January 2007 for securitisation companies involved in securitisation of financial assets.
 - 7.2 Securitisation companies are special purpose vehicles which issue securities to third party investors where the securities are backed by assets transferred to it from another company. Such an arrangement is known as a 'capital market arrangement' as defined in Schedule 2A to the Insolvency Act 1986. A securitisation company typically acts as a conduit in which income flows from the

securitised assets are channelled to the investor in the form of interest on the securities. It will normally retain only a small cash profit over the life of the securitisation. As a consequence of changes in accounting standards, the statutory accounts of such a company are no longer a reliable basis for its tax liability. Instead, a securitisation company involved in the securitisation of financial assets, and which meets certain other conditions, is taxed on its retained cash profit rather than its statutory accounts.

7.3 These Regulations amend the 2006 Regulations as follows:

- i) the definition of “financial asset” is amended so that term does not include derivative contracts or loan relationships with embedded derivatives where the underlying subject matter is shares or land;
- ii) the meaning of “asset-holding company” is amended to allow debtor relationships with a lender other than the note issuer or intermediate borrowing company to exceed those with the note issuer or intermediate borrowing company after the commencement of the capital market arrangement;
- iii) the same amendment is made to the meaning of “intermediate borrowing company”, which is also amended to allow a company to be an intermediate borrowing company if it has a creditor relationship with a partnership that would be an asset holding company if were a company;
- iv) a definition of the business of a warehouse company is inserted to facilitate a reference to the profit of a warehouse company in the meaning of retained profit;
- v) a reference to a new definition of “tax advantage” is substituted;
- vi) a new regulation 13A is inserted which provides that the 2006 Regulations shall not apply to companies that have elected that section 83(1) of the Finance Act 2005 shall not apply;
- vii) provision is made to disapply paragraph 17 (deeply discounted securities where companies have a connection) and paragraph 18 (deeply discounted securities of close companies) of Schedule 9 to the Finance Act 1996 in relation to securitisation companies.

8. Impact

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

9. Contact

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