

EXPLANATORY MEMORANDUM TO
THE ENERGY-SAVING ITEMS (CORPORATION TAX) REGULATIONS 2008
2008 No. 1520

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) 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**

- 2.1 These Regulations specify a number of items which are to be classed as energy-saving items for the purposes of section 31ZA(5) of the Income and Corporation Taxes Act 1988 (ICTA). That section allows landlords within the charge to corporation tax, when calculating their taxable profits, to deduct expenditure on acquiring and installing these items in the residential properties which they let.
- 2.2 The Regulations also set the maximum amount of expenditure for which such a deduction may be made at £1,500 per dwelling-house in each tax year, include rules restricting the deduction and for making apportionments in cases where two or more persons have interests in a property or the expenditure benefits more than one property, and make provision for appeals where such apportionments are made.

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

None

4. **Legislative Background**

These Regulations are made by the Treasury under sections 31ZA and 31ZC of ICTA. This is the first time these powers have been exercised.

5. **Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

No statement is required on the ECHR as this instrument is subject to negative resolution procedure and does not amend primary legislation.

7. Policy background

- 7.1 Households produce over a quarter of total UK carbon emissions. Whilst existing measures have helped reduce emissions in this area, properties within the private rented sector are not on track to meet the emissions reductions targets that have been set. Such properties generally have lower energy efficiency levels in comparison with the rest of the housing sector and typically produce around 500 kg of carbon dioxide more than other homes.
- 7.2 Section 143 of the Finance Act 2004 introduced the Landlords Energy Saving Allowance (LESA), which allowed residential landlords within the charge to income tax to deduct the cost of loft and cavity wall insulation against their taxable profits. The LESA has subsequently been extended to allow deductions for expenditure on solid wall and hot water system insulation, draught proofing and floor insulation.
- 7.3 On Budget Day 2007, the Government announced the intention to seek State aid approval for extending the availability of the LESA to residential landlords within the charge to corporation tax. Section 17 of the Finance Act 2007 provided for this extension, although implementation of the legislation was delayed to allow the opportunity to notify the allowance to the European Commission as a State aid. The Commission formally approved the extension of the allowance to corporate landlords in May 2008.
- 7.4 Following State aid approval, these Regulations allow residential property businesses within the charge to corporation tax to take advantage of the LESA. It will be available for all relevant expenditure incurred on or after 8th July 2008.

8. Impact

A Regulatory Impact Assessment dealing with a number of proposed changes to the LESA, including the extension to corporate landlords, was published on Budget Day, 21st March 2007 (http://www.hm-treasury.gov.uk/media/E/2/bud07_ria_632.pdf). This extension will increase the take-up of the LESA by allowing corporate landlords of residential properties to take advantage of the allowance and encourage the acquisition and installation of energy saving items in the rented properties. The changes detailed in these regulations are not expected to significantly increase either the additional compliance costs on landlords or the administrative cost for HMRC.

9. Contact

Craig Mason at HMRC (Tel: 020 7147 2599 or e-mail: craig.mason@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.