

**EXPLANATORY MEMORANDUM TO
THE INSURANCE COMPANIES (TAXATION OF INSURANCE SPECIAL PURPOSE
VEHICLES) ORDER 2008**

2008 No. 1923

1. This explanatory memorandum has been prepared by HM Revenue and Customs on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. **Description**

This instrument amends the Corporation Tax provisions applying to companies carrying on life assurance business (“the life tax provisions”) to cater for the position of insurance special purpose vehicles (“ISPVs”). The amendments are needed as a result of the Insurance Business Transfer Schemes (Amendment of the Corporation Tax Acts) Order 2008 (SI 2008/381) and provisions of Finance Act 2008.

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

3.1 This Order has effect generally in relation to periods of account beginning on or after 1st January 2008: and is accordingly capable of having retrospective effect in certain circumstances. Authority for the retrospective effect made by this Order is conferred by section 431A(2C) of the Income and Corporation Taxes Act 1988 which is inserted into that Act by paragraph 20 of Schedule 17 to the Finance Act 2008.

3.2 The explanatory note to this Instrument explains that:

“A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.”

This is because the accepted Government practice is that no IA will be published for HMRC and HMT tax measures for which:

- the total effect of the changes across all UK business is less than £100,000 of administrative burden costs/savings and/or £3m of compliance cost in total; and
- the Department’s Better Regulation and Policy team has confirmed that
 - there are no disproportionate impacts on any business or sector; and
 - there are no other issues which might make publication of an IA advisable.

This is such a measure.

HMRC are working with BERR to ensure that the next edition of the Statutory Instrument Practice reflects these changes.”

4. Legislative Background

- 4.1 The life tax provisions are not for the most part capable of applying to ISPVs as these vehicles do not make a return to the Financial Services Authority (“FSA”) entries in which many of the life tax provisions depend.
- 4.2 When ISPVs were first permitted in 2006 by changes in the FSA’s Rules, Orders under section 431A(1) of the Income and Corporation Taxes Act 1988 (“ICTA”) were made modifying the life tax provisions. Subsequent changes to cater for later amendments to the life tax provisions cannot be made under that power, and instead this Order is made under powers in section 431A(2A) inserted by paragraph 20 of Schedule 17 to the Finance Act 2008. This is the first exercise of those powers.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary to the Treasury (Kitty Ussher) has made the following statement regarding Human Rights:

“In my view the provisions of the Insurance Companies (Taxation of Insurance Special Purpose Vehicles) Order 2008 are compatible with the convention rights.”

7. Policy background

- 7.1 Orders made under section 431A(1) of ICTA set out a modified system of taxation for ISPVs, principally in Schedule 19ABA to ICTA. This Order ensures that the Schedule and other provisions are kept up to date so that they function correctly.
- 7.2 A draft of the Order has been circulated to appropriate bodies and persons within the insurance industry and their advisers.
- 7.3 Guidance on the changes will be incorporated in HMRC’s Life Assurance Manual

8. Impact

- 8.1 A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.
- 8.2 There is no impact on the public sector.

9. Contact

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