

**EXPLANATORY MEMORANDUM TO
THE TAXES (INTEREST RATE) (AMENDMENT) REGULATIONS 2008**

2008 No. 778

1. This explanatory memorandum has been prepared by HM Revenue & 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

These Regulations amend the Taxes (Interest Rate) Regulations 1989 (S.I. 1989/1297) (“the principal Regulations”). These Regulations contain the necessary amendments to enable regulation 3AB(3) of the principal Regulations to take account of the changes in the manner in which income is expected to be charged to income tax from 6 April 2008.

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

3.1. These Regulations breach the 21 day rule for making and laying statutory instruments. It is very much regretted that this is the case.

3.2. The principal Regulations, in regulation 3AB(3), specify a formula enabling interest on certain overpaid direct taxes to be calculated. This formula is currently operated by reference to a tax rate of 20 per cent. Having regard to legislation proposed for inclusion in this year’s Finance Bill, and which is expected to have effect from 6 April 2008, HMRC consider that the formula should be restated to make it quite clear that, for the time being, the formula will continue to operate by reference to a tax rate of 20 per cent.

3.3. To ensure continuity in the rates of interest charged; and, against that background, HMRC wish these Regulations to come into force on 6 April 2008 even though the relevant legislation will not be in full force until Royal Assent is given to the 2008 Finance Bill.

3.4. On the other hand, material relevant for the new legislation is contained in this year’s Budget Resolutions, and HMRC wished to ensure that those Budget Resolutions had received the approval of the House of Commons before making and laying these Amending Regulations. Those Budget Resolutions were approved on 18 March and these Amending Regulations have been made and laid as soon as conveniently possible after that approval. However, by the time that the approval of the House of Commons was given to the Budget Resolutions, it was no longer possible (given a commencement date of 6 April 2008) to make and lay these Amending Regulations at a time that complied with the 21 day rule.

4. Legislative Background

4.1. The background to the making of these Amending Regulations has been set out in paragraph 3.2 of this explanatory memorandum.

4.2. The changes in these Amending Regulations link the formula in regulation 3AB of the principal Regulations to the new basic rate of income tax of 20 per cent and enable interest to continue to be calculated and charged by reference to the same rate of 20 per cent from 6 April 2008.

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

It was announced at Budget 2007 that there would be changes to the manner in which income tax would be charged from 6 April 2008. HMRC wish to ensure that there is continuity in the rate of interest that applies in the case of regulation 3AB(3) of the principal Regulations.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen. These Regulations do not impose any costs on business.

9. Contact

Robert Horwill at HM Revenue & Customs Tel: 020 7147 2447 or e-mail: robert.horwill@hmrc.gsi.gov.uk can answer any queries regarding the instrument.