EXPLANATORY MEMORANDUM TO THE ENERGY-SAVING ITEMS (DEDUCTION FOR EXPENDITURE ETC.) REGULATIONS 2004

2004 No. 2664

1. This explanatory memorandum is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments. It has been prepared by the Commissioners of Inland Revenue.

2. Description

The Regulations provide for the restriction of the maximum deduction for capital expenditure on loft and cavity wall insulation which may be made when computing the profits of a Schedule A business for the purposes of income tax to £1,500 per building. The Regulations also provide for the apportionment of the allowable deduction (including deductions below the maximum amount) when more than one person has an interest in the building in which the loft or cavity wall insulation is installed and make provision for appeals regarding these apportionments.

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

The Regulations have effect in respect of expenditure incurred on or after 6 April 2004 notwithstanding that they are made under powers coming into force when the Finance Act 2004 received Royal Assent on 22 July 2004 by virtue of the new section 31B(10) of the Income and Corporation Taxes Act 1988.

4. Legislative Background

4. 1 The Regulations are made by the Treasury under sections 31A(13) and 31B(10) of the Income and Corporation Taxes Act 1988 (which were inserted by section 143 of the Finance Act 2004).

4. 2 The regulations are the first use of these powers since the Finance Act 2004 received Royal Assent on 22 July 2004.

5. EU legislation

The Regulations do not implement EU legislation.

6. Extent

The instrument has the same extent as the Income and Corporation Taxes Act 1988.

7. Policy Background

7. 1 Sections 31A and 31B of the Income and Corporation Taxes Act 1988 were introduced to help the United Kingdom meet its target under the Kyoto protocol to help reduce greenhouse gas emissions. UK private rented housing is known to have poor standards of energy efficiency and the deduction provided by the new provisions is to encourage landlords who pay income tax to install cavity wall and loft insulation in let residential property. Expenditure on these items cannot normally be deducted when calculating taxable profits and it is not eligible for capital allowances under the Capital Allowances Act 2001. The measure is to have a limited life and the deduction will not be available for expenditure incurred after 5 April 2009.

7. 2 The Regulations are intended to ensure that the risk of avoidance or abuse is reduced by preventing more than one person making a claim in respect of the same expenditure and by ensuring that, where more than one person has an interest in property in which loft or cavity wall insulation is installed, the total amount which may be claimed is apportioned between those persons.

8. Impact

8. 1 The introduction of the deduction is expected to accelerate the installation of loft and cavity wall insulation in let properties which do not currently have that insulation. No RIA has been prepared as the additional compliance costs for landlords who claim the allowance and include the claim in their self-assessment returns are unlikely to be significant. There is no impact on the voluntary sector and no significant increase in Inland Revenue administrative costs is expected.

8. 2 The restrictions on the allowable deductions in the Regulations will make it more complicated for some landlords to calculate the amount of the deduction which they can claim. It is not possible to estimate how many landlords could be affected but it seems unlikely that the Regulations will add significantly to the compliance costs for the average individual landlord letting residential property.

9. Contact

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