

**EXPLANATORY MEMORANDUM TO THE
TAXES (INTEREST RATE) (AMENDMENT) REGULATIONS 2005**

2005 No. 2462

1. This explanatory memorandum has been prepared by HM Revenue & Customs 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 This Instrument adds makes provision for the setting of the rate of interest on unpaid and late-paid stamp duty land tax, the rate of interest on stamp duty land tax penalties and the rate of interest on repayments of stamp duty land tax.

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

- 3.1 None

4. **Legislative Background**

- 4.1 Sections 87, 88 and 89 Finance Act 2003 provide (respectively) for the charging of interest on unpaid and late-paid stamp duty land tax, the charging of interest on stamp duty land tax penalties and the payment of interest on repayments of stamp duty land tax.

- 4.2 In each case the rate of interest is the rate applicable under section 178 Finance Act 1989. Section 178 Finance Act 1989 provides that the rate applicable under section 178 Finance Act 1989 is that provided for in regulations made by the Treasury, and that such regulations may make different provisions for different enactments or for different purposes of the same enactment.

- 4.3 Although stamp duty land tax was introduced with effect from 1 December 2003 no Treasury regulations under section 178 Finance Act 1989 have yet been made as regards sections 87, 88 or 89 Finance Act 2003. This Instrument amends the Taxes (Interest Rate) Regulations 1989 (SI 1989 No 1297) so as to make the necessary provision for setting rates of interest as regards sections 87, 88 and 89 Finance Act 2003.

5. **Extent**

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Not applicable

7. Policy background

- 7.1 Stamp duty land tax was introduced with effect from 1 December 2003. Much of the administrative framework mirrors that for other self-assessed taxes such as income tax and corporation tax. In particular interest is chargeable on unpaid and late-paid tax, and on penalties (for example for the late delivery of a land transaction return), and interest is payable on repayments of tax. This all mirrors similar provision for income tax and corporation tax.
- 7.2 It was always intended that interest should be chargeable, and payable, with effect from 1 December 2003. However, by oversight, the necessary Treasury regulations providing for the setting of the rates of interest were overlooked. This Instrument provides for the setting of the rates of interest. It is not retrospective and interest will run from the date the Instrument comes into force.
- 7.3 Full consultation was undertaken on the administrative provisions for stamp duty land tax in 2003. As this Instrument gives effect to what was always the Government's intention, and in view of the urgency of the measure in order to protect the public finances, no further consultation has been undertaken.

8. Impact

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

9. Contact

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