

**EXPLANATORY MEMORANDUM TO  
THE TAXATION OF SECURITISATION COMPANIES REGULATIONS 2006**

**2006 No. 3296**

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

**2. Description**

2.1 This instrument contains Regulations relating to the taxation of securitisation companies. The Regulations define securitisation companies, and set out modifications to the Corporation Tax Acts that apply where such companies meet specified conditions.

2.2 The Regulations will have effect for periods of account beginning on or after 1 January 2007. A company that is a securitisation company within section 83 of the Finance Act 2005, or has a 'capital market arrangement' immediately before the period of account to which these Regulations could first apply must elect for the Regulations to apply to it, within 18 months of the end of the first period of account beginning on or after this date. A company that becomes a securitisation company after its first accounting period to which these Regulations could apply is in the regime without election.

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

This is the first exercise of the powers in section 84 of the Finance Act 2005 and is therefore subject to the affirmative procedure.

**4. Legislative Background**

The power to make the Regulations is in section 84(1) of the Finance Act 2005. These are the first such Regulations to be made, and in accordance with section 84(7) they are made by the affirmative resolution procedure.

**5. Extent**

The instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

The Paymaster General has stated that in her opinion the Taxation of Securitisation Companies Regulations 2006 are compatible with the Convention rights.

## **7. Policy Background**

7.1 Securitisation companies are special purpose vehicles involved in financial arrangements under which securities backed by assets are issued to investors. Such an arrangement is known as a 'capital market arrangement', as defined in the Schedule 2A to the Insolvency Act 1986. A securitisation company typically acts as a cash conduit under which income flows from the securitised assets are channelled to the investors in the form of interest on the securities. It will normally have a small taxable profit over the life of the securitisation. As a consequence of changes to accounting standards from 1 January 2005, the commercial profit or loss shown in the accounts of a securitisation company will be more volatile than was the case previously. This may result in situations where in a particular accounting period there are large taxable profits and tax liabilities that the company is unable to meet from its cash flows.

7.2 To prevent securitisation arrangements from failing as a consequence, the Government introduced an interim measure in the Finance Act 2005 to allow such companies to continue to use the former accounting standards for the purposes of computing taxable profits. It also introduced legislation to allow for the creation of a permanent tax regime for such companies, to be set out in regulations.

7.3 The Regulations define a number of types of company involved in securitisation arrangements, and set out the conditions they must meet. These include the requirement that the company must provide for a retained profit under the capital market arrangement. Where these conditions are met, the securitisation company's taxable profit is the amount of the retained profit. The Regulations also provide for these rules to be disapplied where the company has an unallowable purpose, and for certain of the rules that normally apply for corporation tax purposes to be modified.

## **8. Impact**

8.1 There are no significant business or other impacts, and a Regulatory Impact Assessment has not been published for this instrument.

8.2 The Regulations will have no Exchequer effect.

## **9. Contact**

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