EXPLANATORY MEMORANDUM TO

THE INSURANCE COMPANIES (TAX EXEMPT BUSINESS) REGULATIONS 2007

2007 No. 2145

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

2. Description

2.1 The regulations modify the tax legislation applying to life insurance companies which have accepted a transfer of business from a friendly society which in that society's hands was tax exempt life or endowment business or tax exempt other business.

2.2 The regulations will have effect generally for periods of account and accounting periods ending on or after the date on which the regulations come into force. Where any part of a company's business is exempt from corporation tax by virtue of section 460(11), 461(4) or 461B(5) of the Income and Corporation Taxes Act 1988 (ICTA), the regulations will have effect for periods of account beginning on or after 1st January 2007. The power to make the regulations with retrospective effect is in sections 460(16), 461(13) and 461B(9) of ICTA. This is the first exercise of these powers, which are inserted by Schedule 12 to the Finance Act 2007 (FA 2007).

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

None

4. Legislative Background

4.1 Friendly societies are granted limited exemptions from corporation tax in respect of certain life assurance business (known as "life or endowment business") and in respect of certain other health-related business. These exemptions are retained when a friendly society converts to become a life insurance company. Schedule 12 to FA 2007 newly provides that these exemptions can be retained where tax exempt life or endowment business or tax exempt other business is transferred under a scheme falling within section 86 of the Friendly Societies Act 1992 from a friendly society to a life insurance company.

4.2 Where tax exempt life or endowment business and tax exempt other business is transferred to a life insurance company, and where a friendly society carrying on such business converts to become a life insurance company, the business is ring fenced and treated as separate classes of business from all the other categories of business that a life insurance company may carry on. The regulations modify the life insurance tax legislation to deal with these categories of business.

5. Territorial Extent and Application

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

7.1 The tax code for life insurance companies provides rules for apportioning income and gains between different classes of insurance business and for different treatment of different classes of business. The transfer of tax exempt business from friendly societies to life insurance companies creates additional categories of business, and the tax code has to be modified to provide for these additional categories.

7.2 The regulations arise as a result of legislation in FA 2007 amending the tax law relating to companies carrying on life assurance business in the United Kingdom. The legislation in FA 2007 is part of the outcome of a continuing consultation process started in May 2006 with the publication of a Technical Consultative Document. The regulations have been circulated in draft to interested bodies and to the Public Bill Committee on the Finance Bill.

7.3 Guidance on the taxation of friendly societies and the effect of the regulations will be included in HMRC's Life Assurance Manual.

8. Impact

8.1 A preliminary Regulatory Impact Assessment was included in the Technical Consultative Document – see http://www.hmrc.gov.uk/life-assurance/consultation.htm. A full Regulatory Impact Assessment may be published when the consultation is complete.

8.2 The impact on the public sector is nil.

9. Contact

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