

**EXPLANATORY MEMORANDUM TO
THE SALE AND REPURCHASE OF SECURITIES (AMENDMENT OF
INSTRUMENTS) ORDER 2007**

2007 No. 2484

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

The Order makes consequential amendments to a number of existing statutory instruments as a result of the enactment of Schedules 13 and 14 to the Finance Act 2007.

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

None

4. Legislative Background

4.1 Schedules 13 and 14 to the Finance Act 2007 contain a revised code for the tax treatment of repos of companies. Section 47 of the Act contains powers to amend tax legislation as a consequence of the enactment of Schedules 13 and 14.

4.2 These Regulations amend a number of existing statutory instruments in exercise of the powers in section 47 of the Finance Act 2004 to make consequential amendments. They come into effect in relation to repo arrangements where the initial sale of securities occurs on or after 1 October 2007.

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

7.1 Repos are used extensively in the financial markets as a form of secured lending. They involve the sale of securities under an agreement where they will subsequently be repurchased at an agreed future date and at a price agreed at the outset. The sale of the securities realises cash which is economically

equivalent to a loan, which is repaid with interest in the form of an increased purchase price when the securities are bought back. The price difference is, economically, equivalent to interest on a loan.

- 7.2 Schedule 13 to the Finance Act 2007 sets out a new regime for the taxation of sale and repurchase (or “repo”) agreements entered into by companies while Schedule 14 contains a number of consequential amendments to primary legislation. Section 47 of the Act contains power for the Treasury to make further amendments by Order in consequence of, or in connection with, the Schedules.
- 7.3 The main effect of the Order is to ensure that a number of existing statutory instruments that operate by reference to the previous tax regime for repos continue to function correctly in relation to repos to which the new legislation applies. This involves a number of minor amendments to existing instruments to reflect the language of the new repo rules.
- 7.4 A draft of the Order was circulated to members of Standing Committee examining the Finance Bill 2007 and sent to those with an involvement in this area of taxation in May. No comments have been received.

8. Impact

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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