

**EXPLANATORY MEMORANDUM TO  
THE INCOME TAX ACT 2007 (AMENDMENT) ORDER 2007**

**2007 No. 940**

**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 The Order makes amendments to the Income Tax Act 2007 ("ITA").

2.2 The amendments come into force on 6 April 2007 and have effect, for income tax purposes, for the tax year 2007-08 onwards and, for corporation tax purposes, for accounting periods ending after 5 April 2007.

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

3.1 The Order corrects four inadvertent errors in ITA.

3.2 The Order is made under section 1029 of ITA, which allows changes made by the Act to be "undone" to restore the effect of the law to what it was immediately before the Act came into force.

3.3 The Order will come into effect on 6 April 2007, the same date as ITA comes into force. This means that the Order will come into effect within a shorter period than the usual minimum period of 21 days from the time it is laid before Parliament.

3.4 The justification for this is that it is necessary to bring the Order into effect on 6 April 2007 to ensure that the correction applies as soon as ITA comes into force to prevent there being any period during which the error could operate.

3.5 The extent of the breach of the 21-day rule has been minimised by the Order being laid as soon as practicable after ITA received Royal Assent. This is considered preferable to the alternative of making use of the explicit provision in section 1029 permitting such Orders to operate retrospectively.

**4. Legislative Background**

4.1 ITA completed the work of the Tax Law Rewrite project in relation to the rewrite of income tax. A power was included in section 1029 of ITA to enable any inadvertent errors to be corrected quickly and easily.

4.2 At the meeting of the Joint Committee on Tax Law Rewrite Bills on 24 January 2007 the Financial Secretary to the Treasury, John Healey, gave an assurance that the power would not be used without the agreement of the Tax Law Rewrite Consultative and Steering Committees. That agreement has been obtained.

4.3 This is the first use of the power.

## **5. Extent**

This Order applies to the whole of the United Kingdom.

## **6. European Convention on Human Rights**

The Paymaster General has made the following statement regarding Human Rights:

In my view the provisions of the Income Tax Act 2007 (Amendment) Order 2007 are compatible with the Convention rights.

## **7. Policy background**

7.1 The Tax Law Rewrite project was established in 1996. ITA was the project's fourth Act and the third relating to income tax.

7.2 The Tax Law Rewrite project's aim is to rewrite the United Kingdom's primary direct tax legislation to make it clearer and easier to use, without changing the law (apart from minor, identified, changes).

7.3 The amendments made by these regulations concern errors in the following provisions relating to share loss relief:

7.3.1 paragraph 38 of Schedule 2 to ITA, which makes a transitional provision affecting section 134 of ITA and section 576A of the Income and Corporation Taxes Act 1988 ("ICTA"); and

7.3.2 paragraph 46 of that Schedule, which makes a transitional provision affecting section 143 of ITA and section 576H of ICTA.

7.4 The first error is in a provision intended to ensure that changes made to the rules about share loss relief in Finance Act 1998 do not apply to shares issued before 6 April 1998, in line with existing law. A substantive error was made in the drafting of paragraph 38(2) (the word "since" appears instead of "before").

7.5 The other three errors are in the drafting of similar provisions relating to changes made in Finance Act 2001. The error in each case is that "after 5 April 1998" has been wrongly extended to "on or after 5 April 1998". This could result in an ambiguity, as it might not be clear whether shares issued on 5 April 1998 were intended to be addressed by the modification to section 134 of ITA and section 576A of ICTA in paragraph 38(2) or that in paragraph 38(3) and by the modification to section 143 of ITA and section 576H of ICTA in paragraph 46(1) or that in paragraph 46(4).

## **8. Impact**

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

8.2 There is no impact on the public sector.

## **9. Contact**

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