EXPLANATORY MEMORANDUM TO

THE INCOME TAX (PURCHASED LIFE ANNUITIES) REGULATIONS 2008

2008 No. 562

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 Order sets out the procedures that must be followed by insurers and annuitants in calculating and administering the exempt capital element of a purchased life annuity. It replaces the Income Tax (Purchased Life Annuities Regulations) 1956 ("the 1956 Regulations") that were last amended in 1990.

2.2 The Order brings the procedures into line with the self assessment system. It also sets out new tables of mortality to be used by insurers when calculating the exempt capital element, reflecting changes in mortality experience since the previous regulations were last updated.

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

None

4. Legislative Background

The Order is an exercise of the powers in section 724 Income Tax (Trading and Other Income) Act 2005 and section 658(3) Income and Corporation Taxes Act 1988, as amended by section 46 Finance Act 2007. The Order will apply to annuities under which the first payment is made to the annuitant on or after 6 April 2008. There is a transitional provision for annuities made in the period beginning 6 April 2007 and ending 5 April 2008 where payments are made in arrears. For these annuities the mortality tables to be used in calculating the exempt capital element will be those prescribed under the 1956 Regulations.

5. Extent

The instrument applies to all of the United Kingdom and also to non-United Kingdom insurers who sell purchased Life Annuities to annuitants in the United Kingdom.

6. European Convention on Human Rights

The Exchequer Secretary to the Treasury (Angela Eagle MP) has made the following statement regarding Human Rights:

"In my view the provisions of the Income Tax (Purchased Life Annuities) Regulations 2008 are compatible with the Convention rights."

7. Policy Background

7.1 Section 46 FA 2007 paved the way for the new regulations to bring the calculation and administration of the exempt capital element of a purchased life annuity into line with self assessment. It removes the need for an annuitant to make a claim for the exemption to HM Revenue and Customs and for an officer of HMRC to determine the amount of the exempt element.

7.2 Under the new regulations UK insurers will, as at present, calculate the exempt element using a standard set of mortality tables as specified in the regulations. They will also need to follow the revised administrative procedures set out in the new regulations, which reflect the removal of the need for a claim and determination of the exempt element.

7.3 The regulations specify a new standard set of mortality tables that are more up-to-date than those prescribed in the 1956 Regulations. They reflect more recent actuarial information on life expectancy.

7.4 The regulations will also apply to non-UK insurers who will, for the first time, calculate the exempt element, using the same standard set of mortality tables as UK insurers. Non-UK insurers will also need to appoint a UK tax representative to undertake all the various administrative duties required of UK insurers. As an alternative, they can apply to be released from the requirement to appoint a UK tax representative if they declare that they will directly administer these types of annuities in the same way as UK insurers or agree other suitable arrangements with HMRC.

7.5 The regulations have been the subject of consultation in draft with the Association of British Insurers representing UK insurers, the Association of Friendly Societies representing friendly societies and the Association of International Life Offices representing overseas insurers, and the regulations include a number of suggestions made by these bodies.

8. Impact

8.1 A full regulatory impact assessment has not been prepared for this instrument as it will have negligible impact on the costs of businesses and there will be no impact on the costs of the charities or voluntary bodies.

8.2 There will also be negligible impact on the public sector.

9. Contact

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