

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (INDEXATION) ORDER 2008

2008 No. 673

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

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Description**

2.1 This Order replaces the amounts of the minimum amount, personal allowance, adjusted net income limit, married couple's allowance and blind person's allowance available to individuals who are not resident in the United Kingdom and who meet the conditions at section 278(2) Income and Corporation Taxes Act 1988 (the Act). This Order replaces the existing amounts with amounts increased by the percentage increase in the retail prices index in the year to September preceding the start of the relevant tax.

2.2 The Order applies, unless Parliament determines otherwise through the annual Finance Bill.

2.3 Broadly the individuals who are not resident in the United Kingdom and who meet the conditions at section 278(2) of the Act are Commonwealth citizens or European Economic Area nationals.

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

None

4. **Legislative Background**

4.1 Sections 256B, 257, 257A, 257AB and 265 Income and Corporation Taxes Act 1988 contain the amounts of the minimum amount, personal allowance, adjusted net income limit, married couple's allowance, and blind person's allowance. Unless Parliament determines otherwise, section 257C(1) Income and Corporation Taxes Act 1988 provides that if there is an increase in the retail prices index in the year to September preceding the start of the relevant tax year, then these amounts and allowances will be increased by that percentage increase in the retail prices index.

4.2 After applying the percentage increase in the retail prices to the amount of the adjusted net income limit the result is not a multiple of £100, section 257C(1)(a) of the Act provides that the amount is rounded up to the nearest multiple of £100.

4.3 After applying the percentage increase in the retail prices to the amount of the minimum amount, personal allowance, married couple's allowance and blind person's allowance the amount is not a multiple of £10, section 257C(1)(b) of the Act provides that the amount is rounded up to the nearest multiple of £10.

4.4 Section 257C(2A) of the Act is an administrative provision to reflect the fact that it is usually only known at the time of the Chancellor's Budget speech whether statutory indexation will apply. This might leave insufficient time before the start of the tax year for employers to update their payroll systems. This rule gives employers until the first payday after 17 May to make necessary changes.

4.5 Section 257C(3) of the Act obliges Her Majesty's Treasury to specify the amounts increased by indexation by Order made in the tax year before the tax year to which the amounts are to apply.

4.6 For the years prior to 2007-08, section 257C of the Act was included on the list of statutory instruments which are not subject to negative resolution: sections 828(3) and (4) of the Act. However, following the enactment of the Income Tax Act 2007, section 257C of the Act was removed from the list of exclusions with the result that this Order is now subject to negative resolution procedure.

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 Since 1977 there has been a statutory obligation to raise personal allowances and tax bands by at least the rate of inflation as measured by the retail prices index during the twelve months to the December preceding the Budget. This was implemented by the Rooker-Wise amendment to the 1977 Finance Act.

7.2 From the November 1993 Budget onwards, the statutory obligation to raise personal allowances was amended to the percentage increase in the retail prices index to the September preceding the Budget.

7.3 As part of the Tax Law Rewrite project, the basic provisions for income tax, including the amounts of the minimum amount, personal allowance, adjusted net income limit, married couple's allowance and blind person's allowance are now included in the Income Tax Act 2007. These allowances and amounts are available to individuals who are United Kingdom residents or meets one of the alternative tests in subsection 3 of section 57 Income Tax Act 2007. The Income Tax Act 2007 also includes parallel provisions to increase the amounts by indexation which work in exactly the same way as those in the Act. There is a parallel obligation on Her Majesty's Treasury to specify the indexed amount by Order made in the tax year before the tax year to which they are to apply. The Income Tax (Indexation) (No.2) Order 2007, 2007 No. 3481 was made on 10 December 2007 specifying the relevant amounts for 2008-09. The power to make the Income Tax (Indexation) (No. 2) Order 2007 – section 57(6) of the Income Tax Act 2007 – is included on the list of statutory

instruments which are not subject to negative resolution: section 1014(1)(b)(i)
Income Tax Act 2007.

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

Paul Thomas at Her Majesty's Revenue & Customs Tel: 020 7147 2479 or e-mail:
paul.thomas@hmrc.gsi.gov.uk can answer any queries regarding the instrument.