

EXPLANATORY MEMORANDUM TO
THE TAXES (INTEREST RATE) (AMENDMENT) REGULATIONS 2009
2009 No. 199

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) 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. **Purpose of the instrument**

This instrument reduces the “official rate of interest” applicable under section 178 of the Finance Act 1989 for the purposes of Chapter 7 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003 (taxable benefits: loans).

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

None

4. **Legislative Context**

4.1 Regulation 5 of The Taxes (Interest Rate) Regulations 1989 sets the applicable rate for the purposes of Chapter 7 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003. Chapter 7 sets out the circumstances in which employment related loans give rise to a taxable benefit on the amount by which the interest actually paid is less than the amount that would have been due if calculated at “the official rate of interest”. The legislation allows for a generally applicable official interest rate to be set and for different official rates where the loan is in a foreign currency and other conditions apply.

4.2 These regulations reduce the generally applicable rate and make a small drafting amendment to the sub-paragraph in which different interest rates are set.

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**

- *What is being done and why*

7.1. Directors and employees earning £8,500 a year or more are liable to tax on benefits in kind they receive by reason of their employment. Where an interest free or

low interest employment related loan is made, the taxable benefit is the difference between any interest paid by the employee and the interest which would have been paid at the official rate of interest (where that is greater). Where a tax charge arises, employers also pay Class 1A National Insurance contributions on the taxable benefit.

7.2 The publicly announced policy since 2000 has been to set the official rate of interest by reference to prevailing average bank and building society mortgage rates. A change to the official interest rate is only considered necessary if those reference rates change.

7.3. Since 2000 the policy has been to announce the official rate in advance of the coming tax year whether there is a change or not; this simplifies record keeping and benefit valuation for employers. However it has also been the policy since that time to amend the rate during a tax year if the reference rates change significantly.

7.4. Following recent reductions in the Bank of England base rate lenders have reduced their mortgage rates to an extent that means that the official rate of interest should be reduced at the earliest opportunity rather than waiting until the start of the next tax year. Accordingly, this regulation reduces the current official rate of 6.25% (in place since April 2007) to 4.75% from 1 March 2009.

- **Consolidation**

7.5 There are no plans to consolidate the instrument that is being amended. No free informal consolidated text is available.

8. Consultation outcome

No consultation has been undertaken as the amendment is in line with the procedure contained in the publicly announced policy.

9. Guidance

The official rate of interest is posted on the HMRC website. This is known and established practice. It is also included in the Employment Income Manual which is used by employers and their agents and this will be updated. Form P11D (INT) advises employers of the Official Rate which is posted on the HMRC website and sent to all employers as part of the employers pack.

10. Impact

10.1 A negligible impact on business, charities or voluntary bodies is foreseen.

10.2 No impact on the public sector is foreseen.

10.3 An Impact Assessment has not been produced for this instrument as it has a negligible impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 A Small Firms Impact Test has not been undertaken because the legislation does not alter the operation of existing procedures.

12. Monitoring & review

HMRC will continue to monitor mortgage rates and amend the regulations to change the rate if it is appropriate.

13. Contact

Paul Harris at HM Revenue & Customs Tel: 0207 147 2528 or email: paharris@hmrc.gsi.gov.uk can answer any queries regarding the instrument.