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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes consequential amendments to various provisions of income tax legislation following the devolution of the power to set Welsh rates of income tax to the Welsh National Assembly. The amendments made by this Order will ensure that the income tax system works as intended in relation to Welsh taxpayers. The Order also contains some further amendments to income tax legislation which have been identified as being required following the devolution of income tax rate and threshold setting powers to the Scottish Parliament contained in section 80C of the Scotland Act 1998. The changes will take effect from the tax year commencing on 6 April 2019 and following tax years

Article 2 amends section 91 of the Taxes Management Act 1970 which deals with the treatment of interest on overdue income tax when reliefs are subsequently given. A reference is inserted to the Welsh basic rate to ensure that the section works as is intended for Welsh taxpayers.

Articles 3 to 6 amend provisions in the Finance Act 2004 (“FA 2004”) in relation to the rules covering relief at source on pension contributions to ensure that Welsh taxpayers receive relief at the Welsh basic rate through relief at source and that those who pay income tax at a rate higher than the Welsh basic rate will be entitled to relief for their contributions, reflective of Welsh income tax rates.

Articles 7 and 8 amend provisions in FA 2004 in relation to the annual allowance charge (section 227) and the liability of the scheme administrator (section 237B) respectively to ensure that, where the individual is a Welsh taxpayer, references to rates are references to Welsh rates.

Article 9 makes consequential amendments to the Registered Pension Scheme (Relief at Source) Regulations (S.I. 2005/3448) to ensure that where the individual is a Welsh taxpayer, references to rates are references to Welsh rates in relation to provision for relief from tax on payments made to scheme administrators of registered pension schemes under Part 4 of FA 2004.

Article 10 contains amendments to the Income Tax (Trading and Other Income) Act 2005 (“ITTOIA”).

Article 10(2) amends section 539 of ITTOIA. This section provides for life insurance deficiency relief which may be available to individuals when their life insurance policy comes to an end. Amendments are made to ensure that the calculation of the relief takes account of income liable at the Welsh higher rate. A further amendment is made to clarify how Steps 3A and 3B of the calculation will operate when the Scottish or Welsh higher rate is the same as the main higher rate.

Article 10(3) makes consequential changes to section 669 of ITTOIA. Section 669, which provides for a reduction in the residuary income of a deceased’s estate in certain circumstances, is amended so that it takes into account income charged at the Welsh higher rate or the Welsh additional rate.

Article 10(4) makes consequential changes to section 685A of ITTOIA. Section 685A, which provides for a tax credit where a person other than the settlor receives an annual payment from a settlor- interested trust, is amended so that the credit for a Welsh taxpayer is calculated at the Welsh additional rate.

Article 11 amends section 7 of the Finance (No.2) Act 2005 which imposes a charge to income tax on social security pension lump sums. Consequential amendments are made to the section to provide that the charge to tax for Welsh taxpayers will be calculated using Welsh rates of income tax.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Article 12 amends the Income Tax Act 2007 (“ITA”). Article 12(2) and articles 12(5) to (7) make consequential amendments to sections 11D, 31, 55B and 55C of ITA to take account of the new Welsh rates of income tax.

Articles 12(3) and (4) make consequential changes to section 26 and 30 of ITA to reflect the changes made by article 12(8).

Article 12(8) inserts a new section 414A into Chapter 2 of Part 8 of ITA which deals with relief for gifts to charity where the main basic rate and devolved basic rates differ. The background is that gift-aid donations received by charities will continue to be treated as amounts received after deduction of tax at the main basic rate (even in the case of Scottish and Welsh taxpayers), with charities being able to reclaim tax at that rate from HMRC.

New section 414A(3) ensures that where the Scottish basic rate or Welsh basic rate is higher than the main basic rate, the donor of a gift-aid donation is effectively taxed only at the main basic rate on so much of the grossed-up donation as would otherwise be more heavily taxed at the Scottish, or Welsh, basic rate. New section 414A(4) ensures that where the Scottish basic rate or Welsh basic rate is lower than the main basic rate, the donor of a gift-aid donation is effectively taxed at the main basic rate on so much of the grossed-up donation as would otherwise be more lightly taxed at the Scottish, or Welsh, basic rate. But new section 414A(5) ensures that new section 414A(4) does not make a donor worse off as a result of having made gift-aid donations.

Article 12(9) further amends section 745 of ITA, subsection (1) of which provides that income tax at the basic rate under sections 720 or 727 is not charged where income mentioned in 721(2) or 728(1)(a) has borne tax at the basic rate. Subsection (1A) was inserted by [S.I. 2018/459](#) to provide for treatment equivalent to subsection (1) in respect of income tax under sections 720 or 727 for a Scottish taxpayer. Subsection (1B) is inserted to provide for treatment equivalent to subsection (1) in respect of income tax under sections 720 or 727 for a Welsh taxpayer.

An Impact Assessment covering this instrument was published on 10 June 2014 alongside the draft clauses and explanatory notes for the Wales Bill and is available on the website at <https://services.parliament.uk/Bills/2014-15/wales/documents.html>. It remains an accurate summary of the impacts that apply to this instrument.