

EXPLANATORY MEMORANDUM TO

THE TONNAGE TAX (FURTHER OPPORTUNITY FOR ELECTION) ORDER 2023

2023 No. 508

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This instrument provides a second further opportunity for shipping companies and groups to elect into the tonnage tax regime.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 When the tonnage tax regime was introduced in 2000 there was a time limit of twelve months from the passing of Finance Act 2000 (FA 2000) for existing shipping companies and groups to elect into the regime. After that time only companies and groups commencing a shipping business could elect into tonnage tax. The election rules are at Part 2 of Schedule 22 to FA 2000.
- 6.2 Paragraph 11 of Schedule 22 to FA 2000 contains a power for His Majesty's Treasury, by order, to provide for further periods during which tonnage tax elections may be made by companies or groups who previously chose not to elect into the tonnage tax regime or had left it.
- 6.3 This is the second occasion on which the power has been exercised. The first exercise of the power was the Tonnage Tax (Further Opportunity for Election) Order 2005 (S.I. 2005/1449), which provided for a further election period of 18 months, from 1 July 2005 until 31 December 2006.

7. Policy background

What is being done and why?

- 7.1 Tonnage tax is an alternative method of calculating corporation tax profits by reference to the “net tonnage” (a usable volume measure) of the ships operated within the regime. Tonnage tax replaces the corporation tax on both the profit or loss of the shipping trade and any chargeable gains or losses made on tonnage tax assets. Any other profits or losses of a company within the tonnage tax regime are calculated in the normal way.
- 7.2 A company or group wishing to benefit must elect into the regime, and this instrument provides a further opportunity to do so beginning with 1 June 2023 and ending with 30 November 2024.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.3 A company or group may elect into the tonnage tax regime only during an initial period of twelve months from the date that FA 2000 was passed, or twelve months from the date it qualified for tonnage tax for the first time, unless His Majesty’s Treasury provides for further election periods.

Why is it being changed?

- 7.4 This instrument, like the earlier instrument made in 2005, follows significant changes to the tonnage tax regime, this time made by the Finance Act 2021. Opportunities to elect into the regime are restricted under Part 2 of Schedule 22 to FA 2000 to prevent companies and groups readily switching between the tonnage tax rules which are favourable when the company or group is profitable, and normal corporation tax which allows loss and group relief to be claimed.
- 7.5 Following changes designed to make the United Kingdom tonnage tax regime more attractive, currently overseas-based groups will have the opportunity to move back and benefit from it even if they had qualified previously.

What will it now do?

- 7.6 Companies and groups operating qualifying ships and meeting other conditions of the tonnage tax regime will be able to elect into tonnage tax during the period of eighteen months beginning on 1 June 2023 and ending with 30 November 2024, which is referred to in the Instrument as “the second further period”. The instrument also applies Part 2 of Schedule 22 to FA 2000 with certain adaptations to elections made during the second further period.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 This instrument does not amend another instrument so there are no plans for consolidation.

10. Consultation outcome

- 10.1 This instrument makes no change to tax policy and is relieving to taxpayers as it provides a new opportunity to elect into the tonnage tax regime, so no consultation is required.

11. Guidance

- 11.1 HMRC's Tonnage Tax Manual (<https://www.gov.uk/hmrc-internal-manuals/tonnage-tax-manual>) will be amended after the instrument is laid to reflect the second further election period.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities, or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note has not been prepared for this instrument because it contains no substantive changes to tax policy.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 There are no plans to review or monitor the instrument, which is procedural only.
- 14.2 The instrument does not include a statutory review clause due to the tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Victor Baker at HMRC, telephone: 03000 585490 or email: victor.j.baker@hmrc.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 James Konya, Deputy Director for the Corporation Tax Structure Team at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Gareth Davies MP, Exchequer Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.