EXPLANATORY MEMORANDUM TO THE BUSINESS PREMISES RENOVATION ALLOWANCES (AMENDMENT) REGULATIONS 2012

2012 No. 868

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs, on behalf of HM Treasury, and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 Business Premises Renovation Allowances (BPRA) are due to end on 10 April 2012. This Instrument extends BPRA to 31 March 2017 for corporation tax purposes and 5 April 2017 for income tax purposes.

2.2 In addition, and in order to ensure BPRA continues to comply with State aid rules, this instrument:

- excludes those businesses that are in difficulty, or are subject to an outstanding recovery order from making claims to BPRA;
- includes a cap of Euro 20 million on the expenditure that qualifies for BPRA; and
- includes a rule preventing a claim to BPRA on a property that is not in an assisted area from 1 January 2014.

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

3.1 None

4. Legislative Context

4.1 BPRA was due to end on 10 April 2012. At the 2011 Budget it was announced that it would be extended for a further five years. This instrument extends BPRA for a further five years, to 31 March 2017 for corporation tax purposes and 5 April 2017 for income tax purposes and ensures that it complies with State aid rules, by exercising powers contained in Part 3A of the Capital Allowances Act 2001.

5. Territorial Extent and Application

5.1 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 BPRA aims to increase private enterprise and employment in disadvantaged areas of the United Kingdom by bringing longer-term vacant business properties in those areas back into business use. It also aids regeneration by reducing pressure on greenfield sites.

7.2 It does this by providing a 100 per cent capital allowance for the capital costs incurred of renovating, converting or repairing certain business property that has been empty for at least a year in any of the designated disadvantaged areas of the United Kingdom. A writing down allowance of 25 per cent on the straight line basis is also available, where the 100 per cent initial allowance is not claimed, or not claimed in full.

7.3 As well as extending BPRA for further five years, account has been taken of BPRA's status as a selective State aid. When BPRA took effect on 11 April 2007 it had been designed to comply with the European Commission's Regional Aid Block Exemption Regulation, ***EC Regulation 1628/2006***. That Regulation has since been consolidated into the General Block Exemption Regulation, ***EC Regulation No 800/2008*** ("GBER")**.**

7.4 To ensure that BPRA complies with the GBER it has been necessary to exclude BPRA on expenditure incurred on or in connection with certain premises:

(a) Where the premises are used for trades in any sector which the GBER does not apply to by virtue of paragraph 3 of Article 1; or

(b) Where the premises are used by trades carried on by undertakings which are either (i) in difficulty for the purposes of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02); or (ii) subject to an outstanding recovery order, following a European Commission decision declaring an aid illegal.

7.5 In addition, to ensure BPRA complies with the GBER, a cap on the amount of expenditure that may qualify for BPRA has been introduced and set at €20,000,000 per single investment project. (The majority of BPRA qualifying expenditure falls well below this rate with the average claim being £50,000.) A single investment project might be the renovation of a single building involving one or a number of participants; or groups of buildings in involving one or a number of participants where the outcome of the project is closely linked due, for example, to its proximity.

7.6 A rule preventing expenditure from qualifying for BPRA if it is incurred on a property that is not in an assisted area from 1 January 2014 has also been introduced. Disadvantaged areas are defined as assisted areas for the purposes of the Assisted Areas Order 2007 (S.I. 2007/107). (These are areas where the European Commission (EC) has agreed that the public sector can give financial support to generate additional and identifiable economic

activity.) The present assisted areas are due to end on 31 December 2013 and the Department for Business, Innovation and Skills is in discussions with the EC as to the assisted areas post 2013, but it is necessary to ensure that expenditure incurred in areas that cease being assisted on or after 1 January 2014 does not qualify for BPRA.

8. Consultation outcome

8.1 The Government does not generally consult on minor measures. However, the draft regulations and explanatory memorandum were published on 6 December 2011 as part of the consultation process for Finance Bill 2012 clauses and other tax updates. No comments on the draft order or memorandum were received.

9. Guidance

9.1 All guidance will be updated as appropriate as part of the normal process of review**.**

10. Impact

10.1 A Tax Information and Impact Assessment covering this instrument was published on 6 December 2011 and can be found at www.hmrc.gov.uk/thelibrary/tiins.htm.

11. Regulating small business

11.1 BPRA applies to small business, in the same way as it does any other business.

12. Monitoring & review

12.1 The take-up and annual cost of BPRA is regularly monitored through boxes on tax returns, and annual reports to the European Commission are also made because BPRA is a State aid.

13. Contact

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