EXPLANATORY MEMORANDUM TO

THE DISABILITY PREMIUM COMPENSATION SCHEME (INCOME TAX EXEMPTION) REGULATIONS 2025

2025 No. 861

1. Introduction

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

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

2. Declaration

2.1 James Murray MP, the Exchequer Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.

2.2 Philip Batchelor, Deputy Director for Income Tax Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Keshini Jayasekera at HMRC (email: keshini.jayasekera@hmrc.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of the legislation is to exempt payments made under the Department for Work and Pension (DWP) disability premium compensation scheme and payments made by the Department for Communities in Northern Ireland (DCNI) under the corresponding scheme for Northern Ireland (together, the "Scheme") from Income Tax. The Scheme compensates eligible individuals who were previously entitled to certain types of disability premiums or elements in connection with their legacy benefits.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 In January 2022, the High Court[1] concluded that there was a difference in treatment between severe disability premium recipients who naturally migrated from legacy benefits to universal credit (by virtue of making a claim to universal credit as a result of a change in their circumstances), and those who remain on legacy benefits.

5.2 Following this case, the regulations (the "UCTPA Regulations") were introduced to provide for an additional amount of universal credit to be payable to certain claimants who were previously entitled to certain types of disability premiums or elements in connection with their legacy benefits. Pursuant to these regulations, eligible claimants are entitled to the additional amount as part of their universal credit award from 14 February 2024 without those amounts being subject to income tax.

5.3 However, eligible claimants across the UK will not receive the additional amount under the UCTPA Regulations for periods falling before 14 February 2024. Therefore, DWP and DCNI have introduced the Scheme to compensate eligible claimants for these earlier periods.

5.4 Under current legislation, payments made under the Scheme would be subject to Income Tax. The Government wishes to exempt these payments from Income Tax.

What was the previous policy, how is this different?

5.5 Without exemption, these payments would be subject to income tax. Pursuant to the Instrument, the payments will be exempt from income tax.

6. Legislative and Legal Context

How has the law changed?

6.1 Schedule 15 to the Finance Act 2020 ("FA 2020") provides that no liability to Income Tax arises on "qualifying payments". A "qualifying payment" includes compensation payments made by or on behalf of the Government or a public authority where the payments are specified in regulations made by the Treasury by Statutory Instrument.

6.2 This instrument is being made to set out the income tax treatment of payments made by DWP and DCNI to universal credit claimants previously entitled to certain legacy benefit disability premiums or elements under the Scheme. These are recognised as qualifying payments under Paragraph 2(5) of Schedule 15 FA 2020.

6.3 The instrument will provide that the scheme payments are exempt from Income Tax under Paragraph 3 of Schedule 15 FA 2020.

6.4 The exemption from income tax is with retrospective effect from 18 December 2024 and will be wholly relieving from the date of introduction.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

[1] The Queen (on the application of) TP and AR (TP and AR No. 3) ([2022] EWHC 123 Admin)

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation has taken place as these are minor changes which are wholly relieving to the taxpayer.

8. Applicable Guidance

8.1 Guidance will be provided by the body administering the Scheme.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note has not been prepared for this instrument because it contains no substantive changes to tax policy.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because there are no resource, IT or financial consequences for HMRC.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no plans to monitor or review the instrument.

10.2 The instrument does not include a statutory review clause because it does not make or amend regulatory provisions that relate to business activity.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Schedule 15 FA 2020 conferred on the Treasury the power to make regulations to exempt compensation payments made by or on behalf of the Government or a public authority from Income Tax.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).