EXPLANATORY MEMORANDUM TO

THE DORMANT BANK AND BUILDING SOCIETY ACCOUNTS (TAX) REGULATIONS 2011

2011 No. 22

1. This explanatory memorandum has been prepared by The Treasury and Her Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 The instrument modifies certain tax rules to facilitate the introduction and operation of the scheme made under the Dormant Bank and Building Society Accounts Act 2008.

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

3.1 None

4. Legislative Context

4.1 The instrument is being made to ensure:

(i) that the transfer by a bank or building society of the balance in a dormant account to a reclaim fund (as defined in the Dormant Bank and Building Society Accounts Act 2008) ("Reclaim Fund") is tax-neutral having no tax consequences for the customer and preventing taxation from reducing the funds available to be used for social or environmental purposes, and

(ii) that the operation of the unclaimed assets rules does not increase the tax compliance burdens on financial institutions.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Dormant Bank and Building Society Accounts Act 2008 provides the framework for a scheme under which balances in dormant bank and building society accounts can be transferred to a Reclaim Fund to be used for social or environmental purposes.

7.2 Section 39 Finance Act 2008 provides that the Commissioners for HMRC may by regulations modify specified taxation provisions so as to prevent certain deduction of tax and reporting obligations from applying on transfers of balances to the Reclaim Fund whilst such balances are held in the Reclaim Fund and to also treat any interest arising on balances whilst they are transferred to the Reclaim Fund as only arising for income tax purposes when the balance is reclaimed and paid back to the account holder. The Treasury Commissioners are joined to the instrument to make minor consequential changes to the Individual Savings Account Regulations 1998.

7.3 These regulations accordingly seek to modify tax rules so that any interest credited to a dormant bank or building society account on transfer to the Reclaim Fund and any interest credited whilst the funds are held in the Reclaim Fund is only treated as paid for the purposes of income tax and tax reporting requirements if a customer reclaims his money and the balance is then repaid.

7.4 Regulation 9 of this instrument inserts a new regulation into the Individual Savings Account Regulations 1998 (SI 1998/1870). This provides that where an individual savings account (ISA) which is a cash account is transferred to the Reclaim Fund, the ISA account manager does not have to provide an annual notice to the investor about the ISA subscription rules or provide information about the account to HMRC on the account manager's annual return of information.

7.5 Where a repayment claim is made by the ISA investor the balance held in the Reclaim Fund will be repaid into an ISA and will not count towards the annual ISA subscription limits.

8. Consultation outcome

8.1 A first draft of this instrument was published for comment on 16 October 2008 and a further draft was circulated to an informal industry working group on 5 October 2009.

8.2 The drafting of this instrument reflects the comments made by respondents to the informal consultation.

9. Guidance

9.1 Guidance is being published by HMRC for financial institutions intending to transfer account balances to the Reclaim Fund.

10. Impact

10.1 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 but the effect on small business is negligible.

12. Monitoring & review

12.1 Operational staff will keep this matter under review to ensure that the changes made by this instrument achieve their aims.

13. Contact

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