EXPLANATORY MEMORANDUM TO

THE SCOTTISH RATES OF INCOME TAX (CONSEQUENTIAL AMENDMENTS) ORDER 2024

2024 No. [XXXX]

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 Tulip Siddiq MP, Economic Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Victoria Garton, Deputy Director for Financial Products and Services at HMRC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The Financial Services Team at HMRC, email: financialservicesbai@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 This instrument enables deficiency relief to be calculated by reference to income taxable at the Scottish advanced rate of Income Tax from 6 April 2024 and simplifies the construction of the legislation.

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 Deficiency relief is a tax reduction which is potentially available to all UK taxpayers where, at the end of certain insurance policies or contacts, the taxpayer has been taxed on more than the overall economic gain on the policy or contract.

5.2 From 6 April 2024, the former Scottish higher rate Income Tax band is split into the Scottish higher rate Income Tax band and the Scottish advanced rate Income Tax band.

5.3 To avoid disparities in approach across the United Kingdom this instrument enables deficiency relief to be calculated by reference to income taxable at the Scottish advanced rate.

What was the previous policy, how is this different?

5.4 Deficiency relief was only available where an individual paid tax at the dividend upper rate, higher rate, Scottish higher rate, Welsh higher rate, default higher rate or savings higher rate. Following the introduction of the Scottish advanced rate of Income Tax, as explained above, this instrument enables deficiency relief to be calculated by reference to income taxable at the Scottish advanced rate from 6 April 2024 onwards.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument enables deficiency relief to be calculated by reference to income taxable at the Scottish advanced rate of Income Tax and simplifies the construction of the legislation.

Why was this approach taken to change the law?

6.2 Allowing deficiency relief to be calculated by reference to income taxable at the Scottish advanced rate of Income Tax avoids disparities in approach across the United Kingdom. The addition of the Scottish advanced rate to the existing steps in the calculation of the relief would have added unnecessary complexity and therefore the instrument simplifies the construction of the legislation.

7. Consultation

Summary of consultation outcome and methodology

7.1 Consultation was not deemed necessary as the amendments introduced by this instrument are consequential to the introduction of the Scottish advanced rate of Income Tax.

8. Applicable Guidance

8.1 HMRC will update guidance in the Insurance Policyholder Taxation Manual available online at gov.uk[1].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A Tax Information and Impact Note covering this instrument will be published on gov.uk[2].

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies because this instrument only affects individuals.

[1] Insurance Policyholder Taxation Manual: https://www.gov.uk/hmrc-internal-manuals/insurance-policyholder-taxation-manual

[2] Tax Information and Impact Note: https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins

9.3 The legislation does not impact small or micro businesses.

9.4 There is no impact on the public sector because this instrument only affects a limited number of individuals.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This instrument will be kept under review through communication with industry representative groups.

10.2 The instrument does not include a statutory review clause. This instrument amends United Kingdom tax legislation and therefore falls within the exceptions at section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument is made under section 80G of the Scotland Act 1998. Section 80G(4) provides that an order made by that section may, to the extent that the Treasury consider it to be appropriate, take effect from the beginning of the tax year in which the order is made.

12. European Convention on Human Rights

12.1 The Economic Secretary to the Treasury, Tulip Siddiq has made the following statement regarding Human Rights:

"In my view the provisions of The Scottish Rates of Income Tax (Consequential Amendments) Order 2024 are compatible with the Convention rights."

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").