EXPLANATORY MEMORANDUM TO

THE STAMP DUTY LAND TAX (ZERO-CARBON HOMES RELIEF) REGULATIONS 2007

2007 No.

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

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

2. Description

The Regulations make provision for relief from stamp duty land tax ('SDLT') on the first acquisition of a new zero-carbon home.

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

3.1 These Regulations apply retrospectively to acquisitions made on or after 1 October 2007. Section 58C(7) of the Finance Act 2003 gives the Treasury the power to grant relief in respect of acquisitions occurring during a specified period before the regulations come into force.

3.2 The Regulations provide for the approval of a methodology by which it may be determined whether or not a house (maisonettes and flats do not qualify) meets the criteria for this relief. Section 58C(2)(c) of the Finance Act 2003 provides that the Regulations may specify, or provide for the approval of, a process for certifying energy efficiency in respect of evidencing that a building satisfies the criteria for the relief.

4. Legislative Background

4.1 Section 58B of the Finance Act 2003 gives the Treasury the power to grant relief from stamp duty land tax on the first acquisition of new zero-carbon homes. Section 58C of the Finance Act 2003 allows supplementary provisions to be made by regulations. Sections 58B and 58C were inserted by section 19 of Finance Act 2007 and came into force on Royal Assent to the Finance Act. These Regulations provide relief from stamp duty land tax on the first acquisition of a dwelling which meets specified conditions.

4.2. This is the first time that the powers under sections 58B and 58C have been used. The power cannot be used to provide for relief from stamp duty land tax for any other circumstance than the first acquisition of a new zero-carbon home. The regulations under section 58B and 58C shall not have effect in relation to any acquisitions on or after 1 October 2012 unless HM Treasury by order change that date.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Stamp Duty Land Tax (Zero-Carbon Homes Relief) Regulations 2007 are compatible with the Convention.

7. Policy background

7.1. The 2006 Pre Budget Report announced that it was the Government's ambition that by 2016 all new homes should reach a zero-carbon standard. A zero-carbon home is one that will have all the energy used for heating, hot water, lighting and appliances on average over a year from renewable sources.

7.2. The Chancellor of the Exchequer also announced in his Pre-Budget Report that in order to kick-start the technologies and raise public awareness of the benefits of living in zero-carbon homes there would be a stamp duty land tax exemption for the vast majority of new zero-carbon homes. The relief is intended to stimulate demand for the technologies and building techniques needed to build zero-carbon homes in the UK.

7.3. The relief will apply from 1 October 2007 and will provide complete removal of stamp duty land tax liabilities for all homes on first purchase up to a purchase price of £500,000 except in relation to any part of the purchase price made up of rent. Where the purchase price includes rent but the consideration other than rent is no more than £500,000, no tax shall be chargeable on the consideration other than rent. Where the purchase price of the home is in excess of £500,000 then the stamp duty land tax liability will be reduced by £15,000. The balance of the stamp duty land tax will be due in the normal way. If a first acquisition of one or more new zero-carbon homes, is one of a number of linked transactions then provision is made to allow the relief to be applied in respect of each new zero-carbon home.

7.4. The zero-carbon home standard will be measured by use of the Government's Standard Assessment Procedure for the energy rating of dwellings (SAP) which is approved under regulation 17A of the Building Regulations SI 2000/2531 and any further methodology approved specifically for the purposes of the Regulations. SAP is a comprehensive tool used throughout the UK for calculating energy costs and carbon emissions of homes, and has been developed by the Buildings Research Establishment (BRE) on behalf of the Government.

7.5. HM Treasury and HM Revenue and Customs consulted on the draft regulations following an undertaking by the then Economic Secretary to the Treasury to do so during the Committee Stage of Finance Bill 2007. A summary of responses and the Government's response was published on the day the regulations were laid.

7.6 As a result of that consultation a number of changes were made to the Regulations. These changes were made primarily to ensure that the requirements to meet the standards

of a zero-carbon home for a stamp duty land tax relief were aligned with the standards set for a zero-carbon home and which apply in England and Wales under the Department for Communities and Local Government's (DCLG) Code for Sustainable Homes (CSH).

7.7. In England and Wales the Department for Communities and Local Government will assist with the arrangements for 'accredited assessors'. Further information can be found at www.dclg.gov.uk

7.8. In Scotland the Scottish Building Standards Agency (SBSA), which is an Executive Agency of the Scottish Executive and responsible to Scottish Ministers, will assist with the arrangements for 'accredited assessors'. Further information can be found at www.sbsa.gov.uk

7.9 In Northern Ireland the Department for Finance and Personnel or the Department for Social Development will assist with the arrangements for 'accredited assessors'. Further information can be found at www.dfpni.gov.uk

8. Impact

A Regulatory Impact Assessment was published at Budget 2007 and can be found at http://www.hmrc.gov.uk/ria/9-zero-carbon-homes.pdf

9. Contact

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