EXPLANATORY MEMORANDUM RELATING TO

THE ENERGY-SAVING ITEMS REGULATIONS 2006

2006 No. 912

1. This explanatory memorandum has been prepared by the Commissioners for 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. Description

These Regulations provide for expenditure on additional categories of energy-saving items to be eligible for the relief from income tax given by section 312 of the Income Tax (Trading and Other Income) Act 2005 by means of a deduction made when computing the profits of a property business for the purposes of income tax. Currently a deduction is provided for certain capital expenditure on loft and cavity wall insulation. Regulations made in 2005 extended the deduction to include solid wall insulation. These Regulations will allow a deduction also to be made for capital expenditure on hot water system insulation and draught proofing.

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

These Regulations breach the 21 day rule. The department apologises for the breach of the Parliamentary convention, but it is essential that the Regulations come into force on the 6th April 2006 as the Chancellor announced on Budget Day that the "Landlord's Energy Saving Allowance" (LESA) would be extended to include expenditure on draught proofing and hot water system insulation from that date. This has left very limited time to draft the requisite Statutory Instruments and the Regulations therefore breach the 21 day rule. To meet the 21 day rule the Regulations would have had to be laid on 16th March 2006. If they were laid at any time after that (and the 21 day rule observed) property businesses would have been denied relief for expenditure in the period from 6th April to the date the Regulations came into force.

4. Legislative background

4.1 The Regulations are made by the Treasury under section 312(5)(c) of the Income Tax (Trading and Other Income) Act 2005.

4.2 These Regulations extend the description of items of an energy saving nature to include hot water system insulation and draught proofing.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

These Regulations are subject to annulment and do not amend primary legislation. Accordingly no statement as to compliance with the Convention rights is required.

7. Policy Background

7.1 Sections 31A and 31B of the Income and Corporation Taxes Act 1988 (now rewritten as sections 312 to 314 of the Income Tax (Trading and Other Income) Act 2005) were introduced to bring in a new relief to help the United Kingdom meet its target under the Kyoto protocol to reduce greenhouse gas emissions. The relief is known as the "Landlord's Energy Saving Allowance".

7.2 UK private rented housing is known to have poor standards of energy efficiency. Expenditure on structural improvements to improve energy efficiency cannot normally be deducted when calculating taxable profits, and is not eligible for capital allowances under the Capital Allowances Act 2001. The Landlord's Energy Saving Allowance provides a deduction to encourage landlords who pay income tax to install certain types of insulation (initially cavity wall insulation and loft insulation and later solid wall insulation) in let residential property. The measure has a limited life and the deduction will not be available for expenditure incurred after 5 April 2009. The allowable deduction is limited to £1,500 per building.

7.3 The Regulations extend the types of insulation which qualify for the Landlord's Energy Saving Allowance to include hot water system insulation and draught proofing.

8. Impact

The extension of the Landlord's Energy Saving Allowance to include hot water system insulation and draught proofing is expected to accelerate the installation of that kind of expenditure in suitable let properties. No Regulatory Impact Assessment has been prepared as the additional compliance costs for landlords who claim the allowance and include the claim in their self-assessment returns are unlikely to be significant. There is no impact on the voluntary sector and no significant increase in HMRC administrative costs is expected.

9. Contact

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