EXPLANATORY MEMORANDUM TO
THE INSURANCE COMPANIES (CORPORATION TAX ACTS) (AMENDMENT) ORDER 2006

2006 No. 1358

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

2. Description

This Order makes amendments to Chapter 1 of Part 12 of the Income and Corporation Taxes Act 1988 (ICTA) and to other provisions of the Corporation Tax Acts affecting insurance companies The primary focus of the amendments is sections 432A and 432B of ICTA. They ensure that, where income and gains from certain assets of the company in excess of the regulatory solvency and other requirements of the company are not treated as referable to categories of business the income and gains of which are exempt from tax but to basic life assurance and general annuity business, an appropriate adjustment is made to computation of profit from the exempt categories of business to prevent double counting.

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

None.

4. Legislative Background

This order is being made under powers conferred by section 431A of the Income and Corporation Taxes Act 1988 (as substituted by paragraph 3 Schedule 9 to the Finance (No. 2) Act 2005.

5. Extent

The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary to the Treasury (Ivan Lewis MP) has made the following statement regarding Human Rights:

"In my view the provisions of the Insurance Companies (Corporation Tax Acts) (Amendment) Order 2006 are compatible with the Convention rights."

7. Policy Background

7.1 Certain companies carrying on life assurance business have an "inherited estate" - assets representing past profits which have not been distributed to policyholders by way of bonuses, and which are in excess of the capital requirements of that business. In some cases companies carried out a reattribution

exercise under which some of its inherited estate is earmarked for shareholders – but until distributed it remains in the long-term insurance fund.

7.2 While the assets remain in the long-term insurance fund, the income and gains arising from them are allocated, under section 432A ICTA to certain categories of business such as pension business where they are exempt from tax. The Order amends section 432B to ensure that where the income and gains are only referable to non-exempt business, an appropriate corresponding adjustment is made to ensure that this process does not result in double taxation.

8. Impact

8.1 A Regulatory Impact Assessment has not been published for this instrument.

8.2 The Order will have no Exchequer impact.

9. Contact

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