EXPLANATORY MEMORANDUM TO

THE PERSONAL PORTFOLIO BONDS (AMENDMENT OF PROPERTY CATEGORIES IN SECTION 520 OF THE INCOME TAX (TRADING AND OTHER INCOME) ACT 2005) REGULATIONS 2017

2017 No. 1182

1. Introduction

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

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

2. Purpose of the instrument

2.1 A tax charge arises under the personal portfolio bonds (PPB) anti-avoidance legislation where the terms and conditions of any life insurance policies, capital redemption policies and contracts for life annuities (life insurance policies) allow asset selection by the policyholder, unless all of the property that can be selected is within the seven categories set out in a table at section 520 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005), and the other conditions for not being a PPB are met (in sections 515 to 526). These categories allow some property selection whilst ensuring that the policyholder is unable to invest in personal property through their life insurance policy.

2.2 This instrument adds four new categories of property that can be selected in order to reflect changes in the investment landscape. It also removes a technical deficiency in one category.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 These regulations remove sub-category 7(a) from the table of property categories in section 520(2), in exercise of the powers under section 520(5) inserted by section 10 of the Finance (No. 2) Act 2017. It is the first exercise of those powers. This sub-category contains a technical deficiency which means that it is, and has always been, incapable of containing any property. These regulations are removing only one limb of Category 7, so it is amending the category. Therefore the regulations are not removing a category of property and, for that reason, are not subject to the affirmative resolution procedure.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument is made under the new power given to HM Treasury in section 520(5) of ITTOIA 2005, inserted by section 10 of the Finance (No. 2) Act 2017.

4.2 The power allows changes to be made to the property categories in section 520(2).

4.3 This instrument is the first use of this power. It increases the property types that a life insurance policyholder can select without making the policy a PPB.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 Mel Stride MP, the Financial Secretary to the Treasury has made the following statement regarding Human Rights:

"In my view the provision of the Personal Portfolio Bonds (Amendment of Property Categories in Section 520 of the Income Tax (Trading and Other Income) Act 2005) Regulations 2017 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 The PPB rules were introduced in 1999 as an anti-avoidance measure designed to prevent individuals holding personal property in their life insurance policies and deferring tax on the income and gains arising on that property until the policy was surrendered.

7.2 The PPB rules apply to any life insurance policy where the policyholder can select the property to be invested in. However to prevent this applying unnecessarily widely, the legislation lists certain property categories that, subject to certain conditions, can be selected without an annual gain arising.

7.3 These property categories have not changed since the legislation was introduced in 1999 whilst the investment landscape and investment opportunities have changed materially since then, including some new types of investment vehicle which have been developed with support from successive governments.

7.4 The government announced at Budget 2016 its intention to review the property categories and a formal consultation ran from 9 August to 3 October 2016.

Consolidation

7.5 There are no plans to consolidate this legislation in the immediate future.

8. Consultation outcome

8.1 The consultation document outlined 4 property categories, sought opinion on their inclusion in the list of permitted property, and on any other additions or withdrawals from the list.

8.2 The government received 11 responses from industry, representative bodies and individuals. The majority of responses welcomed the inclusion of the proposed property categories and suggested further additions.

8.3 An overview of this consultation, the government's response and a list of respondents is available at https://www.gov.uk/government/consultations/personal-portfolio-bonds-reviewing-the-property-categories.

9. Guidance

9.1 Guidance on this change will be incorporated into HM Revenue and Customs' Insurance Policyholder Taxation Manual in due course.

10. Impact

10.1 The impact on business is negligible. The instrument is expected to have a negligible impact on asset managers and life insurance companies. Those that choose to take advantage will incur one-off costs to familiarise themselves with the new rules. Ongoing costs for applying these news rules to individual client cases are expected to be comparable to those associated with existing arrangements. There is no impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 This instrument will be monitored through communication with affected taxpayer groups.

13. Contact

13.1 Robby Wells at the HM Revenue and Customs, Telephone: 03000 530261 or email: robby.wells@hmrc.gsi.gov.uk, can answer any queries regarding the instrument.