EXPLANATORY MEMORANDUM TO

THE POST OFFICE COMPENSATION SCHEMES AND VICTIMS OF OVERSEAS TERRORISM COMPENSATION SCHEME (TAX EXEMPTIONS AND RELIEF) REGULATIONS 2024

2024 No. 182

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 Nigel Huddleston MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.

2.2 Philip Batchelor, Deputy Director for Income Tax Policy at HM Revenue & Customs, can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Amir Miah at HM Revenue and Customs email: amir.miah@hmrc.gov.uk (for the Post Office Compensation Schemes), and Keshini Jayasekera at HM Revenue and Customs email: keshini.jayasekera@hmrc.gov.uk (for the Victims of Terrorism Compensation Scheme), 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 The purpose of this instrument is to exempt payments made under three compensation schemes from Income Tax and Capital Gains Tax (CGT). The relevant payments are the Post Office Process Review (PPR) compensation payments, the Suspension Remuneration Review (SRR) compensation payments and certain payments in the Group Litigation Order (GLO) compensation payments. Certain payments made to nominated individuals under the GLO scheme will also be relieved from Inheritance Tax (IHT). Payments made under the Victims of Overseas Terrorism Compensation Scheme (VOTCS) will be exempt from Income Tax and CGT.

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?

Post Office Process Review (PPR), Suspension Remuneration Review (SRR) payments and Group Litigation Order (GLO) payments

5.1 Post Office Limited (POL), a wholly government-owned company, are establishing the PPR scheme to compensate postmasters who have been financially impacted by operational issues unrelated to Horizon shortfalls. Resulting in the postmasters having to make balancing payments from their own funds.

5.2 POL also set up the SRR scheme to provide redress to postmasters who were not paid during a period of suspension.

5.3 Payments to nominated individuals in the GLO compensation scheme will also be exempt from Income Tax, CGT and relieved from IHT. These payments relate to corporate entities that would have been eligible to receive compensation in the GLO scheme, but have been dissolved. In these cases, a nominated individual will receive the GLO compensation directly.

5.4 Funding for the PPR and SRR will be provided fully by central government, but payments are being made by POL. Payments made under the GLO scheme are being made directly by central government.

5.5 Payments to claimants on the PPR have not yet commenced.

5.6 Approximately 150 claimants have already received payments under the SRR scheme prior to the Government announcement to exempt payments; these payments are liable to tax and will not be affected by this Statutory Instrument. POL will provide top-up payments to these claimants to compensate them for any tax liability they may have incurred. These top up payments will be exempted from Income Tax and CGT by this Statutory Instrument. SRR payments made since the Government announcement are exempt from tax.

5.7 Without this instrument, parts of the PPR and SRR payments would be subject to tax. Elements relating to loss of earnings would be chargeable to Income Tax. Most payments are exempt from CGT.

5.8 The Government wishes to clarify the tax treatment of the payments so that individuals know that they do not need to report receipt of the payments to HMRC. An exemption will reduce the administrative burden on individuals so that their payments are full and final.

Victims of Overseas Terrorism Compensation Scheme (VOTCS)

5.9 The Ministry of Justice introduced the VOTCS in 2012. The scheme is designed to compensate victims who sustain a relevant injury which is directly attributable to their being a direct victim of a designated act of terrorism overseas.

5.10 The Criminal Injuries Compensation Authority (CICA) administers the VOTCS and decides all claims.

5.11 Without an exemption, one-off payments made under VOTCS could be taxable as Income Tax under miscellaneous income rules provided for in section 687 of Income Tax (Trading and Other Income) Act 2005. Whilst the majority of payments made under VOTCS are likely to fall under section 51(2) of the Taxation of Chargeable Gains Act 1992 and be exempt from CGT as payments made for personal injury, it may not include all costs, in that definition.

5.12 The Government wishes to introduce a tax exemption in legislation, to put the Income Tax and CGT treatment of all payments made under VOTCS beyond doubt.

What was the previous policy, how is this different?

5.13 While compensation payments for loss of earnings are taxable, HMRC has not collected tax on the previous POL compensation schemes (the Overturned Historic Convictions (OHC) and GLO). The Government committed to exempting these schemes, and similarly, HMRC will use Collection and Management Powers not to collect tax in the PPR and SRR schemes, until the legislation comes into effect.

5.14 The Government has agreed to compensate the victims of the Post Office Horizon scandal and has introduced legislation to exempt compensation schemes from taxes. This measure will align the tax treatment of the PPR, SRR and the small subset of nominated individuals in the GLO schemes, with the previous schemes.

5.15 Annuity payments made under VOTCS have been exempt from Income Tax in legislation since the introduction of the scheme. HMRC has not collected tax on any payments made under the VOTCS.

6. Legislative and Legal Context

How has the law changed?

6.1 Schedule 15 Finance Act 2020 contains a regulation-making power for the Treasury, by regulations, to provide that no liability to Income Tax, CGT and IHT arises on "qualifying payments". This includes compensation payments made by or on behalf of the Government or a public authority where they are specified in regulations made by the Treasury by Statutory Instrument.

6.2 This instrument is being made to set out the tax treatment of four types of compensation payments: PPR, SRR, certain GLO payments and VOTCS. These are recognised as qualifying payments under Paragraph 2(5) of Schedule 15 Finance Act 2020.

6.3 The instrument will provide that payments are exempt from Income Tax and CGT under Paragraphs 3(5) and 4(3)(c) of Schedule 15 Finance Act 2020, respectively. GLO payments will also be relieved from IHT under Paragraph 5(7) of Schedule 15 Finance Act 2020. The exemptions and relief will be with retrospective effect and will be wholly relieving from the date of their respective introductions.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal consultation exercise has been held as these changes are wholly relieving to the taxpayer.

8. Applicable Guidance

8.1 Guidance will be provided via the bodies administering the schemes.

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 the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

9.2 A full Impact Assessment has not been prepared with this instrument, for the Victims of Overseas Terrorism Compensation Schemes, because it contains no substantive changes to tax policy.

Impact on businesses, charities and voluntary bodies

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because these compensation payments are made to a small number of individuals. Therefore, there are no wider impacts on businesses, charities or voluntary bodies.

9.4 The legislation does not impact small or micro businesses.

9.5 There is no, or no significant, impact on the public sector because these compensation payments are made to a small number of individuals. Therefore, there are no wider impacts on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no plans to monitor or review the instrument.

10.2 The instrument does not include a statutory review clause and, in line with the requirements 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

Matters of special interest to the Select Committee on Statutory Instruments

11.1 Schedule 15 Finance Act 2020 conferred on the Treasury the power to make regulations to exempt compensation payments made by or on behalf of the government or a public authority from Income Tax and CGT and relieve them from IHT. These regulations can be made with retrospective effect.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

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”).