EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES (SPLITTING OF SCHEMES) (AMENDMENT) REGULATIONS 2007

2007 NO. 793

1. This explanatory memorandum has been prepared by Her Majesty's 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

These Regulations make a small amendment to some existing Regulations, which provide for certain large registered pension schemes to be treated as if they were a number of separate registered pension schemes. However, there is a flaw in the list contained in Schedule 2 which inadvertently left out some Police Pension schemes that should have been included at the time the 2006 Regulations were first drafted. These Regulations correct that flaw.

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

These Regulations shall come into force on 6 April 2007.

4. Legislative Background

4.1 The simplified tax regime for pension schemes came into effect on 6 April 2006, and applies to all "registered" (tax-privileged) pension schemes. Under the new rules, each registered pension scheme is expected to appoint a scheme administrator to carry out various tax obligations on behalf of the scheme.

4.2 In the vast majority of schemes, the scheme administrator will be one person or a group of persons discharging duties on behalf of the whole scheme. But in some very large schemes, spread over a number of employers, particularly those in the public sector, the administrative functions generally are devolved from the centre, reflecting the devolved powers of the employers concerned. In such cases, the schemes are effectively controlled at a local level.

4.3. Such de-centralised schemes were organised so that they had separate administrators for each fund or scheme making up the registered pension scheme. In effect, each part of the scheme, which deals with one or more separate employers or groups of employers is a distinct entity in terms of how it is administered.

4.4 The 2006 Regulations were in response to representations from large pension schemes and provide for:

- certain registered pension schemes listed in Schedule 2 of the Regulations together with any successor scheme to be split and treated as if they were a number of separate sub-schemes; and
- the scheme administrator of such sub-schemes shall assume the various tax liabilities and responsibilities of the scheme administrator of the split scheme.

4.5. The list of Schemes in Schedule 2 inadvertently missed a number of police pension schemes and these Regulations correct that flaw by inserting the missed schemes into Schedule 2.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy Background

7.1 The new unified tax regime for pensions replaced a number of previous regimes. Within the new regime, the scheme administrator has a more prominent role than in the previous regimes. The scheme administrator is defined purely for tax purposes, and will not necessarily be the person who carries out general administrative functions for the scheme. In practice, scheme administrators (particularly of larger schemes) will often be professionally qualified or otherwise have a detailed knowledge of tax and pensions law.

7.2 Each registered scheme will be expected to have appointed a scheme administrator to carry out various tax obligations on behalf of the scheme. If the scheme administrator fails to carry out those obligations then they may be liable to pay tax or a penalty. However, it was recognised that for practical administrative reasons certain large pension schemes were effectively "split" into "sub-schemes". Under the joint and several liability tax rules this would mean that in such "split" schemes, diligent "sub-scheme" administrators could have to contribute to the settlement of tax charges by other less careful "sub-scheme" administrators.

7.3 The split scheme regulations addressed that issue by allowing specified schemes to be treated as split schemes for particular scheme administrative functions so that the obligations and liabilities fall separately to the local administrators in respect of their own sub-scheme.

8. Impact

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. On 8 April 2004 the Board of Inland Revenue published a regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004 and the subordinate legislation that was expected to be made under it. The assessment is available on HM Revenue & Customs website at http://www.hmrc.gov.uk/ria/simplifying-pensions.pdf or (for hard copies) by writing to the Ministerial Correspondence Unit, 2nd Floor Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.

9. Contact

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