EXPLANATORY MEMORANDUM TO

THE TAXATION OF CHARGEABLE GAINS ACT 1992, SCHEDULE 8B (SUBSTITUTION OF DATES) REGULATIONS 2019

2019 No. 1237

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury (the 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 This instrument substitutes the current historical end date of 6 April 2019 for Social Investment Tax Relief (SITR) hold-over relief for the purposes of capital gains tax (CGT) with a new date of 6 April 2021 in respect of gains reinvested in social enterprises and therefore restores the availability of the tax relief.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 In Finance (No.2) Act 2017, a number of changes were made to SITR to increase its scope and replace the 6 April 2019 end date in the sunset provision for income tax relief with a 6 April 2021 date. Due to an oversight, the equivalent end dates in the sunset provisions for the CGT hold-over relief were not amended at that time.

3.2 The powers contained in paragraphs 1(8) and 2(6) of Schedule 8B to the Taxation of Chargeable Gains Act 1992 (TCGA 1992) permit the Treasury to substitute later dates in paragraphs 1(3)(b) and 2(2)(b) respectively.

3.3 It is acknowledged that the exercise of these powers could give rise to some uncertainty about the availability of the relief during the period from 6 April 2019 to the date of this instrument coming into force. HMRC will ensure that no taxpayers are adversely affected by this change and that investors can continue to claim the CGT hold-over relief, should they meet the requisite conditions.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.4 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

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

5. European Convention on Human Rights

5.1 The Financial Secretary to the Treasury, Jesse Norman MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Taxation of Chargeable Gains Act 1992, Schedule 8B (Substitution of Dates) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 Schedule 8B to TCGA 1992 provides for an individual to hold-over the tax charge on a gain reinvested in a holding in a social enterprise subject to various conditions. Schedule 8B only applies if the relevant gain accrues within a specified time period; currently, after 6 April 2014 and before 6 April 2019. The legislation also contains powers to allow the Treasury to substitute a later date for the end of this period in secondary legislation made by the Treasury.

6.2 This instrument will replace the existing end date of 6 April 2019 with a new date of 6 April 2021.

7. Policy background

What is being done and why?

7.1 SITR was introduced in 2014 to encourage individuals to invest in qualifying social enterprises and trading charities. It does so by offering investors a range of tax reliefs, including income tax relief and CGT hold-over relief on investments made in qualifying enterprises, and originally contained sunset provisions that terminated these reliefs on 6 April 2019.

7.2 The government committed to expanding SITR at Autumn Statement 2014 and following consultation a number of changes were made to increase the scope of SITR in Finance (No.2) Act 2017. At the same time the operational life of SITR was extended by replacing the 6 April 2019 end date in the sunset provision for income tax relief with a 6 April 2021 date. However, the equivalent end dates in the sunset provisions for the CGT hold-over relief were not amended at that time.

7.3 This instrument now extends the sunset provisions of the CGT hold-over relief to align with the income tax provisions. This ensures the full range of tax incentives will continue to be available to 6 April 2021 to encourage investment in social enterprises.

7.4 It is not anticipated that any investor claims will fall in the period before the instrument is made and the new date comes into force because the period sits in the current tax year and claims are ordinarily made once the tax year finishes. However, in this unlikely event, HMRC will look to manage availability of the relief without interruption so that investors can continue to claim the CGT hold-over relief, should they meet the requisite conditions.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 Consolidation is not required.

10. Consultation outcome

10.1 No consultation has been conducted as this instrument maintains the availability of a tax relief in line with existing tax policy.

11. Guidance

11.1 No guidance is necessary in respect of this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

12.4 This instrument maintains the operation of an existing tax relief and there will be no additional impacts on social enterprises or individuals and negligible impact to the Exchequer.

13. Regulating small business

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

13.2 However, small businesses may be among the social enterprises in which individuals are encouraged to invest.

14. Monitoring & review

14.1 The impact of the amendments made by this instrument will be considered as part of an ongoing wider review into the effectiveness of the SITR in the light of the new termination date of 6 April 2021.

14.2 This instrument does not include a statutory review clause and no ministerial statement is required because of the exception for matters that are in connection with tax under section 28(3)(a)(ii) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Alex Buckley at HMRC (Telephone: 03000 586048 or email: alex.buckley@hmrc.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Mike Crabtree, Deputy Director for CT Innovation and Growth, at HMRC can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Financial Secretary to the Treasury, Jesse Norman MP, can confirm that this Explanatory Memorandum meets the required standard.