EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (REFUND OF TAX) ORDER 2006

S.I. 2006 No. 1793

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

2. Description

This Order specifies the London Pensions Fund Authority (LPFA) and Regional Transport Partnerships (RTPs) for the purposes of section 33 of the Value Added Tax Act 1994 (c.23) ("the Act"), under the powers conferred by section 33(3)(k).

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

None

4. Legislative Background

4.1 Under the normal VAT rules, local government bodies would not be entitled to recover the VAT they incur on the purchases of goods and services they make in relation to their non-business activities. Such VAT is not deductible as input tax (which can be off set against a person's output tax liability) under section 26(1) of the Act.

4.2 However, Section 33 of the Act requires the Commissioners for Revenue and Customs to refund VAT claimed by certain specified bodies if it has been incurred on supplies of goods and services, and acquisitions and importations of goods, attributable to their provision of their non-business activities

4.3. Sections 33(3)(a) to (j) name bodies which, since the introduction of VAT in 1973, have been included in this provision. Section 33(3)(k) provides that the Treasury may include other bodies in the provision by way of an order.

5. Extent

This instrument applies to the whole of the United Kingdom, although in the case of RTPs it concerns a situation which is unique to Scotland.

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 Section 33 of the Act honours a government commitment made in 1973 that otherwise irrecoverable VAT would not a fall as burden on local taxation. Local government bodies incur VAT on many of their purchases which they would ordinarily be unable to recover. It is not possible to relieve these bodies from the VAT due on the purchase of taxable goods and services, and thus to give effect to the commitment eligible bodies are refunded the VAT through this measure.

(a) The London Pensions Fund Authority

7.2 The LPFA is the body which, since 1989, has administered the pension funds of the London Boroughs and certain other local government bodies based in London. Elsewhere in the United Kingdom such activities are either carried out by local authorities themselves, or by one authority on behalf of a group of authorities. In London, this duty has historically been undertaken by a single body – initially by the Greater London Council, and then by the Inner London Education Authority. Local authorities can, the GLC and the ILEA could, recover the VAT incurred in relation to the administration of the local government pension funds in so far as it is a statutory activity. This order will place the LPFA in an identical position in that it will be entitled to recover VAT incurred in administering the local government pension funds. Its other activities will continue to be covered by the normal VAT rules.

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(b) Regional Transport Partnerships

7.4 Presently, seven RTPs have been created under the order making powers in section 1(1) of the Transport (Scotland) Act 2005 (these have been established by the Regional Transport Partnerships (Establishment, Constitution and Membership)(Scotland) Order 2005 (S.S.I. 2005/622). These bodies have taken over various statutory functions relating to roads and public transport in Scotland. Six RTPs have taken over these responsibilities from local authorities and the other from the Strathclyde Passenger Transport Authority. Local Authorities and Passenger Transport Authorities have been included in Section 33 of the VAT Act 1994 (and its predecessor measure) since 1 April 1973.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2.There is no impact on the public sector.

9. Contact

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