

EXPLANATORY MEMORANDUM TO
THE SECURITISATION COMPANIES (APPLICATION OF SECTION 83(1) OF THE
FINANCE ACT 2005: ACCOUNTING STANDARDS) REGULATIONS 2007

2007 No. 3338

- 1.** This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.
- 2. Description**
 - 2.1 This instrument contains Regulations relating to the taxation of securitisation companies. The Regulations provide where section 83 of the Finance Act 2005 applies to such companies in periods of account ending before 1 January 2008, it will continue to apply for periods of account ending before 1 January 2017.
 - 2.2 The Regulations come into force on 27th December 2007
- 3. Matters of special interest to the Select Committee on Statutory Instruments**

None
- 4. Legislative Background**

These Regulations extend the operation of section 83 of the Finance Act 2005.
- 5. Extent**

This instrument applies to all of the United Kingdom.
- 6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
- 7. Policy background**
 - 7.1 Securitisation companies are special purpose vehicles which issue securities to third party investors where the securities are backed by assets transferred to it from another company. Such an arrangement is known as a "capital market arrangement" as defined in Schedule 2A to the Insolvency Act 1986. A securitisation company typically acts as a conduit in which income flows from the securitised assets are channelled to the investor in the form of interest on the securities. It will normally retain only a small cash profit over the life of the securitisation. As a consequence of changes in accounting standards which had effect from 1 January 2005 ("new accounting standards"), the statutory accounts of such a company are no longer a reliable basis for its tax liability.

- 7.2 Section 83 of Finance Act 2005 requires a securitisation company that existed at 31 December 2004 and which meets certain conditions to continue to use accounting standards as they stood at 31 December 2004 (“old accounting standards”) as the basis for their tax liability, rather than rely on their statutory accounts under new accounting standards. This was an interim measure, applicable for periods ending before 1 January 2008, to enable permanent tax rules to be developed for such companies under a regulation-making power in section 84 of Finance Act 2005. The first such regulations, which apply to companies involved in the securitisation of financial assets, were made in December 2006 (The Taxation of Securitisation Companies Regulations 2006 No. 3296 – “the 2006 Regulations”). Further sets of regulations, applicable to companies involved in other types of securitisation, are in the course of development.
- 7.3 The regulation-making power in section 83(7A) of Finance Act 2005 allows the period in which a securitisation company must use old accounting standards as the basis for computing its tax liability to be extended by regulations. These Regulations extend that period to periods ending before 1 January 2017. Securitisation companies that fall within the rules set out in the 2006 regulations are not affected by the extension of the rules in section 83 of Finance Act 2005. The Regulations allow a company to elect out of the extension of section 83, so that it can be taxed instead on its statutory accounts under new accounting standards, and also allow for transitional adjustments where a company does so.

8. Impact

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

9. Contact

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