

**EXPLANATORY MEMORANDUM TO
THE TAXES AND DUTIES (INTEREST RATE) (AMENDMENT)
REGULATIONS 2008**

2008 No. 3234

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before Parliament.

2. Purpose of the instrument

2.1 These Regulations amend the Taxes (Interest Rate) Regulations 1989 (S.I. 1989/1297) and the Air Passenger Duty and Other Indirect Taxes (Interest Rate) Regulations 1998 (S.I. 1998/1461) in order to reduce the time taken to change interest rates in relation to unpaid or overpaid tax or duty.

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

None

4. Legislative Context

4.1 Rates of interest on unpaid and overpaid taxes and duties and the dates from when those rates should be applied are determined by the Taxes (Interest Rate) Regulations 1989 and the Air Passenger Duty and Other Indirect Taxes (Interest Rate) Regulations 1998. The legislation allows for rates to be set either directly by Statutory Instrument, or by a Board's Order.

4.2 Regulation 2(1) of the Taxes (Interest Rate) Regulations 1989 defines "operative date" and "reference date"; regulation 2(1) of the Air Passenger Duty and Other Indirect Taxes (Interest Rate) Regulations 1998 defines "operative day" and "reference day". The application of these provisions determines the rates of interest to be applied to unpaid and overpaid taxes and duties and the dates from which those rates should be applied.

4.3 This instrument amends the definitions of operative date and reference date and operative day and reference day to enable HMRC to apply any changes to interest rates more quickly than now from 7th January 2009.

4.4 This instrument also clarifies that if the interest rate calculated is less than zero the rate shall be treated as zero.

5. Territorial Extent and Application

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 HMRC is consulting on a package of changes designed to harmonise the charging and paying of interest across all taxes and duties. As part of this work consideration was given to reducing the time taken to make changes to these interest rates following changes in the Bank of England bank rate, as announced by the Monetary Policy Committee (MPC) at its monthly meetings.

7.2 The Government has decided to bring forward the particular proposal to reduce the time lag in changing the HMRC interest rates charged and paid by HMRC, so that following any changes in the Bank of England base rate HMRC can change its rates more quickly, as appropriate.

7.4 HMRC interest rates for taxes and duties are calculated using procedures laid down in legislation. These procedures require the application of formula which because of the continuing reduction of the base rate make it possible that a rate could be calculated less than zero. So that there is no misunderstanding about HMRC's position it has been decided to make it clear that if the result is less than zero the rate shall be treated as zero.

7.3 It is intended that these changes will first take effect in January 2009, so that HMRC will be able to pass on any necessary changes as a result of the MPC's January meeting and at any subsequent meetings.

7.4 These Regulations do not change the way in which the rates used by HMRC are calculated.

8. Consultation outcome

Consultation on the changes to these Regulations was not necessary as the amendments do not significantly change the existing law about interest rate-setting and changing processes.

9. Guidance

No additional guidance is required as no significant changes have been made to the existing processes.

10. Impact

An Impact Assessment has not been prepared for this instrument because there is no impact on business, charities, voluntary bodies or the public sector.

11. Regulating small business

The legislation may apply to small business but a Small Firms Impact Test has not been undertaken because the legislation does not alter the operation of existing procedures.

12. Monitoring & review

Not appropriate.

13. Contact

Robert Horwill at HM Revenue & Customs Tel: 020 7147 2447 or e-mail: robert.horwill@hmrc.gsi.gov.uk can answer any queries regarding the instrument.