

**EXPLANATORY MEMORANDUM TO
THE STAMP DUTY LAND TAX (CONSEQUENTIAL AMENDMENT OF
ENACTMENTS) REGULATIONS 2005**

2005 No.82

1. This explanatory memorandum has been prepared by HM Treasury 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**

- 2.1 This instrument permits (Regulation 4) information on Land Transaction Returns delivered to the Inland Revenue under the legislation relating to Stamp Duty Land Tax to be made available to the Commissioner of Valuation for Northern Ireland.

- 2.2 It further (Regulation 3) extends to NHS Foundation Trusts an existing Stamp Duty Land Tax relief which is available to NHS Trusts when they acquire interests in land.

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

- 3.1 None.

4. **Legislative Background**

- 4.1 Stamp Duty Land Tax replaced stamp duty on most land transactions from 1 December 2003. Section 123 Finance Act 2003 permits the Treasury to make such amendments and repeals as appear to them appropriate in consequence of the replacement of stamp duty on land transactions by Stamp Duty Land Tax.

- 4.2 Under section 244 Finance Act 1994 the Inland Revenue could require the delivery of particulars relating to specified land transactions in Northern Ireland. Under section 245(2) these particulars were to be made available to the Commissioner of Valuation for Northern Ireland (an officer of the Department of Finance & Personnel in Northern Ireland).

- 4.3 Paragraph 22 of the Schedule to the Stamp Duty (Consequential Amendment of Enactments) Regulations 2003 (2003 No 2867) ('the 2003 Regulations'), made under section 123 Finance Act 2003, provided that the requirement to deliver particulars should not apply to any transaction within the scope of Stamp Duty Land Tax. This was because the particulars were now contained in the Land Transaction

Return prescribed under section 76 Finance Act 2003 and so did not need to be delivered separately. However, by oversight, the 2003 Regulations did not provide for information on Land Transaction Returns to be made available to the Commissioner.

- 4.4 By virtue of section 61(3) National Health Service and Community Care Act 1990 ('the 1990 Act'), NHS Trusts and some other NHS bodies formerly enjoyed relief from Stamp Duty when they acquired land and buildings. Section 33(2) Health and Social Care Act 2003 applies section 61(3) of the 1990 Act to Foundation Trusts as it applies to NHS Trusts.
- 4.5 The Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2003 (S.I. 2003/2867) added a similar relief from Stamp Duty Land Tax (SDLT). The 2003 Regulations did not include NHS Foundation Trusts because the legislation establishing Foundation Trusts was not yet in place.

5. Extent

- 5.1 This instrument applies (Regulation 3) to England and (Regulation 4) to Northern Ireland.

6. European Convention on Human Rights

The Financial Secretary to the Treasury has made the following statement regarding Human Rights:

In my view the provisions of the Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2005 are compatible with the Convention rights

7. Policy background

- 7.1 For many years the Inland Revenue has provided the Valuation & Lands Agency (VLA) in Northern Ireland (that is, the office of the Commissioner) with information on land transactions. In Great Britain similar information is used by the Valuation Office Agency (VOA), an executive agency of the Inland Revenue. Both agencies use the information extensively, especially for the regular preparation of valuation lists for rating and (in Great Britain) council tax purposes.
- 7.2 Because the VOA is part of the Inland Revenue information is made available to it internally by colleagues in the Inland Revenue dealing with stamp duty and (now) Stamp Duty Land Tax. However because the VLA is not part of the Inland Revenue there is no statutory power for the Revenue to provide information to the VLA, and it might be a breach of the statutory duty on confidentiality imposed on Inland Revenue officers by section 182 Finance Act 1989. This was the reason why section 245(2) permitted information to be made available to the Commissioner.

- 7.3 It is highly desirable that the replacement of stamp duty on land transactions by Stamp Duty Land Tax should not affect the supply of information to the VLA. The VLA are currently carrying out a revaluation of domestic property for rating purposes and the supply of this information is a matter of urgency for them.
- 7.4 Treasury Ministers are content that NHS Foundation Trusts should receive equivalent SDLT treatment to NHS Trusts. Formal consultation has not been carried out on this measure since this is a relieving measure of interest only to NHS Foundation Trusts. Further, it is clear from correspondence that these Trusts anticipate being given SDLT relief on all fours with NHS Trusts and regard the present legislative position as anomalous.

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 The impact on the public sector is negligible. The Inland Revenue has the necessary information in its possession on Land Transaction Returns and already has in place the necessary processes to supply the information to the VLA. NHS Foundation Trusts will no longer have to pay SDLT when they acquire interests in land. However, they will still have to complete a Land Transaction Return in the normal way, in order to claim relief.

9. Contact

Crispin Taylor at the Inland Revenue Tel: 020 7147 2793 or e-mail: Crispin.Taylor@hmrc.gsi.gov.uk can answer any queries regarding the instrument.