

**EXPLANATORY MEMORANDUM TO
THE SALE AND REPURCHASE OF SECURITIES (MODIFICATION OF
SCHEDULE 13 TO THE FINANCE ACT 2007) REGULATIONS 2007**

2007 No. 2485

**THE SALE AND REPURCHASE OF SECURITIES (MODIFICATION OF
ENACTMENTS) REGULATIONS 2007**

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1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Description**

The Regulations replace the Sale and Repurchase of Securities (Modification of Enactments) Regulations 1995 (S.I. 1995/3220). They cover cases involving the substitution and redemption of securities under sale and repurchase (repo) arrangements where the initial sale of securities occurs on or after 1 October 2007. The Sale and Repurchase of Securities (Modification of Schedule 13 to the Finance Act 2007) Regulations deal with corporation tax, while the Sale and Repurchase of Securities (Modification of Enactments) Regulations deal with income tax and capital gains tax.

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

None

4. **Legislative Background**

- 4.1 Schedule 13 to the Finance Act 2007 contains a revised code for the tax treatment of repos of companies. Paragraph 15 of Schedule 13 allows the Treasury by regulations to provide that Schedule 13 will apply with modifications in cases involving non-standard repos and in cases where securities are redeemed during the period of the repo.
- 4.2 Non-standard repos include cases where under the repo arrangement the seller is given the right of substitution, which is the right to retrieve securities used to raise cash during the term of the repo and replace them with alternative securities of a value and quality agreed with the buyer. Redemption cases involve the issuer of the securities that are subject to the repo arrangement redeeming the securities during the period of the arrangement so that the buyer of the securities returns to the seller an amount equivalent to redemption proceeds.

5. Extent

The instruments apply to all of the United Kingdom.

6. European Convention on Human Rights

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Repos are used extensively in the financial markets as a form of secured lending. They involve the sale of securities under an agreement where they will subsequently be repurchased at an agreed future date and at a higher price agreed at the outset. Economically, the securities function as collateral for what in substance is a loan.
- 7.2 It is possible that the seller of securities under a repo has the right to substitute the securities originally sold with different securities that fulfil the same collateral function. The Regulations ensure that, in such a case, references in the new repo legislation to the purchase of securities include references to the substituted securities.
- 7.3 It is also possible that during the period of the repo the issuer of the securities that are initially sold redeems them: so that the buyer is unable to return them to the seller, but instead returns an amount equivalent to the redemption proceeds. The Regulations ensure that, where this happens, references to the purchase by the seller of the securities include references to the return of redemption proceeds.
- 7.4 A draft of the Regulations was circulated to members of Standing Committee examining the Finance Bill 2007 and sent to those with an involvement in this area of taxation in May. No comments have been received.

8. Impact

A Regulatory Impact Assessment has not been prepared for these instruments as they have no impact on business, charities or voluntary bodies.

9. Contact

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