

EXPLANATORY MEMORANDUM TO
THE INCOME TAX (BENEFITS RECEIVED BY FORMER OWNER OF PROPERTY)
(ELECTION FOR INHERITANCE TAX TREATMENT) REGULATIONS 2007

2007 No. 3000

1. This explanatory memorandum has been prepared by the Commissioners of Her Majesty's Revenue & Customs 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 These Regulations provide for the manner in which an election under paragraph 21 or 22 of Schedule 15 to the Finance Act 2004 for inheritance tax (IHT) treatment of pre-owned assets is to be made.

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

None

4. **Legislative Background**

- 4.1 Schedule 15 to Finance Act 2004 provides for income tax to be charged on the benefit people gain, in certain circumstances, from the continuing enjoyment of assets they formerly owned. As an alternative to the income tax charge, Schedule 15 also provides that the former owner may elect that the assets in question will be treated as part of their estate for IHT purposes.

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 Schedule 15 to Finance Act 2004 imposes a free-standing income tax charge on the benefit people enjoy from free or low-cost use of assets they formerly owned (or provided the funds to purchase); known as "pre-owned assets".
- 7.2 The income tax charge came into effect on 6 April 2005 and was intended to counter IHT avoidance schemes by which people circumvented the IHT "gift with

reservation” rules by removing assets from their taxable estates while continuing to enjoy them.

7.3 As an alternative to the charge, taxpayers can elect for IHT treatment on the relevant assets in due course. Schedule 15 provides that such an election must be made in the manner prescribed. These Regulations provide that elections should be made in writing on the form IHT 500, which is reproduced in the Schedule.

7.4 HMRC have provided the form IHT 500 for people to use to make an election since April 2005. In respect of elections made in the period between 6 April 2005 and the coming into force of the Regulations, HMRC will continue to treat all timely elections providing all necessary information (whether or not made on form IHT 500) as validly made, notwithstanding that a form had not been prescribed by regulations at that time. However, from the coming into force of these Regulations, only elections made on IHT 500 will be validly made.

8. Impact

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

9. Contact

Enquiries about this instrument may be made to David Wright at Her Majesty’s Revenue & Customs:

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