EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (REDUCED RATE) (NO. 2) ORDER 2007

2007 No. 3448

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and 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

The Value Added Tax (Reduced Rate) (No. 2) Order 2007 ("the Order") amends paragraph 3 of the Notes to Group 7 of Schedule 7A to the Value Added Tax Act 1994 (c. 23), and the paragraph heading, so as to reduce from 3 years to 2 years the period of time for which qualifying residential premises must be empty before supplies of qualifying services and building materials used in relation to the renovation or alteration of such premises may be charged at the reduced rate of VAT of 5 per cent.

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

None

4. Legislative Background

4.1 The Value Added Tax Act 1994 ("VATA") (1994 c.23) and the subordinate legislation made under it implement the United Kingdom's obligation under EC law (principally now by virtue of Council Directive 2006/112/EC ("the VAT Directive") to charge a turnover tax on supplies by businesses of their goods and services.

4.2 By virtue of Article 98 of the VAT Directive, Member States may apply a reduced VAT rate to supplies of goods or services in the categories set out in Annex III to the Directive.

4.3 Section 29A of VATA was inserted by section 99(4) of the Finance Act 2001 (c. 9) and provides for VAT to be charged at the rate of 5 per cent on the supplies specified in Schedule 7A. Section 29A(3) of VATA provides that the Treasury may by order vary Schedule 7A by adding or deleting from it any description of supply or by varying any description of supply for the time being specified in it.

4.4 Schedule 7A to VATA was inserted by section 99(5) of, and paragraph 1 of Schedule 31 to, the Finance Act 2001. Schedule 7A applies in place of

Schedule A1 in relation to supplies made, and acquisitions and importations taking place, on or after 1st November 2001.

4.5 Section 96(9) of VATA, (which confers the power to add to, delete or vary the notes to Schedules 8 and 9) was amended by section 99(6) of, and paragraph 5 of Part 2 of Schedule 31 to the Finance Act 2001 to include a reference to Schedule 7A with effect from 11 May 2001.

4.6 Group 7 of Schedule 7A has been amended by S.I. 2002/1100. There are other amendments to Schedule 7A but they are not relevant to this Order.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

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 Value Added Tax (Reduced Rate) (No. 2) Order 2007 are compatible with the Convention Rights."

7. Policy background

As part of the Government's policy to increase the availability of housing stock by bringing sub-standard housing back into use, a 5% reduced rate of VAT had been applied to the renovation of residential properties that have not been lived in for 3 years or more.

The main beneficiaries of this reduced rate are property developers, landlords and home owners buying such property for their own use, who are unable to reclaim VAT on works to existing housing. As a result of this reduced rate, the amount of irrecoverable VAT (and the cost of regenerating housing) is reduced.

The 3 year condition was thought to strike a balance between the point at which a property can be considered to be in need of major renovation and the point at which property speculators might prefer to keep properties empty and postpone renovation until they were eligible for a reduced rate.

When this reduced rate was introduced, it was estimated that 6000 properties would benefit at a revenue cost of £5m per annum.

A reduction from 3 years to 2 years would allow an additional 2000 properties to benefit from the reduced rate where they are unoccupied because they are sub-standard rather than because of short term factors such as lengthy selling/buying procedures, probate settlement etc.

No consultation has taken place.

A Revenue and Customs Brief publicising the change will be issued shortly.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on businesses, charities or voluntary bodies.

8.2 The impact on the public sector is negligible.

9. Contact

Stephen Lumby at Her Majesty's Revenue and Customs Tel: 020-7147-0409 or e-mail: stephen.lumby@hmrc.gsi.gov.uk can answer any queries regarding the instrument.