

EXPLANATORY MEMORANDUM TO
THE BRB (RESIDUARY) LIMITED (TAX CONSEQUENCES) ORDER

2013 No. 2242

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Order deals with corporation tax and stamp duty consequences that could otherwise arise on the statutory transfer of property, rights and liabilities from BRB (Residuary) Ltd (BRB Residuary) to the Secretary of State for Transport, London & Continental Railways Limited (LCR) and Network Rail Infrastructure Limited (Network Rail) as a result of a transfer scheme made by the Secretary of State for Transport under section 23 of the Public Bodies Act 2011.

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

3.1 None.

4. Legislative Context

4.1 This Order is being made under powers conferred by section 25 of the Public Bodies Act 2011 (c. 24) (the Act) to vary the way in which a relevant tax has effect in relation to a transfer scheme made under section 23 of the Act. It applies in the case of any transfer of property, rights or liabilities from BRB Residuary to the Secretary of State for Transport, LCR and Network Rail as a result of a transfer scheme made by the Secretary of State for Transport under section 23 of the Public Bodies Act 2011 and operates so as to prevent certain tax consequences resulting from the transfer and to provide continuity for certain corporation tax purposes.

5. Territorial Extent and Application

5.1 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

- *What is being done and why*

7.1 Without further provision the statutory transfer of property, rights and liabilities from BRB Residuary could trigger tax charges or reliefs that would arise solely because of the transfer. The Order therefore makes provision to prevent certain tax consequences resulting from the statutory transfer and to provide continuity for certain corporation tax purposes. This measure is consistent with the normal tax policy of ensuring that transfers of assets and liabilities between public sector bodies do not create corporation tax advantages or disadvantages for the bodies concerned.

- Consolidation

7.2 Not applicable.

8. Consultation outcome

8.1 Not applicable.

9. Guidance

9.1 Not applicable.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering the Order will be published on the HMRC website at http://www.hmrc.gov.uk/the_library/tiins.htm.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 HMRC has no plans to monitor the provisions of the Order since they merely deal with certain tax consequences of the transfer.

13. Contact

Mark Anderson at HMRC Tel: 03000 585604 or email: mark.anderson@hmrc.gsi.gov.uk can answer any queries regarding the Order.