

EXPLANATORY MEMORANDUM TO
THE TONNAGE TAX (PRESCRIBED AND SPECIFIED MATTERS)
REGULATIONS 2019

2019 No. 398

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations:

- prescribe a three year period, and
- specify the meaning of the percentage of the tonnage tax fleet which is “Community-flagged” (registered in the European Union (EU) or European Economic Area (EEA) or the United Kingdom (UK)),

for the purposes of paragraph 22C(1)(a) of Schedule 22 to the Finance Act 2000. This facilitates the making of an order under paragraph 22B(2) of that Schedule which cannot be made until the Treasury is satisfied the percentage of the tonnage tax fleet which is Community-flagged has not decreased on average over a three year period that is prescribed in regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

6.1 Tonnage tax is an alternative method of calculating corporation tax profits, for companies operating ships, by reference to the net tonnage of the ship operated. The

tonnage tax regime is provided for by section 82 of, and Schedule 22 to, the Finance Act 2000. If during a financial year a company in the tonnage tax regime starts to operate a potentially qualifying ship that is not registered in the EU, EEA or UK, then they must first carry out a “flagging test” under paragraph 22A of the Schedule to determine whether that ship can enter the tonnage tax regime.

- 6.2 But if the financial year has been designated by order under paragraph 22B(2) of the Schedule as an excepted year, then the company does not have to carry out the flagging test and the ship will qualify for tonnage tax.
- 6.3 Before a financial year can be designated as excepted, paragraph 22C(1)(a) of the Schedule requires that the Treasury is satisfied the percentage of the tonnage tax fleet which is Community-flagged has not decreased on average over a prescribed three year period.

7. Policy background

What is being done and why?

- 7.1 This instrument prescribes the three year period as the period beginning on 2 October 2015 and ending on 1 October 2018 and specifies the meaning of the percentage of the tonnage tax fleet which is Community-flagged by reference to the calculation provided by paragraph 22B(3) of the Schedule.
- 7.2 This will facilitate the making of an order, before 1 April 2019, designating financial year 2019 as an excepted year for the purposes of the tonnage tax. This will provide additional flexibility for ship-owners operating ships within the tonnage tax regime and ensure that the Community-flagging rule does not affect the registration of ships entering tonnage tax during the financial year beginning on 1 April 2019.
- 7.3 Tonnage Tax is a state aid and current legislation reflects guidelines on flagging requirements laid down by the EU Commission, which are being retained pending review.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no implications for consolidation.

10. Consultation outcome

- 10.1 No consultation is needed as this instrument is procedural.

11. Guidance

- 11.1 HMRC guidance “Tonnage tax: shipping companies” and the HMRC Tonnage Tax Manual, which is available at <https://www.gov.uk/hmrc-internal-manuals/tonnage-tax-manual>, will be updated to show financial year 2019 as an excepted year.

12. Impact

- 12.1 The impact on businesses, charities and voluntary bodies is a slight increase in flexibility for ship-owning companies within tonnage tax.

- 12.2 There is no impact on the public sector.
- 12.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 This instrument will not be subject to monitoring or review, as it deals with a procedural issue for a single year.
- 14.2 The regulation does not include a statutory review clause, as it has application only for a single financial year.

15. Contact

- 15.1 Victor Baker at HM Revenue & Customs Telephone: 03000 585490 or email: victor.j.baker@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Martyn Rounding, Deputy Director for Corporation Tax Structure at HM Revenue & Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Robert Jenrick MP, Exchequer Secretary to The Treasury, can confirm that this Explanatory Memorandum meets the required standard.