

EXPLANATORY MEMORANDUM TO
THE DESIGNATION OF SPECIAL TAX SITES (HUMBER FREEPORT)
REGULATIONS 2024

2024 No. 71

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

- 2.1 These regulations designate those special tax sites within, or connected to, a freeport in which certain tax reliefs are available (known as special tax sites). A freeport for these purposes is an area identified as such in a document published by or with the consent of the Treasury where special tax and customs rules will apply. The tax reliefs available in special tax sites include Stamp Duty Land Tax relief on qualifying acquisitions of land, a 10% enhanced rate of structures and buildings allowance, a 100% first year allowance for qualifying expenditure on plant and machinery, a zero-rate of secondary Class 1 National Insurance contributions (NICs) on earnings up to the freeports upper secondary threshold (£25,000) for qualifying employments and business rates relief.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is 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 These regulations are made under section 113 of the Finance Act 2021 as amended by section 331 and schedule 23 Finance (No.2) Act 2023. These are the sixth set of regulations to be made under these powers. The first set of regulations were the Designation of Freeport Tax Sites (Humber Freeport) Regulations 2021 (S.I. 2021/1193), the Designation of Freeport Tax Sites (Teesside Freeport) Regulations 2021 (S.I. 2021/1194) and the Designation of Freeport Tax Sites (Thames Freeport) Regulations 2021 (S.I. 2021/1195). The second set of regulations were the Designation of Freeport Tax Sites (Freeport East) Regulations 2021 (S.I. 2021/1389).

The third set of regulations were the Designation of Freeport Tax Sites (East Midlands Freeport) Regulations 2022 (S.I. 2022/184), the Designation of Freeport Tax Sites (Liverpool City Region Freeport) Regulations 2022 (S.I. 2022/185) and the Designation of Freeport Tax Sites (Solent Freeport) Regulations 2022 (S.I. 2022/186). The fourth set of regulations were the Designation of Freeport Tax Sites (Plymouth and South Devon Freeport) Regulations 2022 (S.I. 2022/643). The fifth set of regulations were the Designation of Freeport Tax Sites (Plymouth and South Devon Freeport) (No. 2) Regulations 2022 (S.I. 2022/972) and the Designation of Freeport Tax Sites (Solent Freeport) (No.2) Regulations 2022 (S.I. 2022/973).

- 6.2 Schedule 22 to the Finance Act 2021 introduced new sections 45O to 45R into the Capital Allowances Act 2001 (CAA 2001) which provide for 100% first-year allowances for companies incurring qualifying expenditure on plant or machinery for use primarily in a special tax site.
- 6.3 Schedule 22 to the Finance Act 2021 also introduced new sections 270BNA to 270BNC into CAA 2001 which provide for an enhanced 10% rate of structures and buildings allowances for persons incurring qualifying expenditure on structures and buildings situated in a special tax site.
- 6.4 Schedule 23 to the Finance Act 2021 introduced new section 61A and Schedule 6C into the Finance Act 2003 which provide for relief from Stamp Duty Land Tax for qualifying acquisitions of land situated in a special tax site.
- 6.5 Sections 1 to 4 in the National Insurance Contributions Act 2022 provide for a zero-rate of secondary Class 1 NICs on earnings up to the freeports upper secondary threshold (£25,000), that employers based in a special tax site can apply to qualifying employments from April 2022.
- 6.6 The government is not changing the legislation relating to business rates reliefs. Instead, the government will provide guidance to local authorities outlining eligibility criteria for relief. The government will then reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief in line with that guidance.
- 6.7 These regulations are required to designate those special tax sites in which expenditure may qualify for the reliefs and to state the day on which expenditure can begin to qualify.

7. Policy background

What is being done and why?

- 7.1 On 10 February 2020, the government published a consultation on freeport policy in respect of its plans to introduce freeports across the United Kingdom. The consultation documents are available at the following web link: <https://www.gov.uk/government/consultations/freeports-consultation>.
- 7.2 Freeports are geographical areas containing at least one form of port (including air, sea and rail) where special tax and customs rules apply. Freeports are intended to support the policy of levelling up the towns, cities and regions of the United Kingdom.
- 7.3 The government published a consultation response on 7 October 2020, which provided initial detail of the tax reliefs it intended to offer to encourage investment and boost employment in special tax sites. This was followed by publication of a

freeport bidding prospectus for England on 16 November 2020, which included further details of the tax reliefs to be offered in special tax sites in Great Britain. The freeport bidding prospectus is available at the following web link:

<https://www.gov.uk/government/publications/freeports-bidding-prospectus>.

- 7.4 At Spring Budget on 3 March 2021, the government announced the locations of the eight successful English freeport bids with further plans to introduce freeports in Northern Ireland, Scotland and Wales. The bidding prospectus for Scottish freeports was published on 25 March 2022. The bidding prospectus for Welsh freeports was published on 1 September 2022. In January 2023, the UK and Scottish governments jointly announced the two winners of the Green Freeports competition: The Forth Green Freeport, and Inverness and Cromarty Firth Green Freeport. In March 2023, the UK and Welsh governments jointly announced the two winners of the Freeport competition in Wales: Celtic Freeport and Anglesey Freeport. Legislation was included in the Finance Act 2021 for the freeport tax reliefs and to provide for the power to designate special tax sites.
- 7.5 The power contained within section 113 of the Finance Act 2021 enables special tax sites within, or connected to, freeports to be designated and recognised in law as geographical areas where businesses can benefit from the freeport tax reliefs. These regulations designate a special tax site so that businesses can begin to invest and benefit from the reliefs.
- 7.6 This instrument designates the third special tax site for Humber Freeport.
- 7.7 Maps of the freeport and special tax sites have been published at the following web link: <https://www.gov.uk/government/collections/maps-of-freeports-and-freeport-tax-sites>.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

- 9.1 These regulations do not require consolidation.

10. Consultation outcome

- 10.1 The freeport package including the tax offer was the subject of an extensive consultation process which ran from 10 February 2020 to 13 July 2020. The government received 364 responses from a mixture of port operators, businesses, local authorities, non-government organisations and others.
- 10.2 These regulations have not been subject to consultation. Consultation was not considered necessary as the special tax site which is the subject of these regulations was selected on merit following a competitive bidding process based on proposals submitted by freeport operators in England.

11. Guidance

- 11.1 No guidance will be published for these regulations. However, guidance has been published for each of the freeport tax reliefs. Guidance for Stamp Duty Land Tax relief is available at the following web link: <https://www.gov.uk/guidance/check-if-you-can-claim-relief-from-stamp-duty-land-tax-in-freeport-tax-sites>. Guidance for the first-year allowance for plant and machinery is available at the following web link:

<https://www.gov.uk/guidance/check-if-you-can-claim-the-enhanced-capital-allowance-relief-in-freeport-tax-sites>. Guidance for the enhanced rate of structures and buildings allowance is available at the following web link: <https://www.gov.uk/guidance/check-if-you-can-claim-enhanced-structures-and-buildings-allowance-relief-in-freeport-tax-sites>. Guidance for the zero-rate of secondary Class 1 NICs is available at the following web link: <https://www.gov.uk/guidance/check-if-you-can-claim-national-insurance-relief-in-freeport-tax-sites>.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is that eligible businesses which operate in special tax sites will begin to be eligible for the freeport tax reliefs.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this instrument was published on 3 March 2021 alongside Spring Budget 2021 and is available on the website at: <https://www.gov.uk/government/publications/designation-of-freeport-tax-sites/designation-of-freeport-tax-sites>. It remains an accurate summary of the impacts that apply to this instrument.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that relatively few small businesses will be affected by this legislation and those that are will benefit from the freeport tax reliefs.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is through information collected from tax returns and through communications with the affected taxpayer population. Freeport governance bodies will also need to monitor and evaluate business activity in each freeport. This measure will be monitored and assessed alongside other measures in the government's freeport package.
- 14.2 This instrument does not include a statutory review clause because it is exempt under section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 (provisions relating to a tax).

15. Contact

- 15.1 Karl Donnison at HMRC Telephone: 03000 539308 or email: karl.donnison@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Morris Graham, Deputy Director for Stamp Duty Land Tax, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Nigel Huddleston MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.