

EXPLANATORY MEMORANDUM TO
THE MFET LIMITED (APPLICATION OF SECTIONS 731, 733 AND 734 OF THE
INCOME TAX (TRADING AND OTHER INCOME) ACT 2005) ORDER 2010

2010 No. 673

1. This explanatory memorandum has been prepared by the Commissioners for 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. **Purpose of the instrument**

2.1 The tax rules for annual payments charge income tax on regular payments of compensation unless the payments fall into a category which the rules specifically exempt from liability.

2.2 This Order exempts from tax the regular payments from MFET Limited to people infected with HIV by infected blood or blood products. This means that the company will not need to deduct income tax from the payments and the payments will not be part of the recipients' taxable income.

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

None

4. **Legislative Context**

4.1 Lord Archer undertook an independent enquiry into the events of the 1970s and early 1980s when certain patients were infected with HIV through NHS treatment with blood and blood products. In a written Ministerial Statement published on 20 May 2009 Dawn Primarolo, Minister of State, Department of Health, said that she intended that in future payments of £12,800 per annum would be made to each infected individual.

4.2 On July 1 2009 in a debate on the Archer Enquiry in Westminster Hall Gillian Merron, Minister of State for Public Health, said that those infected with HIV would be provided with a flat-rate, tax-free payment of £12,800 per year (Hansard Column131WH).

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

- *What is being done and why*

7.1 In the absence of a specific exemption the regular payments to be made by MFET Limited would fall within the tax rules for 'annual payments'. These rules charge to income tax all annual payments that are not taxed under any other provision.

7.2 There are several exemptions from liability. All periodical payments in respect of personal injuries made under Court orders or agreements that settle claims for damages are exempt. Similarly, payments from annuities purchased to meet an award made by the Criminal Injuries Compensation Board are exempt.

7.3 The rules include a power for the Treasury to make an Order for the legislation for these exemptions also to apply to periodical payments of compensation for personal injury under other schemes or arrangements. It is under this power that the Order is made.

7.4 The Order will ensure that no income tax liability arises on the periodical payments made by MFET Limited to the infected individuals, in accordance with Gillian Merron's undertaking in the debate on the Archer Enquiry on 1 July 2009. MFET Limited is a private company limited by guarantee (company number 7121661) funded by the Department of Health. It has been established with the purpose of administering the payment scheme and making payment to the infected individuals, in accordance with an agreement between the company and the Secretary of State. This purpose is set out in the company's Articles of Association which were passed by special resolution on 5th March 2010.

7.5 MFET Limited will make regular payments to around 400 beneficiaries.

- *Consolidation*

7.6 This Order amends primary legislation so no consolidation is required.

8. Consultation outcome

There has been no formal consultation on this Order because the instrument makes only minor and uncontroversial changes to the legislation which will affect a very small number of people.

9. Guidance

Guidance on the change to the legislation will be included in HMRC's Savings and Investment Manual.

10. Impact

10.1 There will be no impact on business, charities and voluntary bodies.

10.2 There will be no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The Order does not apply to small business.

12. Monitoring & review

There are no plans to monitor or review this exemption.

13. Contact

Judith Diamond at HM Revenue and Customs Tel: 020 7147 3422 or email: judith.diamond@hmrc.gsi.gov.uk can answer any queries regarding the instrument.