EXPLANATORY MEMORANDUM TO

THE INCOME TAX (DEPOSIT-TAKERS AND BUILDING SOCIETIES) (INTEREST PAYMENTS) (AMENDMENT) REGULATIONS 2015

2015 No. 653

1. This explanatory memorandum has been prepared by HM Revenue and 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 This instrument increases the number of savers who can register with their bank or building society to receive interest on their savings without tax deducted, alongside the introduction of a 0% starting rate of tax for savings from 6 April 2015. It also updates provisions relating to an individual's mental capacity.

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

3.1 None.

4. Legislative Context

4.1 Section 851 of the Income Tax Act 2007 (ITA) requires deposit takers (such as banks) and building societies to deduct an amount representing basic rate tax from certain payments of interest they make. Section 852 of ITA allows this requirement to be dis-applied by regulations in certain circumstances, including where a certificate has been supplied to the effect that the person beneficially entitled to the interest payment is unlikely to be liable to pay any income tax for the relevant year. This addresses circumstances in which all of a saver's taxable income in a year is likely to be below their tax-free personal allowance for that year.

4.2 Section 3 of the Finance Act 2014 (FA 2014) extended this provision for the tax year 2015-16 and subsequent tax years. As a result, section 852 of ITA also covers cases in which a certificate has been supplied to the effect that an individual is unlikely to be liable to pay any income tax on their savings income (such as interest) for the tax year – even where they may be liable to pay income tax on other income, such as earnings or pensions.

4.3 The regulations made under section 852 are The Income Tax (Deposit-takers and Building Societies) (Interest Payments) Regulations 2008 (2682/2008) (the regulations). Regulation 5 sets out the current conditions that a certificate must satisfy, including that it must certify that the person beneficially entitled to a payment of interest (or part of such a payment) is unlikely to be liable to pay any amount by way of income tax for the relevant year. The effect of this condition is that only those individuals whose total taxable income is likely to be below their tax-free personal allowance for the year are eligible to supply such a certificate.

4.4 Regulation 9 of the regulations sets out what a certificate must contain. Regulation 6 concerns who can supply a certificate, and includes provisions for cases in which a person is suffering from mental disorder. Regulations 10, 11 and 12 concern cases in which a certificate ceases (or is believed to have ceased) to be valid.

4.5 Section 3 of FA 2014 reduced the starting rate for savings at section 7 of ITA to 0% for the tax year 2015-16 and subsequent tax years. This means that some savers will no longer be liable to pay any amount by way of income tax on the interest that they receive on their savings – even though they are liable to pay income tax on other income, such as earnings or pensions.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1. 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 This instrument updates various provisions in the regulations to enable savers to supply a certificate to their financial account provider – and therefore to receive interest payments without the deduction of an amount representing income tax – if they are unlikely to be liable to pay any amount by way of income tax on their savings income (such as interest) for the year. Under the current rules it is only possible for a saver to supply such a certificate where they are unlikely to be liable to pay an amount by way of income tax on *any* of their income for the year.

7.2 This change follows the reduction of the starting rate for savings to 0% from 6 April 2015. From this date it will be possible for none of an individual's savings interest to be liable for income tax, even though that individual's total taxable income for the year may exceed their personal tax-free allowance – and income tax may therefore be chargeable on some of their non-savings income.

7.3 The instrument also replaces references to mental disorder for England and Wales with references to mental capacity and the Mental Capacity Act 2005. This is a consequence of general changes elsewhere and ensures that the legislation reflects current concepts of mental capacity.

- Consolidation

7.4 There are no plans to consolidate the regulations.

8. Consultation outcome

8.1 This instrument concerns minor updates to a certificate and registration process, following changes to the starting rate of tax for savings and appropriate mental health legislation. Given the minor nature of these changes, wider consultation was not required.

9. Guidance

9.1 HMRC's Guidance Notes on TDSI will be updated to reflect the changes. The Guidance Notes are available at https://www.gov.uk/government/publications/guidance-notes-for-financial-institutions

10. Impact

10.1 It is anticipated that banks and building societies could receive certificates from up to 900,000 additional savers. However, account providers already have well-established and simple processes in place to process such certificates and the overall impact on businesses is expected to be negligible.

10.2 The impact on charities and voluntary bodies is expected to be negligible.

10.3 The impact on the public sector is expected to be negligible.

10.4 A Tax Information and Impact Note covering the changes to the starting rate of tax for savings income was published at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293793/TIIN_8073_8076_the_starting_rate_of_tax_for_savings.pdf

11. Regulating small business

11.1 The instrument applies to small banks and building societies.

11.2 To minimise the impacts of the requirements on small firms employing up to 20 people, the approach taken is to apply the same basic requirements as apply to all businesses affected by this instrument and monitor the impact of these changes.

12. Monitoring & review

12.1 HMRC will continue to monitor impact through regular contact with representative groups for account providers.

13. Contact

Simon Turner at HMRC can answer queries regarding the instrument on behalf of HM Treasury - Tel: 03000 546588 or email: simon.turner@hmrc.gsi.gov.uk.