

EXPLANATORY MEMORANDUM TO

THE VIDEO GAMES TAX RELIEF (AMENDMENT OF TAX ADVANTAGES IN SCHEDULE 24 TO THE FINANCE ACT 2016) REGULATIONS 2018

2018 No. 28

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's 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 amends Part 1 of Schedule 24 to the Finance Act 2016 ("FA 2016") by adding video games tax relief to the list of tax advantages to which section 180(2) of FA 2016 applies.
- 2.2 Video games tax relief is a State aid. This statutory instrument will enable HMRC to collect and publish information about the relief to comply with the conditions under which the European Commission approved the relief as a State aid.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 HMRC has powers in sections 180 to 182 of FA 2016 to collect, disclose and publish State aid information in respect of certain tax advantages.
- 4.2 Section 180(2) of FA 2016 enables HMRC to collect information about State aids received by beneficiaries in accordance with relevant EU obligations, as defined in section 182(1) of FA 2016. State aid information collected by HMRC pursuant to section 180(2) of FA 2016 may be published in accordance with section 181 of FA 2016.
- 4.3 This instrument adds video games tax relief to the list of tax advantages to which those powers apply.

5. Extent and Territorial Application

- 5.1 This instrument extends and applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury, Mel Stride MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Video Games Tax Relief (Amendment of Tax Advantages in Schedule 24 to the Finance Act 2016) Regulations 2018 are compatible with the Convention rights.”

7. Policy background

What is being done and why

7.1 In 2012 the European Commission set out a programme to modernise State aids. A key ambition was to streamline processes and reduce the number of aids that require detailed examination by the European Commission before they can be implemented. To offset reduced examination before implementation this reform required more transparency after implementation to ensure State aids are monitored and to identify beneficiaries of aids in excess of €500,000 through the European Commission’s database.

7.2 The FA 2016 introduced new powers to 182 to enable HMRC to collect, disclose and publish information on certain State aids, which included aids for creative industry tax reliefs such as for film and television. Those powers allow HMRC to monitor and evaluate State aid tax reliefs and other tax advantages, as defined by reference to Parts 1 and 2 of Schedule 24 to FA 2016, and share certain information with the European Commission through a legal gateway for the purpose of complying with EU obligations.

7.3 One of the conditions of the approval granted by the European Commission on 23 October 2017 for the continuation of video games tax relief is for HMRC to collect, disclose and publish information in respect of claims for the relief.

8. Consultation outcome

8.1 There has been no public consultation on these changes as none is required. The legislation to enable HMRC to collect information about State aids was introduced in FA2016, alongside a Tax information and impact note. This amendment adds video games tax relief to the list of reliefs in Schedule 24 to satisfy a mandatory requirement to enable the aid to be granted.

9. Guidance

9.1 Guidance will be published in the Video Games Development Company Manual in due course.

10. Impact

10.1 The impact on businesses is minimal (see 11.1). There is no impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument was published on 16 March 2016 alongside FA 2016 and is available on the HMRC website at

<https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

- 11.1 This amendment to the legislation is unlikely to affect small businesses in receipt of video games tax relief, because only claims in excess of 500,000 euros will be reported. For those with claims above the data provision and collation for consideration of State aid claims is already in place for customers applying to HMRC for State aid. The measure will require applicants to provide a small amount of data more than they currently provide but with little impact. Businesses may incur a negligible one-off cost to familiarise themselves with the requirements and update their systems to capture the information.
- 11.2 Further work is required to analyse how many businesses will be affected and the additional burden required to provide the additional information.
- 11.3 HMRC will continue to monitor the number of businesses affected and additional burden incurred in order to provide additional information as a result of this legislation.

12. Monitoring & review

- 12.1 The legislation will be monitored through information collected from the relevant claims.

13. Contact

- 13.1 Kerry Pope at HM Revenue and Customs on 03000 585 740; email: kerry.pope@hmrc.gsi.gov.uk can answer any queries regarding the instrument.