

EXPLANATORY MEMORANDUM TO
THE INTERNATIONAL TAX COMPLIANCE (AMENDMENT) REGULATIONS
2018

2018 No. 490

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 the International Tax Compliance Regulations 2015, which came into force on 15 April 2015. It brings into scope international exchange arrangements equivalent to those included in the original Regulations which the UK has entered into since May 2017.

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 The International Tax Compliance Regulations 2015 (S.I. 2015/878), which this instrument amends, enable the UK to comply with automatic exchange of information obligations under the amended European Union Directive on Administrative Cooperation (2011/16/EU), (“DAC”) international exchange arrangements relating to the Common Reporting Standard for Automatic Exchange of Financial Account Information (“CRS”) and the Intergovernmental Agreement with the United States of America to Improve International Tax Compliance and to Implement FATCA (the Foreign Account Tax Compliance Act).
- 4.2 This instrument amends the 2015 Regulations to bring additional international exchange arrangements within scope.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is 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 The policy objective, of which this instrument is part, is to increase cooperation between tax administrations in the fight against tax fraud and evasion. The International Tax Compliance Regulations 2015 (“the 2015 Regulations”) enable the UK to fulfil its obligations to automatically exchange information with other jurisdictions on accounts held in the UK by persons resident overseas. In return the UK will automatically receive information from overseas tax administrations in respect of offshore accounts held by UK tax residents.
- 7.2 The 2015 Regulations impose obligations on UK financial institutions to carry out due diligence procedures (contained in the DAC, the CRS and the FATCA agreement) to identify account holders that are resident overseas, to maintain a record of relevant information and to report accounts identified as reportable to HMRC.
- 7.3 The 2015 Regulations apply to international exchange arrangements entered into by the UK at 17 May 2017, the date the last set of amendments to the 2015 Regulations came into force. This instrument brings into scope arrangements entered into by the UK after that date.

Consolidation

- 7.4 HMRC has no current plans to consolidate but will keep this under review.

8. Consultation outcome

- 8.1 No specific consultation was undertaken as UK financial institutions are already aware through HMRC’s published guidance of which jurisdictions will become reportable jurisdictions for the purposes of the CRS and by when.

9. Guidance

- 9.1 Working with business and advisers HMRC has produced guidance in relation to the Regulations which is accessible at <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim400000>

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is negligible.
- 10.2 The impact on the public sector is negligible.
- 10.3 A Tax Information and Impact Note covering this instrument was published on 18 March 2015 alongside the International Tax Compliance Regulations 2015 and is available on the 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 The legislation applies to activities that are undertaken by small businesses.
- 11.2 Sole traders are not affected. To minimise the impact of the requirements on small businesses (employing up to 50 people), the UK fully engaged with the Organisation for Economic Cooperation and Development in designing and delivering the CRS.

The impact on affected businesses has been reduced by taking certain products that are typical to these financial institutions out of scope of the Regulations and by seeking to simplify certain due diligence procedures.

12. Monitoring & review

- 12.1 HMRC and HM Treasury will continue to liaise with stakeholders from time to time to discuss the implementation of the Regulations as part of continuing engagement with industry.

13. Contact

- 13.1 David Smith at HMRC Telephone: 03000 577521 or email: david.b.smith@hmrc.gsi.gov.uk can answer any queries regarding the instrument.