

**EXPLANATORY MEMORANDUM TO**  
**THE INTERNATIONAL TAX COMPLIANCE (AMENDMENT) REGULATIONS**  
**2020**

**2020 No. 438**

**1. Introduction**

- 1.1 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.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument amends the International Tax Compliance Regulations 2015 (S.I. 2015/878) (“principal Regulations”), which came into force on 15 April 2015 and require financial institutions in the United Kingdom (UK) to report information on certain non-resident account holders to HMRC for exchange under international arrangements. This instrument adds further international arrangements similar to those covered by the principal Regulations entered into since May 2019. It also makes four types of financial account reportable to HMRC, which were originally excluded from being reportable.

**3. Matters of special interest to Parliament**

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

- 3.1 The principal Regulations were previously amended by The International Tax Compliance (Amendment) Regulations 2019 (S.I. 2019/881) (“2019 Regulations”), which added international exchange arrangements that had been entered into by the UK between 9 May 2018 and 16 May 2019 to the scope of the principal Regulations. The 2019 Regulations were reported in the Committee’s fifteenth report of 2017-19, on the grounds that they should have included details in a footnote or the Explanatory Note as to how a user could find out which international exchange arrangements had been entered into during that period. In response, HMRC undertook to ensure that an appropriate reference was made in a footnote or the Explanatory Note when regulation 1(3)(b)(i) of the principal Regulations was next amended. This instrument amends regulation 1(3)(b)(i) of the principal Regulations, and the Committee will note that the footnote to regulation 2(2) contains a hyperlink to a published list of the territories with which the UK has entered into international exchange arrangements, broken down by reporting year and including the period covered by the amendments made by the 2019 Regulations, along with details of where a hard copy of the list is available for inspection.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the 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 The principal Regulations, which this instrument amends, enable the United Kingdom to comply with automatic exchange of information obligations arising under the amended European Union Council 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).
- 6.2 This instrument amends the principal Regulations to bring additional international exchange arrangements within scope and to make additional types of financial account reportable.

#### **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 and other forms of tax non-compliance.
- 7.2 The principal 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.
- 7.3 In return the UK will automatically receive information from overseas tax administrations in respect of offshore accounts held by UK tax residents.
- 7.4 The principal Regulations impose obligations on UK financial institutions to carry out due diligence procedures (contained in DAC, CRS and FATCA) to identify account holders that are resident overseas, to maintain a record of relevant information and to report accounts identified as reportable to HMRC.
- 7.5 The principal Regulations apply to international exchange arrangements entered into by the UK at 16 May 2019, the date of the last amendment to the principal Regulations.
- 7.6 This instrument brings into scope arrangements entered into by the UK after that date, such as those entered into with Ecuador and Kazakhstan. Reportable jurisdictions are identified in a published list available at <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim402340>.
- 7.7 This instrument also provides that four types of financial account previously excluded from scope become reportable: non-registered pension arrangements and Premium

Bonds, Fixed Interest Savings Certificates and Index-Linked Savings Certificates issued by National Savings & Investments.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

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

## **9. Consolidation**

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

## **10. Consultation outcome**

10.1 There was informal consultation with the providers of the excluded accounts which become reportable under these Regulations. Formal consultation was not necessary in view of the limited number of stakeholders. There was no consultation in relation to the extension of the principal Regulations to new jurisdictions because in that respect this instrument simply brings into scope additional international exchange arrangements and additional types of financial account equivalent to those included in the principal Regulations.

## **11. Guidance**

11.1 HMRC have worked with business and advisers to produce guidance in relation to the principal Regulations, which is accessible at: <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim400000>.

11.2 HMRC will amend the guidance to reflect changes made by these Regulations at the next annual update.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

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 18 March 2015 alongside the principal Regulations and is available on the website at <https://www.gov.uk/government/publications/tax-administration-regulations-to-implement-the-uks-automatic-exchange-of-information-agreements>. 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 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to fully engage 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 principal Regulations and by seeking to simplify certain due diligence procedures.

13.3 The basis for the final decision on what action to take to assist small businesses is that this instrument does not impose substantive new obligations on them.

#### **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is that 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.
- 14.2 The regulation does not include a statutory review clause. None is required under section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015 because the power by which this instrument is made is being exercised so as to make or amend provisions imposing, abolishing, or varying any tax duty, levy, or other charge or provisions in connection with such provisions.

#### **15. Contact**

- 15.1 David Smith at HMRC, telephone: 03000 577521 or email: [david.b.smith@hmrc.gov.uk](mailto:david.b.smith@hmrc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 John Shuker, Deputy Director for International Collaboration and Transparency at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.