

EXPLANATORY MEMORANDUM TO
THE INCOME AND CORPORATION TAXES (ELECTRONIC COMMUNICATIONS)
(AMENDMENT) REGULATIONS 2014

2014 No. 489

1. This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes a number of changes to the rules on the electronic delivery of information to or by the Commissioners for HMRC in connection with specific tax matters.

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

3.1 None.

4. Legislative Context

4.1 Electronic delivery of certain types of information is governed by the Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282) (“the Electronic Communications Regulations 2003”). The Electronic Communications Regulations 2003 allow HMRC to deliver information electronically providing:

- the information is required to be delivered by HMRC under specific statutory provisions listed in regulation 2(1)(a); and
- the recipient has given their consent to HMRC and this has not been withdrawn (regulation 3(1)).

4.2 This instrument extends the list of statutory provisions set out in regulation 2(1)(a) of the Electronic Communications Regulations 2003 to enable HMRC to deliver information electronically in connection with a wider range of matters. It also amends regulation 3 of the Electronic Communications Regulations 2003 to allow the Commissioners for HMRC to issue directions concerning how the recipient may provide or withdraw their consent.

4.3 Regulation 5(1) of the Electronic Communications Regulations 2003 establishes a presumption of effective delivery in respect of information which is delivered electronically providing all conditions imposed by those Regulations, any other applicable enactment or by a direction of the Commissioners for HMRC are satisfied.

4.4 This instrument will amend regulation 5 of the Electronic Communications Regulations 2003 to ensure that the presumption of effective delivery will apply to

information delivered to a 'secure mailbox'. This instrument introduces a definition of secure mailbox for this purpose.

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 The Electronic Communications Regulations 2003 provide for the delivery of information to and by HMRC by electronic methods. They facilitate the delivery of tax returns to HMRC by its Self Assessment customers (individuals, trustees and partnerships who receive a notice from HMRC to complete a return). The vast majority of HMRC's Self Assessment customers choose to file their returns with HMRC electronically using the Self Assessment Online service. However, only a quarter of HMRC's interactions and communications with its Self Assessment customers use electronic channels; the majority of correspondence and statutory notices are still issued via traditional print and post channels.

7.2 In December 2012 HMRC published its Digital Strategy, which included a proposal for Paperless Self Assessment. Paperless Self Assessment will provide registered Self Assessment Online customers with the opportunity to opt to receive communications from HMRC electronically. Customers who choose this option will be sent a message notifying them specific Self Assessment products, for example statutory notices, reminders and statements are available to view in their online account.

7.3 The changes made by this instrument will facilitate Paperless Self Assessment by increasing the statutory provisions in connection with which HMRC may use electronic communications to deliver information and by ensuring that information delivered to the secure mailbox will have the same legal effect as information delivered by post.

- *Consolidation*

7.4 There are no plans to consolidate the legislation at this time.

8. Consultation outcome

8.1 HMRC consulted specifically on the legislative changes to enable Paperless Self Assessment for a period of 4 weeks between 27 November and 27 December 2013. There

was universal agreement for the proposal and the provisions of this instrument reflect the consultation outcome.

9. Guidance

9.1 No specific guidance is required for these legislative changes.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible. It provides a way to receive HMRC communications in a different format if requested.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is the same for all self-employed individuals and partnerships who are required to make a return of information to HMRC. The use of Self Assessment Online by small business is already voluntary and no additional obligations will be imposed under this instrument unless the taxpayer consents to receive communications from HMRC via their Self Assessment Online account. There will be a one-off administrative burden as part of the consent process.

11.3 The basis for the final decision on what action to take to assist small business is that this tax administration measure must be the same for all self-employed individuals and partnerships.

12. Monitoring & review

12.1 HMRC will continue to review the development of the Self Assessment Online service to ensure that the policy intentions are met.

13. Contact

Shaun Mellow at HM Revenue & Customs Tel: 03000 586483 or email: shaun.mellow@hmrc.gsi.gov.uk can answer any queries regarding the instrument.