

EXPLANATORY MEMORANDUM TO
THE INTERNATIONAL TAX COMPLIANCE (AMENDMENT) REGULATIONS 2015

2015 No. 1839

1. This explanatory memorandum has been prepared by HM Treasury and is laid before 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, to remove Venture Capital Trusts and dormant accounts from the list of ‘excluded accounts’ for the Common Reporting Standard and makes further minor changes.

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

3.1 None

4. Legislative Context

4.1 The International Tax Compliance Regulations 2015 enable the UK to comply with automatic exchange of information obligations under the Revised European Union Directive on Administrative Cooperation (2014/107/EU), the Multilateral Competent Authority Agreement to the Standard for Automatic Exchange of Financial Account Information (the Common Reporting Standard) 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 Regulations to remove Venture Capital Trusts from the list of ‘excluded accounts’ for the Common Reporting Standard in compatibility with the EU Directive and makes further minor changes.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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.

7.2 The International Tax Compliance Regulations 2015 enable the UK to fulfil its obligations to report information automatically on accounts held in the UK by persons resident overseas to jurisdictions, either in accordance with the relevant EU Directive or agreements the UK has in place with the relevant jurisdictions. In return the UK will automatically receive information from overseas tax administrations in respect of offshore accounts held by UK residents.

7.3 The Regulations operate by imposing obligations on UK financial institutions to carry out due diligence procedures contained in the Directive and the international agreements to identify account holders that are resident overseas, to maintain a record of this and to report to HMRC those accounts identified as reportable to a jurisdiction where an exchange requirement exists.

7.4 This instrument amends the Regulations as follows:

- it removes Venture Capital Trusts from the list of ‘excluded accounts’ for the Common Reporting Standard;
- it removes dormant accounts from the list of ‘excluded accounts’ but allows reporting financial institutions for EU Directive and Common Reporting Standard purposes to elect for them to be non-reportable;
- it clarifies the definitions of ‘financial institution’ and ‘investment entity’ in relation to the FATCA agreement;
- it adds Ghana to the list of participating jurisdictions, and
- it removes incorrect cross-references in the table at section 24 of the Regulations.

7.5 The US Regulations Relating to Information Reporting by Foreign Financial Institutions and Other Foreign Entities where the definitions for “financial institution” and “investment entity” can be found for FATCA purposes are available at <https://www.law.cornell.edu/cfr/text/26/1.1471-5>.

8. Consultation outcome

8.1 These amendments have not been the subject of consultation but are made following informal discussions with and representations from industry.

9. Guidance

9.1 Working with business and advisers HMRC has produced draft guidance in relation to the Regulations which is accessible at

<https://www.gov.uk/government/publications/informal-consultation-guidance-notes-for-the-automatic-exchange-of-financial-account-information>

This guidance is open for consultation until the end of November 2015. HMRC will amend the guidance to reflect changes made by these Regulations at the next update.

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 the International Tax Compliance Regulations 2015 was published on 18 March 2015 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 The legislation applies to small business.

11.2 To minimise the impact of the International Tax Compliance Regulations 2015 on firms employing up to 20 people, the UK fully engaged with the Organisation for Economic Cooperation and Development in designing and delivering the Common Reporting Standard and the EU in delivering the Directive.

11.3 The impact on affected businesses has been reduced by allowing reporting financial institutions for EU Directive and Common Reporting Standard purposes to either report dormant accounts or elect for dormant accounts to be non-reportable.

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

Chris Orchard or David Smith at HM Revenue and Customs can answer any queries regarding the instrument. Contact details are as follows:

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