

EXPLANATORY MEMORANDUM TO
THE INTERNATIONAL TAX COMPLIANCE (AMENDMENT) REGULATIONS
2019

2019 No. 881

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 (S.I. 2015/878) (“principal Regulations”), which came into force on 15 April 2015 and require financial institutions in the United Kingdom to report information on certain non-resident account holders to HMRC for exchange under international arrangements. This instrument brings into scope international exchange arrangements equivalent to those included in the principal Regulations which the United Kingdom has entered into since May 2018, such as those entered into with Antigua and Barbuda.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

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.

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 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 9 May 2018, the date the last set of amendments to the principal Regulations came into force. This instrument brings into scope arrangements entered into by the UK after that date, such as those entered into with Antigua and Barbuda.

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 / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

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

10. Consultation outcome

- 10.1 There was no consultation since this instrument simply brings into scope additional international exchange arrangements equivalent to those included in the principal Regulations.

11. Guidance

- 11.1 Working with business and advisers HMRC has produced 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 (TIIN) has not been prepared for this instrument. A TIIN was published on 18 March 2015 alongside the principal Regulations and is available on the gov.uk website at <https://webarchive.nationalarchives.gov.uk/20170607032144/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.
- 12.4 There is no, or no significant, impact on businesses because this instrument does not impose substantive new obligations on financial institutions.

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 Regulations do 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, 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 Mel Stride MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.