

EXPLANATORY MEMORANDUM TO
THE INTERNATIONAL TAX COMPLIANCE (AMENDMENT) REGULATIONS
2023

2023 No. 461

1. Introduction

- 1.1 This explanatory memorandum has been prepared by His Majesty’s Revenue and Customs (HMRC) on behalf of His Majesty’s Treasury and is laid before the House of Commons by Command of His 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. The principal Regulations 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 20 April 2022.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) 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 UK to comply with automatic exchange of information obligations arising under 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 and other types 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 the 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 as of 20 April 2022, the day inserted by the last such 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 Montenegro and Thailand. Reportable jurisdictions are identified in a published list available at <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim402340>

8. European Union Withdrawal and Future Relationship

- 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 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 HMRC has 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 was to fully engage with the Organisation for Economic Co-operation 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 the 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 instrument does not include a statutory review clause in accordance with 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 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 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.