EXPLANATORY MEMORANDUM TO

THE AIR PASSENGER DUTY (AMENDMENT) REGULATIONS 2009

2009 No. 2045

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

2. Purpose of the instrument

2.1 This instrument cancels, with effect from 1 November 2009, Schedule 3 to the Air Passenger Duty Regulations 1994 (S.I. 1994/1738) ("the APD Regulations") which contained the form of the air passenger duty ("APD") return and provides instead that an APD return must be made on the form specified in a notice published by HMRC.

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

3.1 None

4. Legislative Context

4.1 APD was introduced by the Finance Act 1994 and, for the purposes of determining the rate of duty charged, there are currently two destination bands.

4.2 Under the Finance Act 2009 APD is being reformed with effect from 1 November 2009. The existing two destination bands will be replaced by four. The APD return is to be amended to incorporate the new bands and rates.

4.3 The form of the return is currently reproduced in Schedule 3 to the APD regulations. This instrument provides that, for accounting periods that end on 30th November 2009 or later, the form of the return is specified in a public notice.

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 At the Pre-Budget Report 2008, the Government announced that, instead of introducing a per plane tax to replace APD, it would reform APD and replace

its current two destination band system with a four band one. As is currently the case, each destination band will have two rates to distinguish between the class of travel, and consequently the number of rates will increase from four to eight.

7.2 The APD return is being amended to accommodate the additional bands and rates. The form of the return is currently reproduced in the APD Regulations. In keeping with HMRC's aim to simplify and reduce unnecessary legislation, this instrument provides that the form of the return for periods ending on 30th November 2009 and later will be specified instead in a notice published by them.

- ***Consolidation***

7.2 There are currently no plans to consolidate the APD Regulations.

8. Consultation outcome

8.1 This instrument makes a technical amendment that will have no impact on business. There was no consultation on this.

9. Guidance

9.1 The form of the new return will be published in a public notice, which will also contain guidance on its completion**.**

10. Impact

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

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been produced for this instrument as it has no impact on business, charities and voluntary bodies.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is not to introduce any new regulatory requirements as a result of this instrument.

11.3 The basis for the final decision on what action to take to assist small business was that no new regulatory requirements have been introduced as a result of this instrument.

12. Monitoring & review

12.1 A Post Implementation Review of the reform of APD will take place three years after the introduction of the changes on 1 November 2009, and it would be appropriate to review this instrument as part of this process.

13. Contact

Wing Edmundson at the Transport Taxes Team, HMRC Tel: 020 7147 0410 or email: wing.edmundson1@hmrc.gsi.gov.uk can answer any queries regarding the instrument.