EXPLANATORY MEMORANDUM TO

THE ANNUAL TAX ON ENVELOPED DWELLINGS AVOIDANCE SCHEMES (PRESCRIBED DESCRIPTIONS OF ARRANGEMENTS) (AMENDMENT) REGULATIONS 2015

2015 No. 464

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. These Regulations amend the Annual Tax on Enveloped Dwellings Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2013 (the "ATED Regulations") to take account of changes made to Section 94 of the Finance Act 2013 by sections 109 and 110 of the Finance Act 2014.

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

3.1. None

4. Legislative Context

4.1. Part 7 of the Finance Act 2004 (sections 306 – 319) provides for the notification ("disclosure") to HMRC of certain tax arrangements and proposals for such arrangements ("schemes").

4.2. Sections 308, 309 and 310 require certain persons to disclose information about schemes falling within certain descriptions. The requirement usually falls on the promoter who must explain how the scheme works within 5 days of its being marketed, made available for implementation or implemented.

4.3. Section 311 provides that HMRC may issue a scheme reference number (SRN) to the person who disclosed the scheme. Section 312 requires a promoter to issue a SRN to a client who the promoter becomes aware has entered into a transaction forming part of the scheme. Section 312A imposes a similar obligation on the client to issue the SRN to other persons who are party to the scheme. Any person who receives a SRN must report it to HMRC unless exempted by regulations.

4.4. Section 306 provides a power to prescribe in regulations the descriptions of arrangements which must be disclosed. So far as they relate to the Annual Tax on Enveloped Dwellings (ATED), arrangements are prescribed in the ATED Regulations.

5. Territorial Extent and Application

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 Disclosure of Tax Avoidance Schemes (DOTAS) legislation in Part 7 of the Finance Act 2004 is designed to give HMRC early warning of tax avoidance schemes, giving it the opportunity to consider changes in the law to close loopholes or challenge schemes that it does not believe work. It requires a person, usually the person who designs or sells the tax avoidance scheme, to disclose details of certain descriptions of schemes to HMRC.

7.2. The ATED Regulations prescribe arrangements which must be disclosed under the DOTAS regime if they are intended to provide an advantage in relation ATED. Finance Act 2014 reduces the value of a property above which a charge to ATED may arise and it is therefore necessary to make a consequential change to ATED Regulations to reflect the reduction.

8. Consultation outcome

8.1. These regulations make consequential changes to DOTAS as a result changes to the ATED legislation following the Government's decision to reduce the value of property to which a charge to ATED applies.

9. Guidance

9.1. Relevant guidance will be updated.

10. Impact

10.1. The impact on business, including civil society organisations is expected to be negligible. The regulations impose reporting obligations on persons who develop, market or implement schemes intended to avoid a charge under ATED.

10.2. The impact on the public sector is nil.

10.3. A Tax Information and Impact Note covering these Regulations was published on 19 March 2014 and can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293952/TIIN_9000_changes_to_the_taxation_of_high_value_UK_residential_property.pdf. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1. The legislation applies small business.

11.2. Businesses of any size can develop, market and use tax avoidance schemes. The Government expects this measure will have little, if any, impact on small businesses.

12. Monitoring & review

12.1. HMRC routinely monitors the information it receives from promoters and users of disclosed tax avoidance schemes and uses that information to evaluate this measure and any future policy developments

13. Contact

Gary Coombs in the Counter-Avoidance Directorate of HM Revenue and Customs Tel: 03000 589577 or email: gary.coombs@hmrc.gsi.gov.uk can answer any queries regarding the instrument.