EXPLANATORY MEMORANDUM TO

THE CHARITABLE DEDUCTIONS (APPROVED SCHEMES) (AMENDMENT) REGULATIONS 2014

2014 No. 584

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

1.1 This memorandum contains information for the Select Committee on Statutory instruments.

2. Purpose of the instrument

2.1 The purpose of the instrument is to reduce the amount of time within which an agent approved to operate an approved payroll deduction scheme in accordance with sections 713-715 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (ITEPA) must pass on a donation made under the scheme to the charity nominated by the person making the donation. Where certain conditions are fulfilled, an approved agency must pay a donation to the charity nominated to receive it before the expiry of 35 days from the day on which the agency receives the donation. In other cases, the existing requirement for payment to be made before the expiry of 60 days from the day of receipt remains in force.

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

3.1 None.

4. Legislative Context

4.1 This instrument amends the Charitable Deductions (Approved Scheme) Regulations (S.I. 1986/2211) (the 1986 Regulations) which were made under section 28 of the Finance Act 1986 (c. 41) (which was repealed by paragraph 41 of Schedule 31 to the Income and Corporation Taxes Act 1988 (c. 1) (ICTA)). Although the 1986 Regulations have been amended in exercise of a power afforded by section 202 ICTA (which was repealed by Part 1 of Schedule 8 to ITEPA), this is the first amendment of the 1986 Regulations in exercise of the power afforded by section 715 ITEPA.

4.2 Statutory provision for the payroll giving scheme was first made by sections 27 and 28 of the Finance Act 1986 (under which the 1986 Regulations were made). Sections 713-715 ITEPA give current effect to the scheme (including power to amend the 1986 Regulations).

4.3 The scheme enables an employee to obtain immediate tax relief on donations to charity by the employee. To qualify for tax relief an employee's employer must, with the authority of the employee, deduct the donation from the employee's pay and transfer it to an agency approved by HMRC pursuant to regulation 5 of the 1986 Regulations which operates a scheme approved in accordance with regulation 3 of those Regulations.

4.4 Following receipt of such a donation an approved agency must pay it to the charity nominated by the employee within the time specified in regulation 4A of the 1986 Regulations which was inserted by S.I. 2000/759 and amended by S.I. 2003/1745.

4.5 The reference made in the legislation to an "approved scheme" is a reference to arrangements approved by HMRC and run by employers, pensions providers and agencies, to enable employees and pensioners to donate to charity directly from their employment or pension income. References to "employer" cover pension scheme administrators; and references to "employee" cover those in receipt of an occupational pension from an employer.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Payroll Giving scheme offers employees a highly tax efficient way of giving to charity and, uniquely, gives employers a platform to encourage and champion philanthropy among their staff. Payroll Giving raised £155 million from over one million donors in 2012-13.

7.2 Payroll Giving has raised over £1.4 billion for charitable organisations since it began in January 1987. At the moment, though, only a small percentage of employers and employees use the scheme. The Government wishes to encourage more giving to charity through the scheme and recognises that it must work in partnership with employers, employees and the charitable sector in order to achieve this. Reducing the time period in which an approved agency must make payment to a charity to 35 days from 60 days where, at the time of its receipt the agency knows the identity of the employee making the donation and the charity to which the donation is made, supports the objective of increasing charitable giving through the scheme because of the cash-flow benefit it will provide to charities. To accommodate practical problems arising where an agency has made no payment to the charity specified in the 12 months immediately preceding receipt of a donation, an approved agency may extend the 35-day period to 60 days.

7.3 There are no plans to consolidate the 1986 Regulations as amended.

8. Consultation outcome

8.1 The Government launched a consultation in January 2013, seeking views from donors, charities and the wider public on ways in which Payroll Giving could be improved.

8.2 The Payroll Giving consultation ran from 24 January 2013 to 19 April 2013. Over one hundred responses were received from businesses, charities, Payroll Giving Agencies (agencies) and various representative bodies as well as individuals.

8.3 The Government's response to the consultation was published on 12 September 2013.

8.4 The key actions and changes committed to by Government following the consultation are summarised below:

- improving the process of Payroll Giving for charities and agencies
- making it easier for employers and employees to operate Payroll Giving
- raising awareness of Payroll Giving among employers and
- incentivising employers with non-financial measures.

8.5 Reducing donation hand over time from 60 to 35 days is part of the commitment to improve the process for charities in particular.

9. Guidance

9.1 HM Revenue & Customs will update its guidance to reflect changes introduced by the amended regulations.

10. Impact

10.1 The measure is expected to have a negligible impact on businesses and civil society organisations. Some payroll intermediaries and charities may need to make small changes to their systems to receive the payments earlier, but most intermediaries already pass on the payments within 35 days.

10.2 Those charities that currently rely on intermediaries who do not routinely pass on donations with 35 days should benefit from earlier receipt of donations.

10.3 The impact on the public sector is negligible.

10.4 A Tax Information and Impact Note covering this instrument has been published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm.

11. Regulating small business

11.1 The legislation applies to small businesses in the form of agents which are charities.

11.2 Long term impacts on agents are expected to be negligible. The nature of the measure is such that transitional impacts, such as changes to IT systems and internal checks, on small business who are agents are expected to be short term.

12. Monitoring & review

12.1 The Payroll Giving scheme has been subject to regular review through public consultation.

12.2 The measure will be kept under review through regular communication with affected taxpayer groups.

13. Contact

13.1 David McDowell at the HM Revenue & Customs Tel: 03000 585284 or david.mcdowell@hmrc.gsi.gov.uk can answer any queries regarding the instrument.