EXPLANATORY MEMORANDUM TO

THE FEES FOR PAYMENT OF TAXES, ETC. BY CREDIT CARD (AMENDMENT) REGULATIONS 2017

2017 No. 1262

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument, with effect from 13 January 2018, amends The Fees for Payment of Taxes, etc. by Credit Card Regulations 2016, SI 2016 No. 333, to provide an updated table of rates used to calculate the fees for those who choose to pay by corporate credit card. The instrument also removes reference to personal credit cards, including the table of rates relating to personal credit cards.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 These Regulations are made in exercise of the powers conferred by section 136 of the Finance Act 2008.

4.2 Section 136(1) of that Act permits the Commissioners for HMRC to make Regulations to provide that, where a person makes a payment to the Commissioners (or their authorised person) using a specific method of payment, the person must also pay a fee.

4.3 Section 136(2) of that Act requires that before exercising that power, the Commissioners must expect that they (or their authorised person) will be required to pay a fee or charge in connection with payments made using the specified method of payment.

4.4 This instrument makes provision in respect of credit card payments.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. 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

What is being done and why

7.1 Section 136 of the Finance Act 2008 provides for the Commissioners to introduce regulations to charge a fee where a payment is made to HMRC, or a person authorised by HMRC, and the payment method used gives rise to the expectation that HMRC, or a person authorised by them, will be charged a fee in connection with the payment method.

7.2 Section 136, Finance Act 2008 was introduced to enable acceptance by HMRC of payments by credit card beyond the limited circumstances where HMRC had previously done so (ports, airports and roadside fuel testing units). The introduction of s136 ensured that acceptance of payment by credit card is not at a cost to the public purse. In line with common practice in the UK, HMRC does not charge currently for debit cards.

7.3 From 1 April 2016, as a result of a review of its rate charging policy, HMRC charged differing fees depending on whether the credit card was a personal or corporate credit card and the type of card used. This was given legislative effect in The Fees for Payment of Taxes, etc. by Credit Card Regulations 2016, SI 2016 No.333.The fees recovered by HMRC for credit card use do not exceed the cost that it is charged.

7.4 The fee rates have been reviewed in the context of fees charged to HMRC and the instrument updates, with effect from 13 January 2018, the table of rates of fees relating to corporate credit cards.

7.5 The use of personal credit cards as a method of paying HMRC is being withdrawn from 13 January 2018 (except transactions at ports and airports). This is to ensure that the public purse does not generally bear the cost of personal credit card payments, when, in consequence of the EU Payment Services Directive 2, from 13 January 2018 the charging of fees for the use of personal credit cards generally will be prohibited. Taxpayers will still be able to make payments by a variety of other methods, including direct debit, BACS, CHAPS, faster payment and debit cards.

7.6 The fee rates for payments by corporate credit cards will be reviewed periodically by the Commissioners, with further amendments made by statutory instrument.

8. Consultation outcome

8.1 A consultation Impact Assessment for section 136 of Finance Act 2008 was published on 10 January 2008 and a final Impact Assessment was published alongside the Finance Bill on 27 March 2008. There has been no consultation on the update to the credit card fees.

9. Guidance

9.1 Persons choosing to make a payment by credit card by telephone or by using the internet payment service are advised of the fee charged before payment is made.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note covering this instrument will be published on the government website at http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is that HMRC offers payment options other than by credit card.

11.3 The basis for the final decision made on what action to take to assist small businesses aligns with the overall policy objective to ensure that payment by credit card is not at a cost to the public purse.

12. Monitoring & review

12.1 The credit card fee charges will be kept under review subject to market changes.

13. Contact

13.1 Richard Davidson at HMRC Telephone: 03000 536910 or email: richard.davidson@hmrc.gsi.gov.uk can answer any queries regarding the instrument.