**EXPLANATORY MEMORANDUM TO**

**THE INDIRECT TAX (DISCLOSURE OF AVOIDANCE SCHEMES) REGULATIONS 2017**

**2017 No. 1215**

## 1. Introduction

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

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 The Regulations detail the requirements on promoters and users of, and others party to, indirect tax avoidance schemes and set out where appropriate the time limits within which those requirements should be met. They also set out the circumstances when persons who would otherwise be treated as promoters of indirect tax proposals and arrangements are excluded from that definition.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Select Committee on Statutory Instruments***

3.1 The Regulations are the first to be made under the powers cited in them.

***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 The Regulations detail the requirements placed on promoters and users, and others connected with, proposals and arrangements for the avoidance of indirect taxes and where appropriate the times within which these requirements must be met.

4.2 The Indirect Tax (Notifiable Arrangements) Regulations, laid with these Regulations, detail the types of arrangements to be notified to HMRC.

## 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. 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

***What is being done and why***

7.1 Schedule 17 to Finance No. 2 Act 2017 lays down the primary rules for reforming the way that indirect tax avoidance is notified to HMRC so that it more closely resembles the regime for direct taxes (the Disclosure of Tax Avoidance Schemes or DOTAS). These Regulations, made under the powers contained in that Schedule, provide the more detailed requirements on promoters of indirect tax avoidance arrangements to disclose their schemes to HMRC. Once a scheme is disclosed to HMRC, HMRC may issue a scheme reference number to the promoter, who in turn must pass this number on to all users of the avoidance scheme. Scheme users must inform HMRC when they are using the scheme.

7.2 This gives HMRC earlier and more comprehensive detail about VAT avoidance schemes as they emerge and provides a coherent approach to the requirements to disclose tax avoidance schemes.

7.3 Expanding the scope of the disclosure regime to encompass all indirect taxes will allow HMRC early insight into emerging avoidance in these areas.

## 8. Consultation outcome

8.1 Draft Regulations were published on 20th March 2017. There were few comments and those received have informed the final Regulations.

## 9. Guidance

9.1 HMRC will publish guidance on the new regime by the end of 2017.

## 10. Impact

10.1 The impact on businesses, charities and voluntary bodies is restricted to the small minority who engage in or promote avoidance of indirect taxes.

10.2 The impact on public bodies is restricted to any which may engage in or promote avoidance of indirect taxes.

10.3 A Tax Information and Impact Assessment covering this instrument was published on 5th December 2016 and made available alongside the draft Finance Bill (No 2) 2017. It is available on the web site at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply to this instrument.

## 11. Regulating small business

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

11.2 There is no special provision to minimise the impact of the requirements on small businesses (employing up to 50 people).

## 12. Monitoring & review

12.1 This measure will be monitored by monitoring of disclosures of indirect tax avoidance schemes and through communication with taxpayers and practitioners affected by the measure.

## 13. Contact

13.1 Pete Woodham at HM Revenue & Customs Telephone: 03000 586533 or email: peter.woodham@hmrc.gsi.gov.uk can answer any queries regarding the instrument.