EXPLANATORY MEMORANDUM TO

THE INHERITANCE TAX (ELECTRONIC COMMUNICATIONS) REGULATIONS 2015

2015 No. 1378

1. This explanatory memorandum has been prepared by H M 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 provides for the online delivery of returns and other information authorised or required for inheritance purposes to or by HMRC, and for payments and repayments to be made, by electronic means. The regulations also enable HMRC to set out the details of how electronic communications are to be used and how electronic information is to be provided in specific or general directions.

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

3.1 None

4. Legislative Context

4.1 The provisions in section 216 of the Inheritance Tax Act 1984 require personal representatives and those who are liable to inheritance tax to deliver returns (or "accounts") giving details and the value of the assets subject to the tax. All accounts are to be in a prescribed form and must be supported by such other documents as HMRC may require (section 257 IHTA). If certain conditions as set out in regulations (SI 2004/2543, SI 2008/605 and SI 2008/606) are met, the personal representatives or other persons required to deliver a full account are excused from doing so.

4.2 Currently all inheritance tax returns, forms, and other supporting information are delivered to HMRC as paper forms or documents. Although the inheritance tax provisions do not specify the format that the information has to be delivered in, these regulations are needed to support the introduction of a new online system to enable these documents to be delivered electronically and to provide a legal basis for conducting the new digital administrative processes that will apply to inheritance tax.

4.3 Section 132 Finance Act 1999 contains the power to make regulations to facilitate the use of electronic communications. These regulations provide for: the consent needed and the conditions for using electronic communications, the use of intermediaries for delivering information and making payments, the authentication of documents, the delivery of information by more than one person, and proof of their delivery.

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 At Budget 2013 the Chancellor announced that HMRC will provide an online service in 2015/16 for people to submit inheritance tax returns and settle the affairs of those who have died. HMRC is currently developing the new online service and will be introducing it from 2015/16 for personal representatives, trustees, agents and other people who are liable to inheritance tax and/or who need probate to administer an estate to submit accounts and provide other documentation that HMRC requires. The new system will also enable HMRC to introduce new processes to provide a faster and improved service for customers as part of the digitisation of inheritance tax.

7.2 These regulations will enable inheritance tax accounts and other documents to be delivered electronically, ensure that electronic communication with HMRC is appropriately authorised, approved and authenticated, and reflect the new administrative processes being introduced as part of the digitisation of inheritance tax. Electronic communication and the new online service will improve the experience for customers and reduce the overall administrative burdens associated with submitting paper forms as well as making the administration of inheritance tax more efficient and transparent.

8. Consultation outcome

8.1 HMRC has consulted informally with customers and representative bodies of estate practitioners, accountants and other professional advisors on the design and introduction of the new IHT online service. The facility to submit inheritance tax returns and other documents electronically has been broadly welcomed, particularly the ability to track the progress of an account from the date of submission to the point at which clearance becomes available.

9. Guidance

9.1 HMRC will be working with customers and representative bodies to provide specific guidance on how electronic documents should be submitted as part of the new online service.

10. Impact

10.1 The impact on business, charities or voluntary bodies is expected to be negligible as electronic communication will mainly affect individuals who need to provide information for inheritance tax purposes and the option to submit inheritance tax returns, forms and other information digitally is not mandatory. Solicitors, practitioners, accountants, trustees and other professional advisors and agents who deal with estates and trusts and choose to deliver information electronically are likely to incur one-off familiarisation costs.

10.2 The impact on the public sector is positive as electronic communication will result in a more integrated IT system and reduce administrative costs for HMRC.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does apply to small business but only to solicitors, practitioners, accountants, trustees and other professional advisors and agents who deal with trusts and estates.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is not to make electronic communication and online delivery of returns and other information for inheritance tax purposes mandatory.

12. Monitoring & review

12.1 HMRC will continue to review the development of the new inheritance tax online service to ensure that the policy intentions are met.

13. Contact

Danka Wigley at HM Revenue & Customs Tel: 03000 585277 or email: danka.wigley@hmrc.gsi.gov.uk can answer any queries regarding the instrument.