EXPLANATORY MEMORANDUM TO

THE INVESTMENT TRUSTS (DIVIDENDS) (OPTIONAL TREATMENT AS INTEREST DISTRIBUTIONS) (AMENDMENT) REGULATIONS 2011

2011 No. 2951

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

2. Purpose of the instrument

2.1 New tax rules will be introduced for the approval of companies as 'investment trusts' for accounting periods commencing on or after 1 January 2012. This instrument makes two minor changes to the Investment Trusts (Dividends) (Optional Treatment as Interest Distributions) Regulations 2009 (S.I. 2009/2034) ('the Interest Streaming Regulations') that are required as a result of changes to the approval process.

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

3.1 None

4. Legislative Background

4.1 Regulations made under section 1159 Corporation Tax Act 2010 will introduce new rules for the approval of companies as investment trusts.

4.2 The Interest Streaming Regulations contain provisions that permit investment trusts to make certain distributions as interest distributions instead of normal dividend distributions. Minor amendments are required to be made to those regulations to reflect changes to the approval process.

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

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

7.1 The new rules for approval of companies as investment trusts (together with certain other matters applicable to approved companies) are being introduced as the existing rules date from 1965 and no longer reflect modern investment practice. The changes introduced by this instrument do not have any purpose other than to make the Interest Streaming Regulations compatible with the new approval procedures.

- ***Consolidation***

7.2 Due to the minor nature of the amendments HMRC do not intend to consolidate the relevant legislation at this stage.

8. Consultation outcome

8.1 There has been no separate consultation on this instrument as it only makes two minor changes to the Interest Streaming Regulations to ensure compatibility with the new approval procedures. A full consultation was carried out on the new rules for approval of companies as investment trusts.

9. Guidance

9.1 Guidance already exists for the Interest Streaming Regulations in HMRC's Company Taxation Manual. The two minor amendments made by this instrument have minimal effect on those regulations and guidance will be updated as soon as practicable.

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 has not been prepared for this Instrument as it contains no substantive changes to tax policy.

11. Regulating small business

11.1 The legislation applies to small business, as some investment trusts may be included within that category.
11.2 To minimise the impact of the requirements on small firms employing up to 20 people the approach taken is that this measure, taken together with the new tax rules for approval of companies as investment trusts, is beneficial and therefore excluding companies with fewer than 20 employees would not achieve the policy objective.
11.3 There has been no separate consultation on this instrument.

12. Monitoring & review

12.1 No separate impact is expected to arise as a result of the minor amendments made by this instrument. HMRC and HM Treasury will however continue to liaise with stakeholders from time to time to discuss the implementation of the new rules as part of continuing engagement with industry.

13. Contact

Wayne Strangwood at HMRC Tel: 020 7147 2545 or email: wayne.a.strangwood@hmrc.gsi.gov.uk can answer any queries regarding the instrument.