EXPLANATORY MEMORANDUM TO

THE POSTAL SERVICES ACT 2011 (TAXATION) (AMENDMENT) REGULATIONS 2016

2016 No. 881

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") on behalf of HM Treasury 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 Postal Services Act 2011 (Taxation) Regulations 2012 (SI 2012/764), at regulation 6, gave BIS (Postal Services Act 2011) Company Limited ("BCL") an exemption from corporation tax for accounting periods beginning and ending before 1 April 2015. Since that date BCL is potentially chargeable to corporation tax. This instrument extends the corporation tax exemption to all accounting periods in which BCL is wholly in Crown ownership.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 The instrument contains a provision having effect from 1st April 2015 which is before the instrument comes into force, using the power in section 23(5) of the Postal Services Act 2011.

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 All companies (as defined by section 1121 of the Corporation Tax Act 2010) are chargeable to corporation tax on their profits (section 2 of the Corporation Tax Act 2009) unless they are subject to specific exemptions set out in legislation. SI 2012/764 needs to be amended to extend BCL's exemption.

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 To ensure a sustainable future for the universal postal service, the Government took over the pension deficit of the Royal Mail Pension Plan. One particular aspect of this involved the transfer of the pension scheme's assets to BCL, a company wholly owned by the Secretary of State for Business Innovation and Skills, from 1 April 2012. BCL's remit is to dispose of the assets and return the funds raised to the Government. Initially it was expected that BCL would have disposed of the assets within 3 years. To minimise administrative costs for both HMRC and BCL on computing and collecting tax, given that all the monies raised are to be paid to the Government, BCL was exempted from corporation tax for the periods beginning and ending before 1 April 2015.The exemption has now expired but BCL is still holding substantial assets for disposal. This instrument extends the exemption for all periods in which BCL remains wholly in Crown ownership, to allow for the continued disposal of the assets without a charge to corporation tax arising.

Consolidation

7.2 There is no current plan to consolidate these changes to the Postal Services Act 2011 (Taxation) Regulations 2012.

8. Consultation outcome

8.1 There was informal consultation with interested parties in relation to the initial Royal Mail pension scheme changes. Department for Business, Innovation and Skills (now the Department for Business, Energy & Industrial Strategy) and BCL are the parties with the greatest interest in this change and they sought this extension to BCL's corporation tax exemption.

9. Guidance

9.1 It is not intended to issue any guidance or publicity in respect of this regulation as it is simply extending an existing provision.

10. Impact

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

10.2 The impact on the public sector is nil.

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

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 This measure will be kept under review through communication with affected taxpayer groups.

13. Contact

13.1 Lorraine Coster at HMRC Telephone: 03000 585676 or email: lorraine.coster@hmrc.gsi.gov.uk can answer any queries regarding the instrument.