EXPLANATORY MEMORANDUM TO

THE SKIPTON FUND LIMITED (APPLICATION OF SECTIONS 731, 733 AND 734 OF THE INCOME TAX (TRADING AND OTHER INCOME) ACT 2005) (AMENDMENT) ORDER 2012

2012 No. 1188

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

2. Purpose of the instrument

2.1 The tax rules for annual payments charge income tax on regular payments of compensation unless the payments fall into a category which the rules specifically exempt from liability.

2.2 Statutory Instrument 2011/1157 exempted from income tax regular payments from Skipton Fund Limited to individuals who became infected with hepatitis C through treatment in England with infected blood or blood products.

2.3 This Order extends that earlier exemption so that, wherever in the United Kingdom the infection was acquired, Skipton Fund Limited will not need to deduct income tax from the payments and the payments will not be part of the recipients' taxable income.

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

3.1 None

4. Legislative Context

4.1 A review into financial and other support for individuals infected with HIV and hepatitis C by contaminated blood and blood products as a result of NHS treatment was announced in October 2010 by the Minister for Public Health, Anne Milton MP.

4.2 On 10 January 2011, on conclusion of the review, the Secretary of State for Health, Andrew Lansley MP, announced changes to the ex gratia financial support schemes for individuals who had been infected with hepatitis C in this way. These changes were introduced initially for individuals who were infected through treatment in England.

4.3 The announcement included the introduction of an annual payment of £12,800 for individuals with the most serious hepatitis C-related disease, in line with that received by those infected with HIV. The amount of £12,800

is uprated annually in line with the consumer prices index.

4.4 The annual payments to individuals infected with hepatitis C through treatment in England were exempted from income tax by Statutory Instrument 2011/1157, which came into force on 18 May 2011.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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 Skipton Fund Limited is a private company limited by guarantee (company number 5084964), funded by the Department of Health. It makes payments to the infected individuals in accordance with an agreement between the company and the Secretary of State. In the absence of a specific exemption the regular payments made by Skipton Fund Limited would fall within the tax rules for 'annual payments'. The payments would be taxable income of the recipients and Skipton Fund Limited would have to deduct income tax from the amounts paid.

7.2 There are several exemptions from liability. All periodical payments in respect of personal injuries made under Court orders or agreements that settle claims for damages are exempt. Similarly, payments from annuities purchased to meet an award made by the Criminal Injuries Compensation Board are exempt.

7.3 The rules include a power for the Treasury to make an Order to apply the exemption to periodical payments of compensation for personal injury under other schemes or arrangements. It is under this power that the Order is made.

7.4 In 2010-2011, following the commitment given by the Secretary of State, Andrew Lansley MP, the company started to make regular payments of £12,800 a year, uprated in line with the consumer prices index, to an estimated 530 beneficiaries who acquired the infection through treatment in England.

7.5 In May 2011 Statutory Instrument 2011/1157 came into force ensuring that no income tax liability arises on the periodical payments made by Skipton Fund Limited to individuals who were infected with hepatitis C through NHS treatment in England with blood and blood products.

7.6 The Service Agreement between Skipton Fund Limited and the Secretary of State for Health relates to payments to 'Qualifying Persons'. On 30 April 2012 the agreement was amended and the definition of 'Qualifying Persons' was extended. Previously it referred to individuals who became infected with hepatitis C as a result of NHS treatment in England with contaminated blood or blood products. It now refers to individuals who acquired the infection as the result of treatment anywhere in the United Kingdom.

7.7 This Order ensures that regular payments from Skipton Fund Limited to individuals who became infected through treatment in Scotland, Wales or Northern Ireland (currently, an estimated 88 people), are exempt from income tax in addition to the payments to individuals who were infected through treatment in England.

- ***Consolidation***

7.8 Not applicable.

8. Consultation outcome

8.1 There has been no formal consultation on this order because the instrument makes only minor and uncontroversial changes to the legislation, which will affect a very small number of people.

9. Guidance

9.1 Guidance on the change to the legislation will be included in HMRC's Savings and Investment Manual.

10. Impact

10.1 There will be no impact on business, charities or voluntary bodies.

10.2 There will be no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The policy may be kept under review through communication with taxpayer groups affected by the measure.

13. Contact

Judith Diamond at HM Revenue and Customs Tel: 020 7147 3422 or email: Judith.diamond@hmrc.gsi.gov.uk can answer any queries regarding the instrument.