EXPLANATORY MEMORANDUM TO

THE SKIPTON FUND LIMITED (APPLICATION OF SECTIONS 731,733 AND 734 OF THE INCOME TAX (TRADING AND OTHER INCOME) ACT 2005) ORDER 2011

2011 No. 1157

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 This Order exempts from tax the regular payments from Skipton Fund Limited to people infected with hepatitis C by infected blood or blood products. This means that the company 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 Following the 2009 Archer Inquiry the previous government introduced ex gratia tax free payments of £12,800 a year to individuals infected with HIV as a result of NHS treatment with contaminated blood and blood products.

4.2 On 1 April 2010 The MFET Limited (Application of Sections 731, 733 and 734 of the Income Tax (Trading and Other Income) Act 2005) Order 2010 came into force. This exempted the amounts of £12,800 from income tax.

4.3 In October 2010, the Minister for Public Health, Anne Milton MP, announced a review into financial and other support for individuals infected by contaminated blood with the aim of reducing some of the differences between the schemes for individuals with hepatitis C and HIV.

4.4 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 those infected with HIV and hepatitis C as a result of NHS treatment with contaminated blood and blood products. As a devolved matter these changes would be introduced initially for individuals in England.

4.5 The announcement included the introduction of an annual payment of £12,800 for those individuals with the most serious hepatitis C-related disease from NHS blood transfusions and blood products, in line with that received by those infected with HIV. The amount of £12,800 would be uprated annually in line with the consumer prices index.

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 In the absence of a specific exemption the regular payments to be made by Skipton Fund Limited would fall within the tax rules for 'annual payments'. These rules charge to income tax all annual payments that are not taxed under any other provision of the Income Tax Acts.

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 April 2010 an Order came into force ensuring that no income tax liability arises on the periodical payments made by MFET Limited to individuals infected with HIV from infected blood and blood products.

7.5 This Order will ensure that no income tax liability arises on the periodical payments to be made by Skipton Fund Limited to individuals who were infected with hepatitis C in the same way.

7.6 Skipton Fund Limited is a private company limited by guarantee (company number 5084964), funded by the Department of Health. It will make the proposed payments to the infected individuals in accordance with an agreement between the company and the Secretary of State.

7.7 Skipton Fund Limited will make the regular payments of £12,800 a year, uprated in line with the consumer prices index, to an estimated 736 beneficiaries. This Order exempts those individuals with hepatitis C from income tax on the payments of £12,800 (as uprated).

7.8 The agreement between Skipton Fund Limited and the Secretary of State is for payments to individuals who were treated with NHS blood, blood products or tissue in England. It will be amended in due course to include payments to individuals who became infected through treatment in the rest of the United Kingdom. At that point a further Order will be made to ensure that these individuals too are exempted from income tax on the payments of £12,800 (as uprated).

- ***Consolidation***

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