EXPLANATORY MEMORANDUM TO

THE TAXES, ETC. (FEES FOR PAYMENT BY INTERNET) REGULATIONS 2011

2011 No. 711

1. This explanatory memorandum has been prepared by HM Revenue and Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations, with effect from 1st April 2011, revoke and replace the existing regulations, the Taxes (Fees for Payment by Internet) Regulations 2008 ("The 2008 Regulations"), which state that a fee must be paid in respect of any payment made to the Commissioners for HMRC ("the Commissioners") by credit card where internet authorisation is given to make that payment.

2.2 Regulation 2(1) sets the fee that must be paid in respect of a credit card payment where internet authorisation is given to make that payment, as 1.4% (it was 1.25% under the 2008 Regulations).

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

3.1 None.

4. Legislative context

4.1 These Regulations are made in exercise of the powers conferred by section 136 of the Finance Act 2008.

4.2 Section 136(1) of the Act permits the Commissioners to make Regulations that provide that, where a person makes a payment to the Commissioners (or their authorised person) using a specific method of payment, the person must also pay a fee.

4.3 Section 136(2) requires that before exercising the power, the Commissioners must expect that they will be required to pay a fee or charge in connection with payments made using the specified method of payment.

4.4 This instrument makes provision only in respect of credit card payments where internet authorisation is given to make that payment.

5. Territorial extent and application

5.1 This instrument applies to all the United Kingdom.

6. European convention on human rights

6.1 As the instrument is subject to a negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Legislation was introduced in section 136 of the Finance Act 2008 to allow HMRC to accept payment by credit card beyond the limited circumstances where HMRC had previously done so (ports, airports and roadside fuel testing units).

7.2 From 9th December 2008, the Commissioners accepted credit card payments where authorisation is given by internet and charged the payer a fee of 1.25%. The fee rate was calculated on the basis of the commission rate charged by credit card issuers and ensures that the Commissioners recover the cost of processing credit card transactions, but no more than this.

7.3 The original rate has been reviewed in light of the volume and value of transactions, the type of credit card used and the commission fee charged by the credit card issuers. The composite fee that the Commissioners will be charged for internet payments, which is passed on to the person making the payment, has been increased to 1.4%.

7.4 The fee increase ensures that the Commissioners continue to recover the cost of processing credit card payments where authorisation is given by internet and reflects the increase in costs faced by the Commissioners for accepting such payments.

7.5 The fee rate will be reviewed annually by the Commissioners and it is possible that there will be further amendments in the future.

8. Consultation outcome

8.1 A Consultation Impact Assessment for section 136 was published on 10th January 2008 and a final Impact Assessment was published alongside the Finance Bill on 27th March 2008. Both documents can be found on the HMRC website at:

http://www.hmrc.gov.uk/consultations/index.htm

9. Guidance

9.1 Customers choosing to make a payment by credit card using the BillPay internet payment service provided on behalf of HMRC by Santander, are advised of the fee charged before the payment is made.

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 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring and review

12.1 The intended outcome of the change to the fee for credit card payments made to the Commissioners where authorisation is given by internet, which is provided for in this instrument, is that the Commissioners will recover the cost of administering this method of payment.

12.2 The outcome will be subject to an annual internal review and the legislation may be amended accordingly.

13. Contact

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