EXPLANATORY MEMORANDUM TO

THE UNAUTHORISED UNIT TRUSTS (TAX) (AMENDMENT) REGULATIONS 2014

2014 No. 585

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

2. Purpose of the instrument

2.1 These Regulations make amendments to The Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819) ('the UUT regulations').

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

3.1 None.

4. Legislative Context

4.1 These Regulations make two amendments to the UUT regulations.

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 UUT regulations were made on 31 October 2013 and introduced substantial changes to the tax treatment of unauthorised unit trusts ("UUTs") and their investors, simplifying the rules and removing opportunities for avoidance. These Regulations make two amendments to the UUT regulations.

7.2 The first ensures that certain types of unit trusts that have long been treated as not being UUTs for tax purposes remain outside of the scope of the rules. This will address concerns expressed by some stakeholders as to the correct interpretation of this aspect of the UUT regulations.

7.3 The second amendment takes holdings in non-exempt UUTs ("NEUUTs") outside of the scope of the 'bond fund' rules. The bond fund rules are contained in Chapter 3 of Part 6 of Corporation Tax Act 2009, and treat corporate holdings in unit trusts that are primarily invested in debt type assets as creditor relationships. From 6 April 2014, NEUUTs will be subject to corporation tax on the total return from any debt assets they hold themselves, and there is therefore no need to treat holdings in NEUUTs as creditor relationships (and doing so would result in double taxation).

- Consolidation

7.4 HMRC does not plan to consolidate the regulations.

8. Consultation outcome

8.1 HMRC have informally consulted stakeholders regarding the first amendment in these Regulations, including tax advisers, law firms, a representative body, fund providers and those who raised concerns, to ensure that the amendment achieves its aim.

8.2 HMRC published details of the proposed change made by the second amendment in the Tax Information and Impact Note titled 'Modernising the taxation of corporate debt and derivative contracts', published on 10 December 2013[1] and have informally consulted the stakeholders detailed above on the drafting of the Regulations.

9. Guidance

9.1 Draft guidance on the tax treatment of UUTs and their investors will be updated and consolidated into existing HMRC manuals.

10. Impact

10.1 The impact on business, charities or voluntary bodies is set out in the Tax Information and Impact Note.

10.2 The impact on the public sector is set out in the Tax Information and Impact Note.

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 applies to small business.

[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271950/Modernising_taxation.pdf

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is that the proposed amendments are beneficial and excluding companies with fewer than 20 employees would not achieve the policy objective.

11.3 HMRC will however provide assistance to small firms through the usual contact channels for customers requiring assistance, and by publishing guidance.

12. Monitoring & review

12.1 HMRC and HM Treasury will continue to liaise with stakeholders from time to time to discuss the implementation of the proposed new rules as part of continuing engagement with industry.

13. Contact

Roger Leslie (telephone 03000 585528 or email: roger.leslie@hmrc.gsi.gov.uk) or John Buckeridge (telephone 03000 585701 or email: john.buckeridge@hmrc.gsi.gov.uk) can answer questions relating to these regulations.